

The Influence of Domestic and European Legal Regulations on the Functioning Of Co-Operatives Providing Banking Services As Civil Society Organizations Performing Social Aims: Evidence from Poland

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This paper presents a discussion on co-operatives as organisations of a civil society, in their normative aspects. The purpose of this research is to show how law influences the functioning of two types of co-operatives providing banking services operating nowadays in Poland: co-operative banks and co-operative savings and credit unions. The deliberations focus on two problems: the scope in which domestic (Polish) law influences the way of functioning of co-operatives providing banking services in Poland and the way that EU law has shaped changes to the functioning of Polish co-operatives providing banking services. The considerations as presented in this paper refer mostly to two issues regulated by law; that is, the purpose for which co-operatives providing banking services operate, and freedom of association. The main conclusion of the research conducted is that at present, legal regulations are aimed to the greatest extent at ensuring stability and safety of the operations of co-operatives providing banking services and that this normative concept does not foster active citizenship. The social context of operations of co-operatives providing banking services is often overshadowed for the legislator by the financial aspects of their functioning.

Keywords: Polish law, co-operative bank, credit union

Introduction

Contemporary EU economies are defined in legal regulations as contemporary market economies. This refers to the European union itself (art. 3 Treaty on the European Union¹) and to its particular Member States (compare with art. 20 of the Constitution of the Republic of Poland). This means that for the appropriate functioning of the economy of each EU member, apart from market rules, the solutions of important social issues must have an appropriate place in the legal system of each Member State. For states with these kinds of economies, the implementation of various legal regulations to support weaker social groups becomes necessary. These are legal solutions with social features and also legal solutions which act as frameworks for the activities of self-help institutions implementing the empowerment concept which is an indicative of the activities of a civil society. This is a result of the fact that nowadays it is becoming clearer that it is not possible for a free market to function without any state intervention or without a civil society (Keane, 1998).

Accordingly, at the EU level and in the particular, the EU Member States, the role of civil society organisations (CSOs) and "social economy" is emphasised to an ever greater extent as an important factor in promoting entrepreneurship and job creations as well as stimulating income

generating activities for the poor and marginalized. In the European Commission's communication² CSOs are defined as "*a wide range of actors with different roles and mandates*". Naturally, in different periods and in different states CSOs are defined in varied ways. However, the EU "*considers CSOs to include all non-State, not-for-profit structures, non-partisan and non-violent, through which people organize to pursue shared objectives and ideals, whether political, cultural, social or economic*"³.

There is no doubt that co-operative enterprises are one of the entities which fall within the meaning of the term CSOs. In their activities the emphasis is put on both social and economic factors and their activity results in many positive outcomes. Co-operative enterprises as CSOs encourage civil society initiatives and joint action, prevent social marginalisation and at the same time stimulate economic growth. For the achievement of social and economic benefits as mentioned, it is necessary however, to provide these institutions with legal regulation adequate for their tasks and functions. Due to the fact that co-operatives operate in many market sectors, their appropriate diversification is necessary. In the case of institutions, operating in the banking services sector, when creating legal regulations one must not forget that due to the necessity of providing adequate protection of means entrusted to these institutions and the stability of financial systems, this market has to be governed by

certain rules. Thus, the legislator has to balance the purposes and tasks of co-operative banks so they can perform their function as both secure financial agents and activators of social potential performing important social and economic functions.

Objectives of the Study and Research Questions

In this study an attempt has been made to analyse the influence of legal regulations on the functioning of co-operatives providing banking services as civil society institutions performing social functions, based on the example of Poland. It was assumed necessary to analyse this influence from the EU and domestic law perspectives. This results from the fact that being an EU member, Poland is obliged to implement EU law and to obey the provisions of binding legislative acts. Similar to other EU Member States, the Polish legal system can be described as multicentric or dual (Łętowska, 2005). It is characterised by the existence of two subsystems which are composed of internal (domestic) law and law which derives from the EU legislator. This requires discipline from the state government and state authority in many areas of their competencies. First of all, they have to participate actively in the shaping of EU law; secondly, they have to implement in the domestic legal system the provisions of the EU law and remove potential conflict with the provisions of domestic law; and thirdly, the law they create has to be coherent with the law of the EU and with the internal, domestic law. Bearing this in mind, two research issues were formulated as research questions:

- To what extent does domestic (Polish) law influence the way of functioning and the development of co-operatives providing banking services in Poland?
- To what extent does the EU law shape changes to the activities of Polish co-operatives providing banking services?

The main issue is to decide whether from legal aspects, Polish co-operatives providing banking services may really function as civil society institutions, whether citizens can associate freely and whether they can achieve aims which are important for co-operatives as enterprises of a social economy. It is no less important to identify difficulties and barriers posed by law regulations in force which prevent the proper functioning of these type of co-operatives.

The considerations as presented in this paper refer mostly to two issues regulated by law; that is, the purpose for which co-operatives providing banking services operate, and freedom of association.

The legal-dogmatic method was applied for the purpose of this study as a classic method used in legal sciences. It is based on the analysis of legal

norms through the prism of assumed research targets in this article.

The choice of this method was imposed to some extent by the purpose of these deliberations. The historical method, which has been applied to a small extent, was only a subsidiary as some historical issues were presented uniquely for the purpose of introducing or explaining contemporary conditions of the functioning of co-operatives providing banking services in Poland.

Co-Operatives Providing Banking Services in Poland: Historical Background and Current Situation

In Poland there are currently two types of co-operatives providing banking services: co-operative savings and credit unions (SKOK⁴) and co-operative banks.

Co-operative banks have a very long tradition in Poland. Similar to the case in Germany, the first such banks were created in the XIX century, and their prototypes were Schulze-Delitzsch's co-operatives and Raiffeisen's co-operatives. Co-operative banks, which were above all self-help institutions, evolved over 150 years and during this time they were influenced by certain historical events such as Poland regaining its independence in 1919, the outbreak of the Second World War, changes in Poland as a result of which in 1952 the People's Republic of Poland was created and the end of communist era in 1989. These changes influenced the system in Poland, its law and concepts of the functioning of economic entities, co-operatives providing banking services included.

Changes over the last 25 years have been particularly intense. During these times, co-operative banks which were small loan institutions operating within a centrally-planned economy changed into loan institutions subject to the market rules of a free market economy. The whole banking system and co-operative banking sector underwent enormous changes (Zalcewicz, 2012).

Firstly, the number of co-operative banks diminished significantly from 1663 in 1995 to 573 in June 2013.⁵ Secondly, the structure of this sector has been changed. At the end of the 1980s, co-operative banks operated along with Bank Gospodarki Żywnościowej (BGŻ)⁶. BGŻ performed the function of the central co-operative. Following changes in law in 1990, the relationships between BGŻ and co-operative banks were regulated based on agreements on co-operation pursuant to the provisions of the Act on Banking law which was in force back then. The subsequent changes had to be made due to changes to the law in force.

In 1992, a new law, Banking Law, was adopted and in 1994, the Act on the Restructuring of Co-operative Banks⁷ was also. The Act on the Restructuring of Co-operative Banks implemented a

requirement to create a three-tier structure of co-operative banks and was modelled on French law in force back then. Co-operative banks (the first level of the structure) were supposed to be affiliated to nine regional banks (the second level). The regional banks were then supposed to be affiliated to BGŻ (the third level of the structure). Only some of the co-operative banks agreed to this solution. Some banks, in breach of the provisions of the Act on the Restructuring of Co-operative Banks, created their own affiliations and remained outside the three-tier system. The impossibility of enforcing the provisions of the Act on the Restructuring of Co-operative Banks, along with the arguments of convincing experts, resulted in changes to the concept of the co-operative banking system's structure (Kaszubski, 1998).

In 2000, a new law was adopted which regulated the relationships in this sector: the Act on the Operations of Co-operative Banks⁸, which has been in force up until now. Pursuant to this Act, and in line with the assumption of the legislator, co-operatives can create affiliations (two-tier model) or remain outside them depending on the amount of their own capital. Those co-operative banks whose capital is equal or below the EUR 5 million threshold are obliged to remain within the two-tier structure.

At the beginning, in the structure created pursuant to the Act on the Operations of Co-operative Banks, co-operative banks, together with twelve affiliating banks, were organised. At present, the number of affiliating banks has been reduced to two. Thus, there are currently two co-operative banking groups. The first is Spółdzielcza Grupa Bankowa, consisting of 206 co-operative banks and SGB-Bank Spółka Akcyjna (affiliating bank), the second is the BPS Group, which consists of 365 affiliated co-operative banks and BPS bank as the affiliating bank (BPS Bank also co-operates with banks from outside the group).

The history of SKOKs is much shorter. Their creation, or in fact, restitution, is to some extent related to the year 1992 when, based on the experience of American credit unions, the first labour credit unions were created. At first, the development of SKOKs was slow as there were no appropriate legal regulations in force. In 1995, the Act on Co-operative Savings and Credit Union⁹ was adopted. This started the dynamic development of SKOKs in Poland. Its intensity can be supported by the number of members of SKOKs¹⁰. In 1992, co-operative savings and credit unions had 14 thousand members and in a year from the passing of the Act

SKOKs had 138 members, whereas at the end of 2012 the number of its members had increased to 2 527 thousand; that is, 6.5% of the population of Poland¹¹ (KNF¹², 2008; Mądra, 2011). The lack of congruence between the scale of legal regulations and the scale of the development of SKOKs became a problem, however. Due to the fact that SKOKs were meant to be small-sized institutions of a self-help nature based on social or professional ties among their members as opposed to banks, their activities did not require initial capital, they were not subjected to public supervision and they were not covered by the mandatory deposit guarantee system. Furthermore, their financial management had a lot of leeway¹³. After a couple of years of their functioning the activities of some SKOKs started to diverge. The increase in size of individual SKOKs¹⁴, which was contrary to the original idea of their operations, resulted in the loss of actual relationships among their members, which was one of the fundamentals of the security of their functioning. To secure the safety of deposits, the stability of the financial system and to make competition conditions equal for both SKOKs and co-operative banks, a reform of the SKOK system became necessary¹⁵.

In 2009 a new act on SKOKs was passed and it entered into force on 27 October, 2012. Based on this act, SKOKs were subjected to public supervision and at present it is necessary to obtain the permission of the Polish Financial Supervision Authority (KNF) to create a SKOK. Moreover, their financial management was regulated to a greater extent. With reference to the change in the concept of SKOKs functioning, as of 2013 SKOKs are obliged to be covered by the obligatory guarantee system¹⁶, which is organised and managed by the Bank Guarantee Fund.

In the structure of the contemporary financial market in Poland, co-operatives with the status of banks (co-operative banks) and SKOKs, which are called in modern doctrine, "parabanks" (Srokosz, 2011) are currently functioning. Concurrently, on the grounds of EU law, co-operative banks are treated as credit institutions, and in consequence, they are obliged to fulfil a number of requirements which are placed by the EU upon credit institutions in respect of capitals, asset quality, liquidity *etc.* However, the Directive 2006/48/EC¹⁷ does not apply to SKOKs. Accordingly, they are not treated as credit institutions, which allows for the application of less stringent requirements in respect of supervision, credit risk mitigation, own funds *etc.*

Table 1. A comparison between legal framework of SKOKs and co-operative banks.

	SKOK	Co-operative bank
Legal basis for the regulation	-The Co-operative Act of 16 September, 1982 -The Act on co-operative savings and credit union of 5 November, 2009	-The Co-operative Act of 16 September, 1982 -The Banking Act of 29 August, 1997 -The Act on the Operations of Co-operative Banks, Their Affiliation, and Affiliating Banks of 7 December, 2000
Public supervision	KNF (Polish Financial Supervision Authority)	KNF
The authorization	It is required that authorization be granted for the establishment of a SKOK	It is required that authorization be granted for the establishment of a bank and to subsequently permit the commencement of operations by the bank
The initial capital	Not required	The initial capital must be not less than the PLN equivalent of: 1. EUR 1,000,000.00 (for affiliated co-operative bank) 2. EUR 5,000,000.00 (for other co-operative bank)
Scope of operations	Financial services provided for the benefit of a SKOK's members solely	Financial services provided for unlimited recipients
Association/Affiliation	SKOKs obligatorily associate at Krajowa Spółdzielcza Kasa Oszczędnościowo-Kredytowa (NASCU)	-Co-operative banks whose own funds are equal or below the limit of EUR 5 million are obligatorily affiliated with one of two affiliating banks -Co-operative banks whose funds are above the EUR 5 million limit do not have to be affiliated
Statutory requirement of the existence of relationships among members	Members can be: 1. natural persons linked to each other by professional or organisational ties: 1) employees employed in one or a number of working establishments; 2) persons belonging to the same social or professional organisation 2. non-governmental organisations operating among organisational units of churches and religious associations with legal personality, co-operatives, professional associations, and housing associations.	No requirement
Obligatory deposits guarantee system	since 29.11.2013 within the Bank Guarantee Fund (the current insurance is provided by a mutual company)	Within the Bank Guarantee Fund

Legal Framework for the Achievement of Co-Operative Purposes in the Activities of Co-Operatives Providing Banking Services in Poland

As co-operatives, both co-operative banks and SKOKs operate based on The Co-operative Act¹⁸. This Act not only defines the legal framework for the operations of all co-operatives in Poland, but also contains the definition of a co-operative as binding in the Polish legal system. Pursuant to the provisions of the Act

“A co-operative shall be a voluntary association of an unlimited number of persons, of variable membership and variable share fund, which conducts joint economic activity in the interests of its members” and *“A co-operative may*

conduct social, educational and cultural activities for the benefit of its members and their community”.

This means, that for Polish legislator, the main purposes of the operations of each co-operative is conducting joint economic activity in the interests of its members. The legislator also allows a facultative purpose, which is conducting social, educational and cultural activities for the benefit of its members and their community. Such regulation is in accordance with the international rules and values of the co-operative movement.

Simultaneously, in the case of some categories of co-operatives, the purpose of their operations is defined more precisely. This is true for SKOKs. Article 3 § 1 of the Act on SKOKs states that *“the purpose of SKOKs is gathering the financial means*

of solely its own members, granting them loans and credit, performing financial settlements at their request, as well as being intermediaries in concluding insurance contracts”.

Accordingly, in the case of SKOKs, congruence of the solutions of both Acts is noticeable. These types of co-operatives providing banking services are self-help institutions in the financial services sector. A legally legitimate “benefit of its members” is the possibility of using financial services which in a different case, would not have usually been available to them. Pursuant to the credit unions’ rules, SKOKs are non-profit institutions. Thus, the benefit of its members is not the profit they make, but the fact of focusing on their needs in the financial services market. Often, due to the possibility of being a SKOK’s members, people are not excluded from the financial market. SKOKs also take action for the benefit of the local community, for example through financing cultural and sporting events and initiatives and participating in financing renovations of Polish religious art relics; although as results from studies performed show, their social engagements is smaller than in the case of co-operatives with other activity profiles (Abramczuk, Herbst, 2008).

A different legal solution has been adopted for co-operative banks. Neither the Banking Law¹⁹ currently in force nor The Act on the Operations of Co-operative Banks define the purpose of co-operative banks’ operations. Therefore, it should be identified through the context of the provisions of The Co-operative Act. Accordingly, the question is posed: what kind of interests of its members can a co-operative providing banking services pursue? It is not giving preferential loans or credit, as this is contrary to the provisions of The Banking Act of 29 August, 1997. Members of co-operative banks are treated in the same way as their other clients. At the same time, co-operative banks which have been trying for many years to fulfil the capital requirements imposed on credit institutions in the EU as defined by the EU law, can not offer financial services on more favourable price terms than other banks as the profit they make has to increase their own capital and the costs of their operations are similar to other banks’ costs. The only interests one can think of would be adjusting the services to a local market.

However, also in this case the aforementioned legal requirements of increasing their own capital would pose an obstacle. For many years in the Polish co-operative banking sector, strong tendencies for consolidation have been noticeable due to the obligation of increasing their own capital. Thus, due to the fact that consolidation was often the only method of fulfilling capital requirements, it results in banks concentrating on activities which allow them to stay, or even survive, on the financial market on one hand, and the consolidation causing them to distance themselves from the local community on

the other. There are ever bigger banks created and their ability to identify clients’ needs and adjust their services to their clients’ needs is ever smaller. Lack of profits from members’ shares and other benefits for members of co-operative banks results in the fact that they are usually not interested in taking part in the activities of co-operative banks. Although the financial results of co-operative banks are good and this sector itself was considered an important stability factor of the Polish banking market during crisis, its social and civil features are disappearing. This condition is deepened by the fact that, as research shows, the engagement of co-operative banks in social, educational and cultural activities in the interests of its members and their environment is not significant (Abramczuk, Herbst, 2008). The reason for this is, to a great extent, a lack of adequate financial means, as co-operative banks themselves often declare engagement in the activities for the benefit of the local community and some of them do take such actions, although not on a large scale.

This leads to the conclusion that the capital requirements for co-operative banks, which are similar to those imposed on bigger banks whose main purpose is making profit, without necessary diversification of these requirements, leads to difficulties in performing the co-operative aims of these banks. However, a positive aspect of this situation is the increase in the stability of the financial market. Therefore, it is necessary to revise the concept of co-operative banks so as to decide whether they are supposed to be real agents of a social economy or whether the form of the co-operative is supposed to be only a facade for the actual banking operations. It is a particularly pertinent question, as at the EU level there are amendments to the capital requirements for banks being proposed which are raising concerns in the co-operative banking sector in all EU Member States.

In this context, one has to remember that sometimes stability guaranteed by capital requirements may be deceptive, which can be evidenced by the crisis of the last couple of years. Big banks, which seemed to be strong due to their capital, went bankrupt and the financial burden of their bankruptcy often had to be borne by the state and therefore the whole of society. These banks failed as institutions of public trust. They turned out to be socially ineffective and made the whole of society bear the costs (Gostomski, 2009). It seems, therefore, that the heterogeneity of the banking sector and the existence of entities which are socially responsible by their very nature is a valuable quality and that stability can also be achieved through creation of particular relationships based on trust (Giagnocavo, Gerez, Sforzi, 2012).

It is also noticeable that in Poland, the European Co-operative Society (SCE) as a particular co-operative can be established and can operate. It is one of the Pan-European corporate forms. Its

functioning and its aims are regulated by the EU law provisions for which regulations of Member States are of an ancillary nature only. The specifics of the operations of the SCE is related, among others, to the fact that its operations are of a cross-border nature. Its regulations were implemented to allow European co-operatives, which were established and which operated previously based on domestic laws, to conduct economic activity in different EU Member States in a new and more competitive form. In this case, a co-operative and its purposes are defined at the EU level. Unfortunately, due to the multilevel and hierarchical structure of the provisions regulating the SCE (E. Marszałkowska-Krżeś, 2006), as well as many references to other acts included in this regulation, the use of these provisions is complicated. This does not encourage the conduct of business activity in this form. Accordingly, despite the fact that provisions on the SCE²⁰ have been in force for many years, no SCE co-operative providing banking services was created and no such entity operates as an SCE. Due to this very reason, these problems have not been included in this study and the aforementioned remarks were made solely for the sake of complex analysis of the subject.

Co-Operatives Providing Banking Services and the Problem of Freedom of Association, in the Context of Civil Society Functioning

The problem of co-operatives as associations in the context of these considerations should be seen from various perspectives. First of all, as is noticeable in the literature, the possibility of creating associations creates, to some extent, a civil society. Thus, because it is possible through a co-operation to make the members of the society realise that *"their own business depends on other people's business and is related to other people's business"* (Dagger, 1997, p. 200), the activity of citizens, feelings of togetherness and common aims are necessary components of social awareness existing in this kind of communities. Therefore it is necessary to create a legal framework to bring to life freedom of association. However, a thesis formulated in the doctrine has to be mentioned at this point *"it would be wrong to equate the scope of autonomy of a civil society created through law, with the practical functioning of such a society"* (Blicharz, 2012, p. 55). While noticing the necessity of legal regulations, one should not overestimate their importance, as the will of an individual to take action aimed at satisfying both his own needs and the needs of other members of the society through co-operation is the most important factor.

The freedom to associate, which is guaranteed in Poland by the Constitution, expresses itself, among others, through the functioning of co-operatives providing banking services. There is the question, however, whether the existing legal

regulations meet social expectations. Does legal framework created based on acts allow for the creation of new co-operatives providing banking functions?

In the case of co-operative banks, for their establishment and operating, there is a certain number of members required and many rigorous conditions have to be fulfilled which are defined at the EU and domestic level and which are imposed upon banks. It refers in particular to the requirement of the appropriate initial capital to the amount of a minimum EUR 1 million (for associated co-operative banks) and the requirement of professional management.

From the perspective of the requirements posed before the founders, the first is the required number of founders. The Co-operative Act of 16 September, 1982, defines the minimum as 10 persons. What is important is that a co-operative bank can be created only by natural persons. It is a surprising solution as there are no legal obstacles for legal persons to become its members at a later stage. At the same time, some of them, in particular self-government units, could be particularly important partners in such a venture as their activity by its very nature is directed towards the local community, its members and their needs.

Secondly, The Banking Act of 29 August, 1997, requires from the founders an adequate guarantee of the sound and prudent management of the bank.

This means that for the establishment of a co-operative, there is a small number of members needed and the requirements imposed upon them are not significant. It would seem, therefore, that such legal regulations are favourable for creating co-operative banks. However, the necessity of fulfilling other legal norms defining ways of organising such a bank, the size, the structure of initial capital *etc.* and also the disproportion between the costs which members of such a bank have to incur and potential benefits they might receive causes the provisions on creation of co-operative banks to be a *de facto* dead letter. After 1992 not even one co-operative bank was created while the whole sector of co-operatives providing banking services, SKOKs, was developing intensely.

In the case of SKOKs, the minimum number of founders is identical as it is in the case of co-operative banks (10 persons). The members have to be joined by certain ties as defined by the law in force. This results indirectly from art. 10 of The Act on SKOKs, which states that the members of a SKOK can be natural persons joined by professional or organisational ties, and in particular:

- 1) employees working in one or a number of working establishments;
- 2) members of the same social or professional organisation.

Although the law currently in force allows some legal persons to be SKOKs members (for example,

non-governmental organisations) it does not state whether these entities can be founders of a SKOK. This is a loophole in the law on SKOKs.

There are no other requirements imposed upon the founders of SKOKs, however, with reference to the change of law in 2012, it is currently necessary to secure professional management and to obtain a licence from the KNF. As these provisions have not been in force for long, it is difficult to use empirical data to draw far-reaching conclusions as to how these changes will influence the activity of community members in establishing SKOKs. It is certain though, that since these provisions entered into force, no SKOK has been created, although the number of members of existing SKOKs is still growing. It is possible though, that as a result of legal changes, instead of a number of small SKOKs with actual ties among their members, there will be a number of large SKOKs created, with these ties being only formal. As in Poland there is a very big demand for financial services among the less wealthy, it can be assumed that they will look for such services in SKOKs. However, these people will be merely beneficiaries of such services not active members of the co-operative's governing bodies, as is the current situation in the largest of SKOKs.

Conclusions

Although joining the EU, Poland agreed to give up some of its legislative powers in favour of the EU, its influence over Polish law is still significant. In the case of co-operatives providing banking services, it is visible in a couple of spheres. First of all, co-operatives which are subject to Polish law, operate based mostly on Polish law provisions. The most important legal act in this respect is The Co-operative Act, which provides the legal framework for the operations of co-operatives in Poland.

Secondly, when it comes to co-operatives providing banking services, due to the type of services they provide, it is necessary to consider the provisions regulating these kind of services on the single financial market of the EU. The Polish state authority has negotiated, however, to exclude SKOKs from Directive 2006/48/EC as a result of which, contrary to co-operative banks, they are not subjected to the same legal regime as credit institutions. In consequence, the scope of application of the European law to SKOKs is very limited. This is not the case though with co-operative banks, to which Poland is obliged to implement EU regulations, and the entities operating in Poland have to obey not only Polish but also European regulations. High standards applied to all credit institutions which were not modified to a large extent to co-operative entities, forced far-reaching changes in the co-operative banking sector in Poland. This has had a significant influence on the functioning of co-operative banks as civil society

institutions. The necessity of fulfilling certain financial criteria and the necessity of co-operative banks authorities having to focus on this aim, resulted in the members' needs becoming a less important aspect for many years. The banks had to focus more on the commercial than social aspect of their operations. In many cases ties which connected local communities with co-operative banks got loosened or disappeared. Members of co-operative banks in the majority of cases stopped to be active participants of the co-operatives' operations.

Thirdly, if it comes to freedom of association, law in Poland is congruent with all standards which are considered basic for the realisation of this freedom. Citizens can create associations and join or leave them freely. The requirement of the existence of certain ties among SKOKs' members can not be considered as a discriminatory limitation of this freedom. It is congruent with the nature of such an institution and a model bidding for credit unions. The actual use of this freedom by citizens is a different issue though. Empirical data indicate that at present, the activity of community members evinces itself in joining the existing SKOKs²¹. There are neither new SKOKs nor co-operative banks being created and the number of co-operative bank members has generally been constant.

The reason for this state of affairs can be to some extent, the excessive number of regulations which refer to the sector of co-operatives providing banking services. There is no doubt that the domestic financial system needs to be stable, although the methods of its achievement are debatable. It would be worth considering that instead of equating to an ever greater extent the requirements imposed on SKOKs with those for co-operative banks, one should consider other solutions. It seems possible to introduce a borderline which could be measured with certain parameters (for example, the amount of liabilities) and before whose achievement SKOKs would not have to obtain a licence or be subjected to the KNF's supervision. Allowing small SKOKs to be established and managed without too many formalities would promote citizens' activity to a greater extent. With appropriate support from a central institution which would provide model organisational rules, which could be used by particular SKOKs, they could be safe for those entrusting their funds to them and for the whole domestic financial system.

One more reason for using freedom of association in this way is the lack of the possibility of identifying benefits for co-operative's members. This takes place in the case of co-operative banks. Legal regulations does not allow for co-operative's individual members to incur benefits, apart from the possibility of receiving income from their shares, which is usually not paid out immediately as the profit is usually used to increase co-operatives own

funds. This is not the case with SKOKs. Their services are often used by less wealthy people for whom other financial services are not available, people who are not creditworthy enough for banks and the use of services of other financial institutions would be too expensive.

To sum up, it can be said that legal provisions in Poland, at both domestic and European levels, have influenced to a significant degree the difficulties which SKOKs and co-operative banks are experiencing in their functioning as civil society institutions.

Notes

1. Consolidated versions of the Treaty on European Union, 2012/C 326/01.
2. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee of the Regions "The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations", Brussels, 12.9.2012, COM(2012) 492 final, <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0492:FIN:EN:PDF>> accessed 20 June 2013.
3. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee of the Regions "The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations", Brussels, 12.9.2012, COM(2012) 492 final, p. 3.
4. Credit Unions in Poland (co-operative saving and credit unions) are also known as SKOKs by their Polish acronym.
5. As of 26 June 2013, according to KNF's data.
6. The national-co-operative BGŻ was created in 1975 through merger of the Central Savings and Loan Cooperation Union (Centralny Związek Spółdzielni Oszczędnościowo-Pożyczkowych) and the Agricultural Bank (Bank Rolny).
7. The Act of 24 June 1994 on the restructuring of co-operative banks and the Bank Gospodarki Żywnościowej and the amendment of certain acts, Dz. U. 1994 No. 80, item. 369, as amended.
8. The Act on the Operations of Co-operative Banks, Their Affiliation, and Affiliating Banks of 7 December 2000, Dz. U. 2000 No.119, item.1252, as amended.
9. The 14th of December 1995, the Act on co-operative savings and credit union
10. Evolution of the SKOKs – number of branches and customers, 1992-1H2010, see: Credit Unions in Poland: Diagnostic and Proposals on Regulation and Supervision, Report No. 59432 – PL; Document of the World Bank <http://siteresources.worldbank.org/POLANDEXTN/Resources/SKOK_report.pdf>
11. As of data by the Krajowa Spółdzielcza Kasa Oszczędnościowo-Kredytowa (National Association of SKOKs, NASCU) and Central Statistical Office in Poland.
12. KNF is the Polish acronym for Komisja Nadzoru Finansowego (Polish Financial Supervision Authority).
13. The requirements as established by NASCU and binding for SKOKs up until the end of 2011 related to the rules of overdue receivables which are subject to write off were significantly different from these defined and recommended by the WOCCU (World Council of Credit Unions).
14. A SKOK called Kasa Stefczyka has assets that represent more than one third of the total SKOK system assets (as of data by NASCU).

15. When new the law on SKOKs (The Act on co-operative savings and credit union of 5 November 2009 (Dz.U. item 855), hereinafter: Act on SKOK) entered into force, 23 out of 55 SKOKs were requested to start conciliatory proceedings, whereas on 6 June, 2013, their number increased to 44 (as of data by the KNF).
16. This requirement will enter into force on 29 November, 2013.
17. Directive 2006/48/EC of the European Parliament and of the council of 14 June, 2006, relating to the taking up and pursuit of the business of credit institutions (recast),
18. The Co-operative Act of 16 September, 1982, consolidated text: Dz.U. 2003 No. 188, item1848 as amended.
19. The Banking Act of 29 August, 1997, consolidated text: Dz.U. 2012 item 1376 as amended.
20. The regulations entered into force in 2006.
21. The SKOK sector is undergoing a consolidation process. Out of 146 SKOKs operating in 2000, there are 55 SKOK remaining. However, despite the number of SKOKs getting smaller, the number of its members is experiencing constant growth.

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