

Book review of *The Social Economy Act. A Commentary* edited by M. Małecka-Łyszczek and R. Mędrzycki

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Abstract: The aim of this review is to examine and reflect on the recently published Commentary to the Social Economy Act, edited by Magdalena Małecka-Łyszczek and Radosław Mędrzycki (2023). Not only is social economy an enormously important and still underappreciated topic, as stated below, but it is also too often addressed in isolation in its numerous institutions. The Commentary's strength is its comprehensive examination of the fundamental components and principles of social economy. Its content goes beyond the scope of a standard commentary in that it helps the reader interpret the relevant theoretical concepts as well as general clauses and undefined terms; moreover, the authors demonstrate axiological consistency in their approach to the issues discussed. It is a text of high scholarly quality, written in clear and accessible language while maintaining a firm grasp of the subject matter. The book will be a valuable resource for theorists and practitioners alike, especially the interpretations of social economy processes, which the reviewer believes are overly complicated and, like the entire Act, do not represent a particularly high legislative standard. The publication is also of great practical significance as it reflects the changing perspective on anthropological pessimism that has afflicted regulations in this field for too long. The authors provide the necessary knowledge in a synthetic manner, but never at the expense of an in-depth theoretical background or an insightful analysis of practical experience. The cross-sectional coverage of the literature on the subject is particularly noteworthy, as the authors provide a representative overview of the doctrine, especially in the context of the European Union Member States.

Keywords: social economy, social enterprise, local government

JEL Codes: K12, K15

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Regrettably, the historical significance of social economy in Poland is not matched by a broader awareness of its institutions as an opportunity for a fundamental paradigm shift in helping those in need. This model of assistance extends beyond the social clauses already known to local authorities and applied by them, albeit with great reluctance. Such clauses, for instance, make it possible to give preference to cooperatives of disabled persons in securing catering or cleaning contracts. The widespread application of current social clauses can already significantly expand the range of support and, more importantly, permanently engage the weaker side of administrative-legal relations, transforming it into an actual partner in the national socio-economic processes. However, a step further must be taken to recognise the equality of the social economic model in terms of administrative-legal norms and to encourage its institutionalisation.

As the authors point out in the commentary to Article One, the Act itself has a modest – possible even too modest – subjective scope; however, it constitutes a logical extension of specific regulations. The authors emphasise that the concept under consideration builds upon and strengthens social capital; moreover, the basic values on which it is founded promote democracy and local dialogue. Social economy has emerged as the only real sign of hope in Poland's recent years of galloping recentralization in terms of promoting the yet untapped new capacity of local government, which serves as the axis for the Commentary in many places. The authors also regard social economy as a flagship example of glocalization, which I believe is justified.

Social economy is an important harbinger of a certain deeper change currently taking place in social sciences, unfortunately not yet in administrative policy. The move entails a shift away from the underlying anthropological pessimism in the image of man, who has long been viewed as a 'rational egoist.' In more contemporary doctrine, this vision of man, which may be represented by the slogan 'the economy comes first,' implies that human beings are typically logical in their decisions and are largely motivated by egoism. As noted in the literature, this implies dismissing from anthropological reflection other important (aside from egoism, of course, which is also encountered), more noble emotions and motives such as solidarity, compassion, empathy, and cooperation, which, after all, have always existed alongside egoism or aggression, and this is unjustified.

Welfare models in Western European countries have long been pervaded by this anthropological pessimism. Its long-overlooked practical and legal ramification was the perception of man as a subject who must be constantly monitored and pressured, and whose socially desirable behaviours, such as professional activation, necessitate the deployment of a series of specific incentives that will satisfy his selfish interests. Specifically, this system has been meticulously applied to higher education and education in general. Numerous studies show that when teachers and researchers are subjected to meticulous supervision and become part of a system of selfish incentives, they are no longer driven by a teaching mission or scholarly curiosity; instead, they are more concerned with appeasing the bureaucracy and complying with the set parameters. As a result, there is no positive qualitative change, despite increasing numbers of publications and credits. Changing this paradigm allows for a fuller consideration of a different picture of human beings and the realisation of their potential involving empathy, cooperation, and solidarity. The entire Commentary is prepared precisely in this new spirit and, in this sense, leads us towards new horizons relevant to the general theory of administrative law.

All pertinent information is presented by the authors in an organised and comprehensible manner. They do, however, provide a thorough theoretical framework and a critique of practical experience. The excellent cross-sectional coverage of the literature on the topic deserves special mention. The reader is given a representative sample of how diverse social economic concerns have found their reflection into the legislation adopted by other European Union countries. Some of these publications are not well known, and they have been appropriately placed in the Polish context. This will be very helpful for doctoral and master's students, among others, who are looking for representative bibliography items on the subject.

Any commentary on a legal act should provide a thorough overview of the relevant issues, acting as a guide for those applying its provisions – especially in this still-uncharted territory – while also dispelling any reservations and doubts that may arise. This is what the reader receives, but the *Commentary* also delves a little deeper into the prospects for the development of the social economy institution itself. Publications on social economy already exist,

including one other commentary (Stachowicz et al., 2023) but they are typically quite rare and scattered throughout the doctrine, including in scholarly journals.

The book also covers the stages of development of the institutions themselves, social cooperatives, social entrepreneurship and, finally, social economy in general. It closes a critical knowledge gap by discussing all pertinent topics in an accessible but by no means simplistic manner. The authors organise the concepts, propose their consistent application, and formulate not only *de lege lata*, but also *de lege ferenda* conclusions.

The comments to Article Two, for instance, are very helpful in understanding the historical and international context of the concept of social economy. The authors consistently demonstrate how both the horizontal and vertical development of the institutions under consideration enable their widespread application in order to effectively prioritize social goals over financial ones, create communities, as well as apply the principles of solidarity and responsibility. Certain features of management, such as recruiting people from socially vulnerable groups or doing business ethically, are shared by all kinds of social economy enterprises. Thanks to the Commentary, readers can see the sometimes laconic Polish legal formulations in a broader context. Going beyond the confines of the 'non-profit sector' is by no means easy. The authors obviously favour comprehensive and precise regulation; yet, the reviewer believes that the evident ambiguities or inconsistencies they have noted are treated much too leniently, despite the fact that it is clearly not their responsibility to strongly criticize legislative shortcomings.

Apart from being just informative, a good commentary ought to save the reader from having to go through numerous sources by referencing pertinent legal issues; precisely this function is served by the reviewed publication thanks to the authors' excellent and thorough work.

The Commentary will be quite straightforward to use and helpful for anyone who has previously struggled with concepts such as occupational workshops or social cooperatives. Moreover, references to case law, particularly administrative case law, are commendable since they enable both beneficiaries and administrative institutions to avoid a number of specific pitfalls.

Social integration centres or clubs are a new type of social economy entities that are gaining in popularity; in this regard, the authors of the Commentary excel in their capacity as guides through the complex normative content. The prejudice against cooperatives in Poland is one of the main deficiencies brought on by the communist regime's historical legacy. Today, however, this prejudice may also partly explain why Poland is lagging behind in the European Union, as new cooperatives especially in energy-related spheres, are becoming increasingly effective in addressing the emerging challenges.

The Act is notable for its extensive use of collective, generic, and undefined notions. However, what gives the legal professions the necessary latitude to and allows institutions to act mostly autonomously may constitute a barrier to the application of specific norms by their addressees. In this context, the Commentary proves to be exceptionally useful, since it guides the reader step by step through the difficult issues related to social services or professional integration.

Even though the work deserves praise as a whole, it is still possible to single out some of its individual parts. Magdalena Małeczka-Lyszczek and Agnieszka Pacut wrote extremely informative and clear sections on social economy's objectives, its theoretical underpinnings, and operational legal framework. The discussion of the social enterprise and the intricate process of its development and operation by Dorota Sylwestrzak, Radosław Mędrzycki, and Agnieszka Pacut are also particularly noteworthy; the clarity of the argument and the quality of the analysis are particularly outstanding.

Agata Barczewska-Dziobek analyses Article 28 of the Act in an excellent manner, synthesising the notions used in the regulation that may be particularly difficult to apply for the norm's addressees, such as coordination, the concept, and methods of assistance. It that she has achieved a commendable balance between theory and practice.

Studies by other authors – Małgorzata Mędrala and Wojciech Fill – on complex forms and hidden barriers to funding, which are difficult even for lawyers, let alone for social workers without legal expertise, are of great theoretical and practical importance. Even though they may have used more examples, the writers decided to be brief, which is commendable. Since the entire work has been carefully edited, there are no notable differences the writers' styles, which is not often the case with multi-author research. Overall, the Commentary addresses significant, current administrative concerns and will be extremely helpful for people working for social economy organisations or researching this issue for professional or academic purposes.

Finally, some general reflections. The authors guide the reader through a veritable maze of procedures, which only serves to demonstrate how complex current regulation of social welfare, innovation, and activation has become. This should be regarded as a very negative development. The convoluted language and inconsistencies in a number of provisions, which the authors so expertly point out, should not be present at all in sensible legislation. The intended recipients of the regulations – public administration, entrepreneurs, and social activists, not to mention excluded persons or those at risk of exclusion – should be able to apply them directly, without professional assistance. In fact, however, without the Commentary, the conceptual clarifications, and the identified procedural pitfalls, it would be next to impossible to implement the useful new and important forms of social economy. This is not meant to be construed as a criticism of the authors – on the contrary, they should be proud of their ability to deal with such a complex matter, especially in terms of procedure. However, it should elicit a general reflection from us in relation to the above-mentioned perspective of paradigm shift. Is it not true that overcomplicating legislative matters in an otherwise admirable effort to prevent all conceivable abuses undermines the primary purpose of regulation? Is it not time to simplify social economy legislation without viewing every social entrepreneur, activist or beneficiary as a potential fraudster and cease enforcing such extremely stringent procedures?

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Conflict of Interest

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