

Polish system of business insurance in agriculture and related areas during the accession processes and EU membership

Selected aspects

Part II The period of Poland's EU membership

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Abstract

The preparation period for Poland's membership in the European Union, which lasted nearly 15 years and involved both the transposition of EU legislation, including insurance legislation, and the structuring of the national insurance system for the broadly defined agriculture and rural areas, failed (despite the adoption of the European model) to effect changes that would sufficiently help the agricultural insurance system recover from the long-lasting crisis it had faced since 1990.

The opportunities offered by the Community policy, related i.a. to the expansion of the insurance portfolio to include modern types of insurance covering various types of risks, as well as the traditional form of risk transfer well-known from earlier periods in the history of Polish insurance, such as insurance mutuality, were not fully utilised either¹.

1. For this topic see i.a.: K. Malinowska, S. Nowak, A. Śliwiński, *Wzajemność ubezpieczeniowa jako forma realizacji ubezpieczeniowej* [in:] *Regionalny program rozwoju na tle strategii UE „Europa 2020” z uwzględnieniem roli ubezpieczeń na przykładzie województwa świętokrzyskiego*, ed. S. Nowak, Warszawa, Izba Gospodarcza Ubezpieczeń i Obsługi Ryzyka, 2012, pp. 315–330. Also: M. Podstawka, J. Pawłowska–Tyszko, *Rozwój rynku ubezpieczeń wzajemnych* [in:] *Weryfikacja praktyczna proponowanych produktów ubezpieczeniowych i konstruowanie systemu holistycznego zarządzania ryzykiem (pilotaż)*, ed. M. Soliwoda, Warszawa, Institute of Agricultural and Food Economics – National Research Institute, 2022, pp. 1077–1109.

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In the post-accession period, it has been accompanied by a significant expansion of the group of structural tools for agricultural risk management, which extend beyond the area of insurance.

The reasons for the structural crisis of business insurance in agriculture and related areas (in the years 1990–2004) lay both in statutory reasons (abolishment of the statutory agricultural insurance system) and mistakes in the implementation of the market insurance model in Poland. The latter were particularly manifested in the dogmatic and selective approach to the underlying principle of systemic freedom of contract in agricultural insurance, with a simultaneous approval of the legal and economic obligation to conclude such contracts in other types of insurance cover.

The subject of the issues included in the present study (Parts I and II)² is the analysis of the establishment and implementation of the insurance model of the indicated sectors against the background of legislation and practice in the unified agricultural insurance market during the implementation of processes preparing Poland's accession to the European Union (EU) – Part I of the study, and then the implementation of the new insurance system in the market model – Part II of the study.

The authors' analysis of the legal and organisational regulations of the agricultural insurance system in force in the years 2004–2022, taking into account the regulations and other instruments of influence offered/implemented by the EU authorities and institutions, proves and confirms the claim that the negative effects of political and market transformations of the early period of market economy have been evident throughout the entire period of Poland's membership in the EU to date. These were further aggravated by external natural and social phenomena and a range of internal causes³. The latter, related to the conclusion and execution of insurance contracts, are marked by a profound commercialisation of the contractual relationship and imbalance between the parties to the contracts under civil law (in favour of the supply side), which is characteristic of the liberal economy system.

By analysing selected legal acts, available reports and scholarly literature on the subject, as well as drawing on their own experience as participants in the business insurance market in Poland, the authors of the study point first and foremost to systemic and, consequently, organisational solutions as one of the basic sources of the crisis of the business insurance system in Polish agriculture and related areas.

In view of the above, the aim of Part II of the study is, therefore, first of all to identify the symptoms of irregularities causing increasing exposure to risk, and located in insurance legal relationships established in the agricultural insurance sector after Poland's accession to the EU.

2. The study is a form of follow-up to the article: S. H. Nowak, *Rynkowy model polskich ubezpieczeń gospodarczych w rolnictwie w okresie przygotowań do wejścia do UE (lata 1990–2004)*, "Ubezpieczenia w Rolnictwie – Materiały i Studia" 2021, nr 2(76).

3. For this topic see i.a. S.H. Nowak, *ibidem*. See also the authors' discussion in Part I of this article, published in "Ubezpieczenia w Rolnictwie – Materiały i Studia" 2023, nr 1(79).

They invariably demonstrate the need for a continuous modernisation of the system, taking into account both the benefits and the problems associated with common agricultural policy and agricultural risk management in the single European market.

Key words: insurance crises, Polish agricultural insurance system, agricultural insurance system in the EU, agricultural insurance, risk management in agriculture.

Period of political transition and EU accession

General remarks

To analyse the phenomena that occurred in the Polish agricultural insurance system after Poland's accession to the EU, it is necessary to recapitulate the basic facts related to the political transition and its consequences, in relation to insurance for agriculture, rural areas and small towns.

At this point, it should first be mentioned that the economic and social processes taking place at the turn of the 21st century and heralding the entry of the modern developed economies into the post-industrial era of the technological and information revolution, joined by Poland along with changes in its political and economic system, necessitate a new model approach to the present and future role of Polish agriculture as an important, although not as prominent as in previous political and economic systems, branch of the national economy.

According to the principles of physiocratic theory, agriculture in Poland was considered the leading branch of the national economy until the Second Polish Republic, and even during the era of the command economy. This doctrine prevailed until the industrial revolution. As a legal and practical consequence of this emphasis on agriculture, the above-mentioned sector of the economy was understood in a broad sense, to include other related and associated sectors of life and management in rural areas (including non-agricultural households) and even small towns.

This convention of understanding agriculture also included business insurance, whose organised, legally regulated form in the Polish territory began with the compulsory insurance of rural buildings (in 1803), which was extended in terms of its subjects and scope right until the middle of the 20th century, mainly directing the

interest of insurance in agriculture towards securing the agricultural inputs and agricultural planning.

While maintaining the statutory nature of insurance protection for the entire national economy as the guiding principle, further important spheres of property assets held in both agricultural sectors of the (state- and private-owned) economy were covered by compulsory insurance.

In private-owned agriculture, this protection ranged from agricultural holdings (buildings, property, crops, animals, farmers' third party liability, motor vehicle third party liability/accident/collision insurance), through non-agricultural farm buildings and property (on plots of less than 1 ha) to non-agricultural households located in rural areas as well as in small towns.

The aforementioned broad package of statutory insurance was supplemented by insurance whose contracts imposed forms of insurance compulsion other than the statutory one, e.g. for the contractual mass of agricultural commodity production. In addition to the compulsory insurance system, there was also a significant group of contractual insurance – voluntary, personal or property insurance – which was not as extensive in terms of quantity and coverage as the compulsory forms, e.g. individual life insurance.

The model of market economy introduced in Poland by the political system acts of 28 December 1989 (referred to in Part I of the study), and transferred to the field of business insurance by the Insurance Business Act of 28 July 1990⁴, changed the philosophy of the establishment, organisation and functioning of this insurance, also with regard to agriculture and its associated areas, covered by universal insurance protection in the former model of insurance in the times of the command economy (mainly due to compulsion).

As a result of the changes, market principles were transferred to insurance, in particular:

- freedom of insurance contracts⁵;
- the pursuit of profit on the supply side of the insurance market;
- self-determination by both sides of the insurance market (demand and supply side) of the scope of the coverage needs (demand side) and the scope of the coverage provided (supply side), with the exception limited to statutory cases of the obligation to include a strictly defined category of risk.

4. Ustawa z dnia 28 lipca 1990 roku o działalności ubezpieczeniowej, Dz. U. 1990 nr 59 poz. 344.

5. In the free market insurance model, the ways of establishing the legal relationship of business insurance based on the *ex lege* principle, have been abandoned.

The implementation of these principles – with the simultaneous abandonment of the social welfare role of the state regarding the insurance business and the reduction of its control role over the “self-regulating” insurance market, as well as the systemic reduction of the importance of agriculture in the national economy (and, consequently, of the role of business insurance) – lay at the basis of profound changes in the principles and practice of creating and operating of the new system protecting agriculture by means of insurance⁶. It should be recalled that these rules gave rise to a major structural crisis in the Polish system of the aforementioned agricultural insurance, and meant i.a.:

- the loss of the universal protection of the production inputs and crops to a residual form in relation to the extent in force prior to the entry into force of the 1990 Act;
- the exclusion of several risk types from universal coverage, e.g. buildings and property of non-agricultural households in rural areas and small towns;
- restricting the preventive function of all new agricultural insurance to regulatory prevention and abolishing the legal obligation to perform its interventionist role;
- the abandonment by the state of its social welfare and social functions in the agricultural insurance system, which in practice meant that these functions were taken over by the state in subsequent phases of the implementation of market principles in agriculture;
- the need to create new, also non-insurance forms of support for the agricultural production subsidy system and for levelling the development opportunities⁷.

Almost 15 years of preparation for Poland’s membership in the EU and the Europeanisation of Polish insurance, involving both the transposition of EU legislation, including insurance legislation, and the construction and consolidation of the national agricultural insurance system (the future EU agricultural insurance area), despite the adoption of the European model as the legal and organisational system of agricultural insurance, have, however, failed to produce sufficiently effective regulations and actions that would help the agricultural insurance system recover from the long-lasting crisis it had faced since 1990⁸.

Withdrawal from the principles of recognition of the agricultural economy as one of the leading contributors to the national economy, as declared and implemented by successive legislative and executive authorities in the years 1990–2005, and the consequent annihilation of the economic model of agricultural business insurance

6. For further details, see S.H. Nowak, *Rynkowy model polskich ubezpieczeń gospodarczych w rolnictwie w okresie przygotowań do wejścia do UE (lata 1990–2004)*, op. cit., passim.

7. Which has been accomplished in Poland since 2005 in the form of an EU and national subsidy scheme.

8. On the crisis of this insurance in the years 1990–2003, see S.H. Nowak, *Rynkowy model...*, op. cit., passim.

with the predominant system of statutory insurance as developed for two centuries, as well as the overconfidence of the above-mentioned authorities in the future economic and social success of self-regulating markets (including the insurance market) led in practice to the collapse of agricultural protection⁹. However, the shortcomings of the new insurance model¹⁰ identified by the agricultural market practitioners and other stakeholders in the insurance business or by the scientific and research milieu were supposed to disappear or be decisively mitigated by a minor modernisation of the legal and practical solutions (including the adoption – for social reasons as an exception – of the obligation to conclude an insurance contract)¹¹, and, above all, by the introduction and implementation of the Community insurance market.

The package of compulsory insurance in Polish agriculture¹², finally submitted and adopted by the EU by way of accession negotiations, established the application of types of compulsory agricultural insurance (farmers' third party liability insurance, professional liability insurance, motor vehicle third party liability of individuals and legal entities involved in agriculture, insurance of agricultural buildings against fire and other contingencies)¹³. This system is complemented by a broad range of contractual voluntary insurance types which already follow a market-based EU model incorporating: I – life insurance and II – property and other personal insurance. However, in relation to the agricultural sector and rural areas, it is much less widespread than it was in the period of the command economy, and difficult to quantify because of its statistical categorisation into various types and groups.

On account of the latter reason, it is affected by general defects inherent in the market economy¹⁴, limitations of the civil law principle of equality of the parties to the insurance legal relationship accompanying another general principle of insurance, i.e. that of the correct implementation of its primary protective function (realized by fulfilling the insurance principles of protection universality, feasibility

9. Cf. S.H. Nowak, *Rynkowy model...*, op. cit., passim. See also S.H. Nowak, *Problemy 25-lecia polskiego rynku ubezpieczeń (przymus ubezpieczenia w rolnictwie)* [in:] *Ubezpieczenia na rzecz gospodarki globalnej, sektorów i regionów*, ed. I. Jędrzejczyk, Warszawa, SGGW, 2015, pp. 98–104.

10. For more detail, cf. i.a. the discussion contributions at the 2002–2003 conferences of Izba Gospodarcza Ubezpieczeń i Obsługi Ryzyka (IGUiOR).

11. These were, in fact, unwelcome by central government agencies and ministries leading the way in drafting legislation (see the contributions at the aforementioned scientific and practical conferences inspired by IGUiOR).

12. See the cited set of insurance acts of 22 May 2003.

13. Since 2005, it has been supplemented by a new compulsory insurance linked to subsidies to crop and livestock insurance.

14. Cf. S.H. Nowak, *Problemy 25-lecia...*, op. cit.

and comprehensiveness)¹⁵. We should also mention the failure of the market supply side to respect the limits of the principle of fair profit and the limitation, or even removal, of the financial prevention function of the agricultural insurance set and the contribution of this set to the processes of increasing state participation in insurance liability or social assistance of insurance, as well as support of the socio-economic development (of the country, regions, sectors) by means of agricultural insurance.

The new rules of agricultural management, the preference for high-volume compulsory insurance by the leading insurers and companies in the agricultural market, with large-scale operations and little interest for the common rural residents and their families (who often have an average or lower material status), have significantly prolonged the state of poor universality of insurance cover for farmers and rural areas throughout the EU accession period.

At that time, both due to the need for membership in the Union, as well as domestic policy and gradual catching up with the EU's product quality expectations by an increasing number of Polish agricultural producers, the relevant institutions of the Polish state were looking for solutions to strengthen the specific agricultural sector in order to make it competitive with producers from other EU countries. The EU's legal and practical regulations address these expectations. The state's efforts in this regard are justified by A. Szelągowska¹⁶ as follows: "As the problems arising from the effects of adverse weather events intensified, commercial insurance began to emerge and develop. However, economic conditions faced by agricultural producers have prevented farmers, with few exceptions, from using commercial insurance offers". As the costs of agricultural (mainly natural) damage result in production decay in the following years and producers expected state support in this regard, it was reasonable, or, indeed, "necessary to establish a programme of public support for farmers affected by adverse weather conditions"¹⁷.

In Poland, the issue of farm support was addressed within the framework of state action – in multiple ways – through:

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15. Zob. S.H. Nowak, J. Jagodziński, *Kryzysy stałym elementem funkcjonowania polskich ubezpieczeń? Refleksje na tle dyskusji o stanie rynku ubezpieczeń* [in:] *Polski obszar europejskich rynków finansowo-ubezpieczeniowych A.D. 2017*, ed. A.Z. Nowak, S. Nowak, J. Jagodziński, Warszawa, Wydawnictwo Naukowe Wydziału Zarządzania Uniwersytetu Warszawskiego, 2017, p. 265 et seq., and S. Nowak, R. Nowak, review article for the collective work *Konkurencja i konkurencyjność na rynku ubezpieczeniowym*, ed. M. Serwach, Wydawnictwo Uniwersytetu Łódzkiego, Łódź 2015, "Rozprawy Ubezpieczeniowe" 2015, nr 19/2, Fundacja Instytut Zarządzania Ryzykiem Społecznym, Warszawa 2015, p. 336 et seq.
 16. A. Szelągowska, *Rozwój systemu zarządzania ryzykiem w rolnictwie* [in:] *Regionalny program rozwoju na tle strategii UE „Europa 2020” z uwzględnieniem roli ubezpieczeń na przykładzie województwa świętokrzyskiego*, Warszawa 2012, p. 38.
 17. *Ibidem*, p. 38.

- the creation of a national aid system with public funds (in accordance with EU legal principles);
- the establishment of a system of subsidies for crop and livestock insurance premiums and partial state participation in compensation payments for drought damage (such a scheme requires notification to the European Commission);
- working on the creation of legal and organisational solutions for a national system of compensation for damage caused by natural disasters, applying the organisation and financing legislation and rules of the Common Agricultural Policy (CAP) by the European Union¹⁸.

Insurance and other risk management instruments under the CAP

General remarks

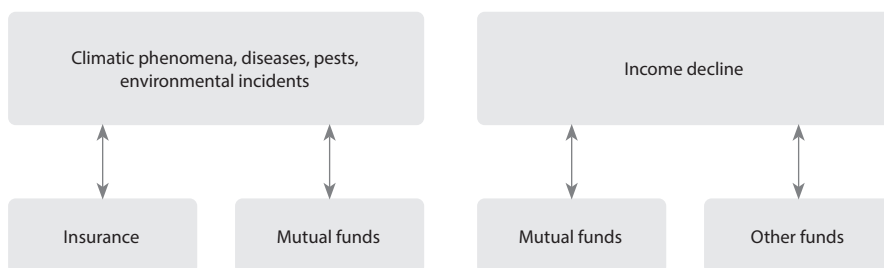
Poland's accession to the European Union in 2004 meant that Polish agriculture has become an integral part of the agri-food sector, one of the EU's largest economic sectors, employing nearly 40 million people¹⁹. This, in turn, creates the need to maintain the competitiveness of the sector through the use of the various instruments available in the Common Market and the provision and systemic application of risk management tools in agriculture (not only in the form of agricultural insurance) by European Union bodies.

It is therefore worth emphasising here the main risks for the agricultural market and the corresponding risk management instruments used in the framework of EU support for rural areas (the so-called Pillar II). These are shown in Figure 1.

18. It remains to be seen how effective and efficient the solutions put in place will be in the face of the challenges that lie ahead, including in economic and social terms.

19. European Commission, Directorate-General for Communication, European Union, *Czym jest i czym się zajmuje Urząd Publikacji Unii Europejskiej*, 2022, p. 21, <https://data.europa.eu/doi/10.2775/20550>, access 8.11.2023.

Figure 1. Risks and risk management tools for Pillar II under EU policy



Source: Own elaboration on the basis of: European Court of Auditors, Special Report 23/2019: Farmers' income stabilisation: comprehensive set of tools, but low uptake of instruments and overcompensation need to be tackled, www.eca.europa.eu, access 31.07.2022.

The European Union uses and provides a variety of risk management tools in agriculture and rural areas to mitigate the increase in risks resulting, inter alia, from the opening up of EU markets, the emergence of new animal diseases or climate change and related weather anomalies. This is particularly relevant in the context of the implementation of the leading concept of holistic risk management in agriculture, implemented in the current macro environment (effects of the SARS-COV2 pandemic and military action in Europe)²⁰.

There is no doubt that since accession to the EU, the range of risk management instruments has been significantly expanded. A special place among the broadly defined risk management instruments in the Single Market is taken by Community policies, including the oldest of these, the aforementioned European Union's Common Agricultural Policy (CAP). CAP funding accounts for more than 40% of the total EU budget and, simultaneously, results in an increase (by ca. 100%) in development opportunities generated by the national budget²¹.

The CAP represents a sort of link between the agricultural sector and the communities of the Member States, established to transfer intervention systems from the national to the Community level (free movement principle). It would be relevant to recall here the objectives of the CAP, which were already set out in the Treaty of

20. M. Soliwoda, *Weryfikacja praktyczna proponowanych produktów ubezpieczeniowych i skonstruowanie systemu holistycznego zarządzania ryzykiem (pilotaż)*, Warszawa, Institute of Agricultural and Food Economics – National Research Institute, 2022, pp. 7–15.

21. J. Krzyżanowski, *Wspólna polityka rolna Unii Europejskiej w Polsce*, 2nd ed., Warszawa, CeDeWu, 2018.

Rome²² and subsequently confirmed in the Treaty on the Functioning of the European Union (Article 39)²³. These are:

- to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production;
- thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
- to stabilise markets;
- to assure the availability of supplies;
- to ensure that supplies reach consumers at reasonable prices.

The CAP has clearly evolved over the years – it has changed its objectives and tools, while making a significant contribution to the agricultural and rural development of the Member States²⁴. In addition to the traditional instruments of compulsory and voluntary insurance of crops, animals or other property, the European Commission (EC) also recommends other solutions, including modern, specialised insurance.

Thus, the basic objectives of the CAP are pursued, for example, through direct payments to farmers, tackling difficult market situations (market support measures), rural development measures (including national and regional programmes to address specific needs)²⁵.

The group of internal instruments proposed by the EC includes improvement and selection processes, diversification, environmental control or the preservation of capital reserves. In addition to insurance, external instruments comprise i.a. liquidity planning, investment strategies or growth forecasts.

22. The Treaty Establishing the European Economic Community, signed in Rome on 25 March 1957, entered into force on 1 January 1958.

23. Treaty on the Functioning of the European Union, Official Journal of the EU C 326/47 of 26 October 2012, consolidated version.

24. R. Jankowski, P. Gudź, *Wspólna polityka Rolna UE: Ewolucja mechanizmów i instrumentów*, „Roczniki Ekonomiczne Kujawsko-Pomorskiej Szkoły Wyższej w Bydgoszczy” 2021, t. 14, pp. 41–56.

25. The 2019–2020 initiatives, in particular the European Green Deal, which is designed to respond to such a critical issue for European agriculture as climate change, and is intended to make the European Union climate neutral, are of great importance for achieving the objectives of the CAP. Its components are the “EU Biodiversity Strategy for 2030” and the “Farm to Fork” strategy. The Biodiversity Strategy for 2030 aims to strengthen protected areas, restore ecosystems and extend organic farming areas. The Farm to Fork strategy aims above all to provide the EU population with healthy, affordable and sustainable food while ensuring profits in the food chain.

Modern tools that cover part of the market risk include, e.g. income insurance which usually guarantees a payment if, due to illness or accident, the insured is temporarily or permanently incapable of pursuing their profession, Mutual Funds (MF), or the Income Stabilisation Tool (IST)²⁶.

A special role, especially until the end of the first decade of the 21st century, was played by direct payments, which serve as a kind of buffer to protect farmers from the consequences of falling prices or lower production levels. Thus, they are intended to provide a guarantee of: food security; profitability of agriculture; support of farmers in the production of safe, healthy and moderately priced food; income to farmers for the provision of public services for which they receive basically no remuneration. This is illustrated in the following figure.

Figure 2. Objectives and methods of direct payments under the European Union's Common Agricultural Policy



Source: Own elaboration on the basis of: Wspólna polityka rolna w skrócie, <https://agriculture.ec.europa.eu>, access 25.07.2022.

Direct payments (initially referred to as ‘compensation payments’) were introduced in 1992²⁷ and soon became the primary tool to support European agriculture. The reforms of the CAP: Agenda 2000 or the Luxembourg reform (2003) were of special importance for the current picture of today’s direct payments. The latter was

26. M. Soliwoda, J. Herda-Kopańska, A. Gorzelak et al., *Instrumenty zarządzania ryzykiem w rolnictwie – rozwiązania krajowe i międzynarodowe. Rolnictwo Polskie i UE 2020+ wyzwania, szanse, zagrożenia, propozycje*, sci. ed. J. Pawłowska-Tyszko, Warsaw 2016, pp. 81–98.

27. This occurred as part of Mac Sharry’s Common Agricultural Policy.

particularly revolutionary in establishing a decoupled payment system and cross-compliance²⁸. The next reform, in the years 2011–2015, was launched with the European Commission document “The CAP towards 2020: meeting the food, natural resources and territorial challenges of the future”. It led to Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013²⁹.

It is worth noting at this point that Poland, like all countries which joined the EU in 2004, applies one of the two possible direct payment schemes³⁰, i.e. the Single Area Payment Scheme (SAPS).

In fact, support for rural areas has become a priority of the CAP since the beginning of the second decade of the present century, alongside support for the quality of agricultural production³¹. This is done primarily through the European Agricultural Fund for Rural Development (EAFRD), whose budget for 2021–2027 is EUR 95.5 billion. Financing from this fund is provided through rural development programmes (RDPs), co-financed from Member State budgets, with project selection and the granting of payments falling within the remit of national and regional managing authorities, while the European Commission is expected to approve and monitor the RDPs. The EAFRD has six priorities which must be taken into account by the RDP. These are:

- increasing cost efficiency and competitiveness and promoting innovative technologies and a sustainable economy,
- promoting food chain organisation, animal welfare and risk management,
- promoting poverty reduction and economic development in rural areas,
- supporting knowledge transfer and innovation,
- strengthening and safeguarding ecosystems,
- promoting efficient use of resources and supporting the transition to a low-carbon and climate-resilient economy.

Market support measures for tackling market contingencies include import and export tariff quotas, market interventions or promotions of EU agricultural products.

Currently, one of the EC’s current priorities is to promote sustainable practices in agriculture and food production. Therefore, the Common Agricultural Policy combines three approaches to achieve a sustainable agricultural system in the EU,

28. The rule made the full payment conditional on the land being managed in accordance with the concept of environmental protection and the principles of protecting public health, animal and plant health, animal welfare, as well as animal identification and registration.

29. Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009, Official Journal of the EU L 347/608.

30. The other is the Basic Payment Scheme (BPS). Unlike the SAPS, in this scheme payments are allocated on the basis of the farmer’s eligibility.

31. D. Stankiewicz, *Wspólna polityka rolna*, <http://orka.sejm.gov.pl>, p. 3, access 27.03.2023.

i.e. the social, economic and environmental approach. The first approach means providing food and other staple products to the populations of member countries and strengthening rural communities. The economic approach includes i.a. supporting small farms and implementing redistributive payments. The last approach, in turn, relies on environmental measures.

From the perspective of the agricultural insurance system in place in Poland after accession to the EU, a fundamental issue concerns the question of how agricultural insurance, and in particular that subsidised by the EU, operates, also in the context of the risk management regulations and guidelines for farms as laid down in EU documents, especially Commission regulations³². What is also important here is the method and effect of farmers' use of EU premium subsidies. This is all the more so as the EC is now placing a particularly strong emphasis on risk management as an instrument for increasing resilience in the agricultural sector. According to the 2019 analysis by the European Court of Auditors³³, although the instruments are available, their impact on the European market is moderate. This applies, for example, to EU premium subsidies, which are used to a limited extent and by a limited number of agricultural producers³⁴. Thus, the Court's proposals aim towards taking steps to:

- encourage better preparedness of agricultural producers for crisis situations,
- improve the operation and verification of insurance premium subsidies,
- improve the conditions for initiation and termination of emergency measures,
- adjust the level of compensation paid for market withdrawals.

As the current tools for risk management in Polish agriculture and rural areas, especially subsidised crop and livestock insurance or direct state disaster relief, do not seem to fulfil their role sufficiently, it is argued that it is necessary to look for solutions aimed at:

- extending the range of risk management instruments,

32. K. Łyskawa, *Ubezpieczenia dotowane upraw w Polsce a idea zarządzania ryzykiem w gospodarstwach rolnych w Unii Europejskiej*, "Zeszyty Naukowe Uniwersytetu Ekonomicznego w Poznaniu" 2009, nr 127, pp. 202–211.

33. European Court of Auditors, Special Report 23/2019: *Farmers' income stabilisation: comprehensive set of tools, but low uptake of instruments and overcompensation need to be tackled*, www.eca.europa.eu, access 31.07.2022.

34. For the arguments for and against subsidising agricultural insurance, see: J. Kulawik, *Przesłanki i wpływ na decyzje ubezpieczeniowe oraz skutki i zasady racjonalnego subsydiowania ubezpieczeń rolnych* [in:] *Analizy popytu i podaży na rynku ubezpieczeń rolnych*, ed. M. Soliwoda, Warsaw, Institute of Agricultural and Food Economics, 2021, pp. 16–126. With regard to the Polish market, the Supreme Audit Office has commented on the shortcomings of the system of state subsidy support for agricultural insurance, pointing out as a cause i.a. provision of direct financial aid by the state, independent of the insurance system, source: Supreme Audit Office, *Informacja o wynikach kontroli, Wspieranie środkami publicznymi systemu ubezpieczeń rolniczych*, KRR.430.009.2019, reg. no. 21/2020/P/19/047/KRR, <https://www.nik.gov.pl/aktualnosci/system-ubezpieczen-rolniczych.html>, access 6.11.2023.

- increasing their effectiveness, e.g. by developing and making better use of the state-supported concept of membership mutuality implemented through insurance³⁵.

It seems particularly interesting to note the concept of extending the relevance of the mutuality formula, especially given the key advantages of mutuality, i.e. group solidarity (distribution of risk among members), the possibility of targeting financial resources, and the possibility of social control (mainly in terms of the damages incurred). What is also essential is the availability of legal forms that do not require such significant capital resources to pursue insurance business as is the case with an insurance company or a classic mutual insurance company (the so-called small mutual insurance company and mutual membership associations) and theoretically lower operating costs (which should translate into lower insurance premiums for members – farms)³⁶.

It seems, however, that in spite of favourable formal and legal conditions as well as a range of pro-development initiatives and activities, the Polish mutual insurance sector (understood as a whole) since the beginning of the political transition of the 1990s has not fully exploited the opportunities offered by membership mutuality.

This appears to be due i.a. to an underdeveloped insurance market (in relation to western markets), the lacking tradition of mutuality in the Polish People's Republic, deficiencies in insurance education (no awareness on the part of farmers of the common interest of the insured), pressure from multinational insurance corporations owning the majority of insurance companies in Poland and, finally, the specific nature of catastrophe risk limiting the possibilities for action³⁷.

35. One example is particularly the German model of agricultural mutual insurance, which provides for the active participation of agricultural entrepreneurs in the management of operational risk (M. Podstawka, J. Pawłowska-Tyszko, *Rozwój rynku ubezpieczeń wzajemnych* [in:] *Weryfikacja praktyczna proponowanych produktów ubezpieczeniowych i skonstruowanie systemu holistycznego zarządzania ryzykiem (pilotaż)*, Warszawa, Institute of Agricultural and Food Economics – National Research Institute, 2022, pp. 1103–1105).

36. For more information, see i.a.: M. Podstawka, J. Pawłowska-Tyszko, *ibidem*, pp. 1077–1100. Also: P. Krukowski, K. Malinowska, S. Nowak et al., *Wzajemność ubezpieczeniowa jako forma realizacji ubezpieczeń podmiotów sektora wydobywczego* [in:] *Przemysł Wydobywczo – przetwórczy węgla i żelaza a rozwój gospodarczy. Elementy historii, rola ubezpieczeń, potrzeby i kierunki rozwoju*, ed. S. Nowak, Warszawa – Bydgoszcz, Oficyna Wydawnicza Edward Mitek, 2014, pp. 202–224.

37. P. Krukowski, K. Malinowska, S. Nowak et al., *ibid.*, pp. 202–224. See also: K. Malinowska, S. Nowak, A. Śliwiński, *Wzajemność ubezpieczeniowa jako forma realizacji ubezpieczeniowej* [in:] *Regionalny program rozwoju na tle strategii UE „Europa 2020” z uwzględnieniem roli ubezpieczeń na przykładzie województwa świętokrzyskiego*, ed. S. Nowak, Warszawa, Izba Gospodarcza Ubezpieczeń i Obsługi Ryzyka, 2012, pp. 315–330. Also: M. Podstawka, J. Pawłowska-Tyszko, *Rozwój rynku ubezpieczeń wzajemnych* [in:] *Weryfikacja praktyczna proponowanych produktów ubezpieczeniowych i skonstruowanie systemu holistycznego zarządzania ryzykiem (pilotaż)*, ed. M. Soliwoda, Warsaw, Institute of Agricultural and Food Economics – National Research Institute, 2022, pp. 1077–1109.

Changes in the agricultural insurance system

The changes in the agricultural insurance system in Poland following EU accession were preceded by a process of insurance marketisation, which took place as a result of the political transition. Until 1990, agricultural (property) insurance was implemented by the State Insurance Company (PZU) as a *de facto* state administrative body. It should be remembered that this insurance was marketised in 1991 with the entry of private insurance companies, including those with foreign capital, and entities operating under the membership mutuality model³⁸. Previously, farmers were exempted from the obligation to insure crops and animals. This took place with the entry into force of the Insurance Business Act of 28 July 1990³⁹ (crop and animal insurance became widespread from the entry into force of the State Insurance Act of 28 March 1952⁴⁰).

As a result of the changes, farm building insurance and agricultural third party liability insurance remained compulsory.

The first tangible effect of the reform was the reduction in the efficiency of agricultural insurance by reducing the number of insurance policies taken out⁴¹. Another factor contributing to these unfavourable developments was the departure in practice from the emphasis on insurance prevention, which used to be the domain of PZU. This was compounded by long-standing negligence, organisational errors, the inadequacy of the state's insurance policy, or lack of coordination. This was reflected in the very serious problems in situations of natural disasters that Poland faced at the turn of the century (e.g. the flood in 1997 or the droughts in 2000 and 2003). These resulted in undertaking work on the creation of such a form of public aid that would provide farmers with the financial means to remedy the effects of natural disasters while reducing the burden on the state budget. The work resulted in the Act on Crop and Livestock Insurance Subsidies⁴², defining i.a. the rules for providing aid and the role of the state in organising and financing subsidies and supervising their system. Problems with the entry into force and operation of the provisions of the aforementioned Act

38. The first was Towarzystwo Ubezpieczeń Wzajemnych "TUW", which, especially in its first phase, was strongly linked to the agricultural market by offering voluntary and compulsory insurance for agriculture.

39. Dz. U. nr 59 poz. 344 ze zm.

40. Dz. U. 1952 nr 20 poz. 130.

41. In 2003, W. Jagła reported that ca. 3% of farmers insure crops and animals, and ca. 20% of farmers do not pay premiums for compulsory insurance of buildings and third party liability insurance (W. Jagła, *KRUS a obowiązkowe ubezpieczenia rolnicze*, "Ubezpieczenia w Rolnictwie. Materiały i Studia" 2003, nr 4(20), p. 47).

42. Dz. U. nr 150 poz. 1249.

were related i.a. to the approval by the European Commission, unclear provisions or lack of interest on the part of insurance companies⁴³.

The number of insurance contracts concluded, including the aforementioned drastic decrease in insurance contracts concluded after 1990, is shown in the table below. In 1990, a sizeable number of more than 3 million contracts were still concluded; in 1992, the figure was only 825,000, only to fall to a symbolic number of 32,000 contracts in 2001. Since 2010, a relatively small increase in the number of insurances has been recorded (135,000 in 2010, 165,000 in 2018).

Table 1. Number of crop insurance contracts concluded in Poland in the years 1990–2018

Year	Number of contracts in PLN thousand
1990	3,240
1992	825
1997	75
2001	32
2005	36
2010	135
2013	151
2015	139
2017	162
2018	165

Source: Own elaboration on the basis of: Supreme Audit Office, <https://www.nik.gov.pl/>, access 1.08.2022.

It should also be noted that, starting in 2011 and up to 2018, the amount of subsidies from the budget has increased by roughly 400% (to ca. PLN 450 million). A similar increase was seen in premiums written (to ca. PLN 725 million). However, this has not translated into a marked increase in the number of insurance contracts (2011 – ca. 139,000 and in 2018 – over 165,000), resulting in a modest 12% of the total number of farms covered by crop insurance⁴⁴.

Since 1 January 2004, compulsory agricultural insurance, i.e. insurance of farm buildings and farmers' third party liability insurance, has been regulated by the Act on Compulsory Insurance, the Insurance Guarantee Fund and the Polish Motor

43. J. Orlicka, *O kontrowersjach wokół ustawy o dopłatach do ubezpieczeń upraw rolnych i zwierząt gospodarskich*, „Ubezpieczenia w Rolnictwie. Materiały i Studia” 2006, nr 1(29), pp. 77–91.

44. Najwyższa Izba Kontroli, <https://www.nik.gov.pl/>, access 1.08.2022.

Insurers' Bureau of 22 May 2003⁴⁵. This Act superseded the Ordinance of the Minister of Finance of 3 April 1997 on the general conditions for compulsory insurance of farm buildings against fire and other contingencies⁴⁶. The insurance of buildings covers the risks of fire, hurricane, hail, flood, inundation, heavy rain, hail, lightning, explosion, landslide, rockfall, avalanche, falling aircraft and snowfall.

According to the current provisions of the aforementioned Act, the obligation to take out farmers' third party liability insurance is based on the mere fact of owning a farm, and insurance cover is provided for damage resulting from work on the farm, in the field and on the public road.

While there was little doubt about the obligatory nature of third-party liability insurance during the discussed period (and there is no such doubt now), in the process of change, the opposing views that had already existed regarding the advisability of making building insurance compulsory have deepened. In the view of the critics of the solution finally adopted, compulsory insurance was not supported by the important social interest that exists in third-party liability insurance – that is, the protection of the injured – and the lack of analogous solutions for professional groups other than self-employed farmers⁴⁷.

Natural disasters occurring at the end of the 20th and beginning of the 21st century in Poland, heavily absorbing the budget of the State Treasury (ad hoc aid), prompted renewed attention to the idea of greater state influence on the agricultural production insurance market and, consequently, the popularisation of agricultural insurance. This culminated in the enactment of the 2005 Crop and Livestock Insurance Act⁴⁸, which stipulated the rules for the application of premium subsidies for the conclusion of insurance contracts against the risk of the effects of contingencies in agriculture. Under the provisions of the Act referred to above, the maximum level of subsidy was 50% of the premium, and 40% for crops. Crops covered included cereals, maize, oilseed rape, agrimony, potatoes and sugar beet, as well as cattle, horses, sheep, goats and pigs. With regard to crop production, the covered risks included fire, hurricane, flood, heavy rain, hail, lightning, explosion, landslide, avalanche, drought and negative effects of wintering or spring frost. Premium subsidies only applied to insurance contracts where the premium did not exceed a set percentage of the sum insured, i.e. 3.5% for crops and 0.5% for animals. Only policies with a coverage level of at least 80% of the sum insured were subsidised.

45. Dz. U. 2003 nr 124 poz. 1152.

46. Dz. U. 1997 nr 36 poz. 220.

47. So i.a. A. Wąsiewicz, *Konceptja legislacyjnej przebudowy systemu prawa ubezpieczeń gospodarczych*, „Prawo Asekuracyjne” 1997, nr 3, p. 23. More on this topic: J. Orlicka, M. Orlicki, *Obowiązkowe ubezpieczenie budynków rolniczych w świetle nowej regulacji – wybrane zagadnienia*, “Ubezpieczenia w Rolnictwie. Materiały i Studia” 2003, nr. 4(20), pp. 79–80.

48. Ustawa z 7 lipca 2005 r. o ubezpieczeniach upraw rolnych i zwierząt gospodarskich, Dz. U. 2005 nr 150 poz. 1249.

The explanatory memorandum to the Act outlined several key objectives of its enactment. These were, above all⁴⁹:

- reducing the budgetary expenditure of the State Treasury for the effects of catastrophic weather events affecting crops,
- minimising the risk of a decrease or total loss of agricultural income,
- development of agricultural regions and increase of competitiveness of agricultural companies.

The Act has been amended several times. The changes mainly concerned an increase in the scope of crop subsidies and a change in the conditions for assistance in the event of unforeseen disasters. In 2007, the possibility of unbundling the risks covered by insurance contracts was introduced, followed one year later by mandatory insurance for some crops and risks. It is worth paying particular attention to 2008, when insurance was made compulsory from 1 July for farmers who received direct payments for agricultural land. This obligation applied to 50% of the crop area and covered: hail, drought, flood, negative effects of wintering and spring frost. In 2015, the maximum acreage limit (300 ha) eligible for a premium subsidy was abolished. In parallel, premium subsidies increased from 50% to 65% between 2005 and 2022. This is illustrated in the table below.

Table 2. Changes resulting from the 2005 amendment to the Crop and Livestock Insurance Act

Year	Changes
2007	Introduction of the possibility of unbundling the risks covered by insurance contracts
2008	Introduction of an obligation to insure min. 50% of the crop area against some risks for farmers who received direct payments for agricultural land
2015	Abolition of the maximum acreage limit (300 ha) eligible for a premium subsidy
2005–2022	Increase in premium subsidies from 50% to 65%

Source: Own elaboration.

In its current form, the purpose of the Act is to define the rules of:

- the application of premium subsidies for the conclusion of insurance contracts against the risk of the effects of contingencies;

49. Uzasadnienie do ustawy z 7 lipca 2005 roku o dopłatach do ubezpieczeń upraw rolnych i zwierząt gospodarskich, Dz. U. 2005 nr 150 poz. 1249. See also: M. Kaczała, K. Łyskawa, *Wpływ ubezpieczeń dotowanych upraw na wynik finansowy wybranych rodzajów produkcji roślinnej*, “Wiadomości Ubezpieczeniowe” 2020, nr 4, pp. 33–55.

- the conclusion and performance of compulsory insurance contracts to insure crops against certain risks arising from the effects of contingencies, and
- the provision of targeted subsidies to cover part of the compensation for drought damage.

Now, the Act governs the following insurance contracts:

- crops of cereals, maize, oilseed rape, agrimony, hops, tobacco, ground vegetables, fruit trees and bushes, strawberries, potatoes, sugar beet or legumes, starting from sowing or planting up to harvest, against the risk of damage caused by hurricane, flood, heavy rain, hail, lightning, landslide, avalanche, drought, negative effects of wintering and spring frost;
- cattle, horses, sheep, goats, poultry or pigs against the risk of damage caused by hurricane, flood, heavy rain, hail, lightning, landslide, avalanche and as a result of emergency slaughter.

Premium subsidies are available to farmers where insurance covers the risks of: flood, hail, heavy rain, drought, effects of wintering or spring frost, hurricane, lightning, avalanche, landslide. In the current legal status, the subsidy amounts to a maximum of 65% of the premium, if the insurance premium does not exceed⁵⁰:

- 9% of the insured crop's value;
- 12% of the insured crop's value for crops grown on class 5 farmland;
- 15% of the insured crop's value for crops grown on class 6 farmland.

Apart from the premium subsidies themselves, the maximum tariff rates applied by insurance companies in subsidised insurance contracts have also become the main tool of State influence on the agricultural insurance system. It is also worth noting that the maximum subsidy is currently 65% and has been increased compared to previous statutory provisions⁵¹.

Another tool for implementing the State's policy towards subsidised agricultural insurance is the minimum damage levels eligible for compensation. For the risk of drought (damage to the main crop), this level is min. 25%, for other risks – at least 10%.

By way of comparison, it is worth noting at this point the highlighted aspect of the state's contribution to the financing of agricultural insurance in other European countries, as shown in the following table, using 2019 as an example. In most EU Member States, two basic general patterns can be distinguished, i.e. a national

50. If the premium rate exceeds 9%, 12%, 15%, the subsidies for these premiums will be reduced in proportion to the percentage of the increase (this does not apply to insurance for fruit trees and bushes and strawberries). For more on this topic, see i.a.: B. Napiórkowski, *Ubezpieczenia obowiązkowe i dobrowolne w rolnictwie*, Warmińsko-Mazurski Ośrodek Doradztwa Rolniczego z siedzibą w Olsztynie, Olsztyn 2022, pp. 5–9.

51. For more information, see i.a.: S.H. Nowak, R. Nowak, *Polskie ubezpieczenia gospodarcze wobec zjawisk katastroficznych, w tym pandemicznych (wpływ zdarzeń katastroficznych na rynek ubezpieczeń rolnych)*, "Ubezpieczenia w Rolnictwie – Materiały i Studia" 2022, nr 1(77), pp. 144–146.

Polish system of business insurance in agriculture and related areas during

insurance scheme and EU subsidies premium subsidies under Pillar II. However, in as many as eight countries (Finland, Sweden, Denmark, Germany, the UK, Ireland and Slovakia) no such subsidies are generally available.

Table 3. Subsidised agricultural insurance in European Union countries in 2019

Country	Subsidised agricultural insurance
Finland	
Sweden	
Denmark	
Germany	No public subsidies
UK	
Ireland	
Slovakia	
Poland	
Czech Republic	
Austria	
Slovenia	
Bulgaria	National insurance scheme
Greece	
Spain	
Luxembourg	
Cyprus	
Netherlands	
Belgium	
France	
Italy	
Portugal	
Croatia	EU premium subsidies – Pillar II
Romania	
Hungary	
Lithuania	
Latvia	
Estonia	

Source: Own elaboration on the basis of: European Court of Auditors, Special Report 23/2019: Farmers' income stabilisation: comprehensive set of tools, but low uptake of instruments and overcompensation need to be tackled, eca.europa.eu, access 31.07.2022.

In addition to the intended effects of insurance premium subsidies, subsidies have had the negative effect of reducing interest especially in voluntary agricultural insurance. Aid granted from the State budget to prevent the impact of natural disasters has a similar effect⁵². Although these provisions of the said Act have been repeatedly amended, the authors believe that the system of supporting agricultural insurance with subsidies still remains ineffective and that the intended objectives have not been achieved. This is chiefly due to funding and disaster relief targeting the effects of damage outside the insurance system and despite the failure to meet the obligation to insure crops⁵³.

Disaster relief in the form of structural funds or *ad hoc* payments are typical risk management tools in agriculture alongside, for example, mutual funds, insurance used in most EU countries. Differences include the scale and scope of the State Treasury's exposure and the level of exposure and relationship of budget support to the insurance system. The solutions applied include e.g.⁵⁴:

- no assistance if the farmer has not concluded an insurance contract offered in the relevant market;
- covering only those losses that relate to uninsured risks;
- providing assistance to farmers who have taken out basic crop insurance (e.g. against hail risk).

It is worth noting at this point that the primary risk covered in EU countries is hail risk. Other risks are often regarded as uninsurable.

52. C. Klimkowski lists several factors causing a reduction in demand for agricultural production insurance. These include, in addition to disaster relief, no risk unbundling, information asymmetry, moral hazard, high administrative costs: C. Klimkowski, *Ubezpieczenia produkcji rolnej – stan obecny i perspektywy*, "Ubezpieczenia w Rolnictwie. Materiały i Studia" 2011, nr 41, pp. 129–131.

53. For more information, see i.a.: S.H. Nowak, R. Nowak, *Polskie ubezpieczenia gospodarcze wobec zjawisk katastroficznych, w tym pandemicznych (wpływ zdarzeń katastroficznych na rynek ubezpieczeń rolnych)*, "Ubezpieczenia w Rolnictwie – Materiały i Studia" 2022, nr 1(77), pp. 145–146. In assessing the effectiveness of the subsidy system, the authors refer i.a. to the report of the Supreme Audit Office (source: Supreme Audit Office, *Informacja o wynikach kontroli, Wspieranie środkami publicznymi systemu ubezpieczeń rolniczych*, KRR.430.009.2019, reg. no. 21/2020/P/19/047/KRR, Warszawa 2020, www.nik.gov.pl, access 16.02.2022).

54. M. Łozowski, Z. Obstawski, *Podstawy budowy Wspólnego Systemu Ubezpieczeń Rolnych w Unii Europejskiej*, "Zeszyty Naukowe SGGW w Warszawie, Polityki Europejskie, Finanse i Marketing" 2009, nr 2(51), pp. 185–196.

Summary and conclusions

The findings prove the validity of the claim that systemic solutions are the basic source of the deep crisis of the business insurance system in Polish agriculture and associated areas, including rural households and related areas which lack universal property insurance schemes. In this matter, the hypothesis suggesting that between 2004 and 2022, despite the significant improvement in material farming conditions and the increase in the possibility of applying diversified risk management instruments, if only those introduced and offered by the EU (including through the Common Agricultural Policy), and a steady increase in the quality and quantity of insurance (starting from the collapse of the agricultural insurance system after 1990), the insurance of agriculture and rural and small town households is still in a phase of a certain stagnation in relation to possibilities and expectations, especially in terms of quantitative and generic universality⁵⁵, proves to be equally valid.

Tracing the transformations of the Polish insurance system and its functioning in the contemporary model allows to notice a range of problems, including both those related to political transition (e.g. abolition of an economically significant set of statutory insurances – *ex lege*) and new ones, typical of the development phases of the economy (economic and social crises, commercialisation of insurance, the state divesting its welfare and control functions, or minimising the social functions of insurance business).

For Polish agriculture and its accompanying spheres – where compulsory forms of insurance, but with pro-social aspects (as if to compensate for the former) were commonplace in the last two centuries – the new model of business insurance has experienced a number of disadvantages, some of which have not yet been resolved, and some are in fact unresolvable in the current political and social system.

Despite the favourable trends of the continuous development of insurance products in commodity agriculture, the benefits of the technicalisation and mechanisation of the insurance services, and the many positive developments and trends associated with participation in EU structures, as well as the experience of the insurance and compensation practices of the sector and related spheres of personal and property insurance (e.g. small households), which used to be subject to universal insurance

55. The opinion on the inefficiency and low effectiveness of the agricultural insurance system (supported by the state budget subsidies) in place in Poland can be found i.a. in: M. Soliwoda, A. Kurdyś-Kujawska, *Identyfikacja reguł podejmowania decyzji ubezpieczeniowych* [in:] *Analizy popytu i podaży na rynku ubezpieczeń rolnych*, ed. M. Soliwoda, Warszawa, Institute of Agricultural and Food Economics, 2021, pp. 407–408.

cover before 1990, suggest that the role of business insurance has been significantly marginalised. This was due both to the implementation of systemic principles (e.g. the abolition of the statutory insurance system) and the lack of adequate interest in certain types of protection – on the part of the supply side of the market and the potential recipients of insurance services who, prior to 1990, were covered by a universal (statutory) form of protection.

The diminishing importance of the protection role of insurance in agriculture and related sectors can be also attributed to the decline in the control and welfare role of the state, if only for ideological reasons. This role was supposed to be taken over by the self-regulating financial-insurance market, which unfortunately has not been satisfactorily fulfilled.

Even though the Polish business insurance market has belonged to the EU market, with its diverse range of agricultural risk management tools, for almost 20 years, the Polish state, irrespective of the political affiliation of successive governments, has so far failed to take appropriate corrective legislative and organisational-practical initiatives in this area. The beneficial compensatory power of the insurance premium subsidy system created under the EU Common Agricultural Policy and supported by modest public benefits in cases of catastrophic damage has been wrongly overconfided in.

The Polish solutions for crop and animal insurance premium subsidies, as implemented in practice, do not seem to have the intended effects in terms of their universality and completeness of the protection system. A similar view should be taken of the solutions adopted in Poland for the compensation of (mass and catastrophic) material damage, as implemented in the form of state aid benefits, which have proved, in the authors' opinion, insufficient for a comprehensive and complete compensation for the consequences of increasingly widespread damage⁵⁶. However, it is also worth noting at this point the measures taken in the years 2020–2022, manifested i.a. in an increase in agricultural spending, primarily motivated by the need for the state

56. The legislator's lack of a comprehensive approach and response to catastrophic risk is indicated in: A. Piotrowska, *Rola państwa w rozwoju ubezpieczeń katastroficznych* [in:] *Ryzyko ubezpieczeniowe w ochronie środowiska*, Wydawnictwo Uniwersytetu Gdańskiego, 2021, pp. 155–187, https://www.researchgate.net/publication/358770168_ROLA_PANSTWA_W_ROZWOJU_UBEZPIECZEN_KATASTROFICZNYCH_THE_GOVERNMENT'S_ROLE_IN_THE_DEVELOPMENT_OF_CATASTROPHIC_INSURANCE, access 8.11.2023. In the abstract to her study, the author argues for "the introduction of a uniform regulation covering the various catastrophic events along with the regulation of the controversial issue of the ratio of insurer payments, as well as grounds for and the amount of benefits from public funds, would replace the currently existing patchy solutions including only certain catastrophic events (mainly floods)".

to support the agricultural sector and protect agricultural producers from the effects of climate disasters, infectious diseases and rising inflation^{57,58}.

Another under-recognized phenomenon related to the lack of universality of agricultural insurance is the neglect of insurance contribution to the state participation in the rules of indemnity liability on the part of insurers, and the minimization (right up to the abandonment) of the financial preventive function (from the premium funds or balance sheet surpluses of insurers) for the implementation of projects to secure or support prevention.

This is compounded by the relatively low prevalence of mutual insurance companies and their use in the Polish agricultural risk management system. These companies bring together agricultural entrepreneurs, especially non-commercial – local and regional ones. In spite of the existing legal regulations that enable the operation of such insurance entities and mutual funds, the strong position of commercial enterprises – in the absence of sufficient state support – does not allow for greater development of mutual insurance in the form of, for example, a small mutual insurance company or a mutual membership association.

Although the Polish insurance market has been operating under a liberal market model for many years, mutual insurance, including that covering the rural farming risk, still fails to make its mark here, both in terms of the number of insured persons and the types of risks that should be covered under today's risk conditions. The relatively modest offering of niche insurers, compounded by too low collateral capital, is insufficient to meet protection needs. Without special, stronger than to date, state interest and optimum support (using the state institutions already in place and ready for such developments), the aid system currently in place does not meet the expectations of the agricultural sector.

The loss of importance of the protection role of business insurance – marginalised even in statistical terms⁵⁹ – for Polish agriculture has shifted the main impetus of

57. A. Czyżewski, R. Kata, A. Matuszczak, *Ważniejsze relacje w wydatkach budżetów rolnych Polski w latach 2015–2022, Studium porównawcze*, "Annals of the Polish Association of Agricultural and Agribusiness Economists" 2022, t. XXIV, nr 3, <https://agro.icm.edu.pl/agro/element/bwmeta1.element.agro-e6240153-9fb5-49a0-9774-3ee7246250c0>, access 8.11.2023.

58. Annual support for agriculture and rural areas in Poland is estimated at a total of around PLN 45–55 billion per year, with the level of support closely linked to the multi-annual budgets of the European Union, source: J. Misiąg, *Rozmiary i algorytmy podziału publicznego wsparcia rolnictwa i rozwoju obszarów wiejskich*, "Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu" 2023, t. 67, nr 2, https://www.dbc.wroc.pl/Content/122138/Misiag_Misiag_Rozmiary_i_algorytmy_podzialu.pdf, access 8.11.2023.

59. Which did not mean at all that EU legislation or national legal and practical regulations did not allow for the rapid development of compulsory types of insurance, both in third party liability insurance and other forms of insurance cover (e.g. collision insurance or securities for credit and loan contracts).

state aid measures for the agricultural sector and rural areas to EU measures and resources. It is noteworthy that the EU aid programmes for agriculture that have been developed for many years (with Poland's participation for about 20 years) – in the form of equalisation of development opportunities, further extended to combating poverty and social exclusion in these areas – in view of the inadequate legal and organisational requirements of the EU bodies and with the effective lobbying policy of some Polish farming milieus⁶⁰ have been directed mainly to support the income generation aspect of agriculture, i.e. to maintain the income status quo, rather than to secure or develop the sector's production potential⁶¹. The latter direction of support would create an opportunity to improve the living conditions of all members of the community, including those who need it most (i.a. non-agricultural families).

Under Polish conditions, it is in these categories of needs that the numerous milieus in rural areas who do not meet the conditions for making a living from agricultural production or who do not have other sources of income sufficient to support themselves should be placed. The EU aid programmes, like the national one, do not contain any programme references to business insurance, which may have been due, for example, to the fact that the pre-existing programmes providing for state liability for damages, and their aid role, were wrongly regarded in the neo-liberal economy as state interference in economic markets, and their implementation – if only involving state aid – was regarded as the nationalisation of insurance and deemed undesirable in the ideologically conceived market role of the state.

Meanwhile, the rapidly growing compensation needs call for – legally and practically – effective measures to involve the state in compensation or assistance and welfare functions, also in the spheres of agriculture and related areas, taking into account the significant compensatory capacities available in insurance methods.

So far, interest in this issue has been limited to a few theoretical papers authored by small groups of specialists from various fields of science and practice.

The need to solve these problems is becoming all the more urgent as, with almost universal regularity, new types of threats “erupt”, be they social, natural (e.g. pandemic

60. R. Lewandowski, *Jaka polityka wobec wsi i rolnictwa* [in:] *Ocena komplementarności działań Polityki Spójności Wspólnej Polityki Rolnej i Wspólnej Polityki Rybackiej na obszarach wiejskich*, ed. I. Jędrzejczyk, Warszawa, Wyd. SGGW, 2008, pp. 51–64. See also: W. Michna, *Raport o wpływie Wspólnej Polityki Rolnej na tendencje polaryzacji gospodarstw rolnych w ramach poszczególnych makroregionów kraju*, cz. 1, Raport nr 93, Warszawa, IERiGŻ, 2008.

61. See e.g. C. Klimkowski, *Ubezpieczenia produkcji rolnej...*, op. cit. Cf. also R. Zelwianiński, *O potrzebie powszechnego ubezpieczenia budynków od ognia i innych zdarzeń losowych. Wybrane problemy*, “Rozprawy Ubezpieczeniowe” 2012, nr 12, p. 12, and, possibly most extensively, as early as in 2002, M. Więckowski, *Zarządzanie ryzykiem powodzi* [in:] *Ubezpieczenia w polskim obszarze rynku europejskiego. Wyzwania i oczekiwania*, IGUiOR, WSPiZ im. L. Koźmińskiego, Warszawa, Oficyna Wydawnicza Branta, 2003, pp. 520–530.

risk)⁶², or, finally, political and economic (e.g. related to the global situation after Russia's aggression against Ukraine).

The conclusions of the above considerations give rise to several proposals and suggestions, including the need to make efforts to urgently create adequate legal and organisational opportunities, universal (and, therefore, rather compulsory) agricultural protection and insurance programmes, using the corresponding elements of state supervision and welfare functions, and the mutuality format as the cheapest and most socially just.

It would be hardly feasible to expect the introduction of appropriate solutions without a prior in-depth study of the current state of the agricultural sector, its needs and the possibilities of meeting them, both in the current and potential future form of solutions as regards the scope, form, conditions of concluding and performing insurance contracts.

Being split into mutually opposing sides in terms of insurance interests, the current Polish insurance market is deeply imbalanced, with the insurers having an advantage. Therefore, it would be desirable to set up a moderation and modernisation programme (a sort of "National Programme for the Reconstruction of the Insurance Sector") that would meet the interests of the market stakeholders and would:

define the scope of the research work and its objective performers;

prepare a report on the state of Polish business insurance (including agriculture and rural areas), possibly according to the principles of the current statutory classification of insurance;

identify the needs for modernisation and moderation of the business insurance model (including in agriculture), taking into account the dynamic development of social and natural risks and the demand arising from the country's socio-economic development prospects in the information revolution phase.

62. This is discussed by S.H. Nowak and R. Nowak, *Polskie ubezpieczenia gospodarcze...*, op. cit.

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received: 13.04.2023
accepted: 06.06.2023



