

Polish system of business insurance in agriculture and related spheres during accession processes and during membership in the EU Selected aspects

Part I Period of pre-accession and accession of Poland to the EU

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Abstract

The reasons for the profound, structural crisis in business insurance of the agriculture and related spheres, rural areas and small towns (during the period from 1990 to 2004) could be found both in statutory premises and errors in the implementation of the market model of insurance in Poland. A particular manifestation of such errors was the dogmatic and selective understanding of the ideological political principle of freedom of contracts in agricultural insurance coupled with the approval for legal and economic obligation to enter into such contracts when dealing with other types of insurance protection.

The subject of the issues presented in this work, which, in a way, continues an article by S. H. Nowak entitled “Rynkowy model polskich ubezpieczeń gospodarczych w rolnictwie w okresie przygotowań do wejścia do UE (lata 1990–2004)” published in “Ubezpieczenia w Rolnictwie – Materiały i Studia” magazine¹ is to analyze the development and implementation of the model of insurance of the said sectors during performance of processes that prepared accession of Poland to the European Union (part 1 of the work), and then the implementation of the new system of insurance based on the market model versus legislation and practice on the consolidated market of agricultural insurance (part 2 of the work).

1. 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).

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The authors analysed the legal and organisational regulations for the Polish system of agricultural insurance in relation to all sectors of agricultural economy and related fields. The analysis demonstrates and confirms the argument that the crisis caused by political and market transformations of the early period of the market economy still continues and has been additionally deepened by external adverse natural and social phenomena and a series of internal causes.

When analysing acts of law, available reports published by market institutions, the scientific literature on the subject, and using own experience of participants of the market of business insurance in Poland, the authors point to political solutions as one of the key sources of crisis of the system of business insurance in the Polish agriculture and sectors adjacent to it.

The primary purpose of the work is to identify symptoms of abnormalities that trigger the growing dangers of risk and that are embedded in insurance legal relations which, against the background of agricultural insurance, have pointed to the urgent need to modernize the whole system.

Keywords: insurance crisis, neoliberal insurance market, system of agricultural insurance, agricultural insurance, common agricultural policy.

Accession processes

General remarks

The political and economic changes which took place in Poland at the turn of the 20th and 21st century proved to be considerably problematic and complex for the agricultural sector that had been so important to the Polish economy. Those changes were often difficult to accept by the recipients of the new legislative and practical solutions, including farmers and inhabitants rural areas and related areas. During dozens of years of insurance practice under conditions of the command economy, such people became accustomed to legal and organisational solutions of the insurance system of that period.

Contrary to announcements and expectations that the agriculture – given preservation of private ownership of the majority of means of production – would become the definitive beneficiary of the new solutions, it transpired that the economic and social, as well as the mental processes, were long-term, difficult to accept and required adjustment to the new conditions and abandoning the old principles and

habits. The system of business insurance that was in effect during the times of the command economy, along with its majority package of mandatory insurance and the achievements of organized forms of insurance developed over nearly two centuries, was one of such solutions².

What is typical of the history of the Polish agricultural insurance is that the departing system was the result of 'for' and 'against' the insurance compulsion and was established as a solution that was beneficial for the farmers and the authorities of the 19th century in the early days of the market economy system in the Polish lands. Poland of the late 20th century returned to the same political form when it decided to reinstate market economy (also with regard to business insurance), after dozens of years of the socialist economic system.

Contrary to arguments of some proponents of the idea of market economy in insurance³ (perhaps except the first period of state offered insurance from 1952 to 1958), it was at the times of the command economy that the Polish insurance system in agriculture successfully became part of the ideas and traditions of the insurance theory and practice. That system carried over, among others, multiple solutions of the reciprocal nature⁴, the share of insurance entities or other entities interested in decision-making processes relating to development of insurance⁵, while

2. See, among others, S. Nowak, *Problemy 25-lecia polskiego rynku ubezpieczeń (przymus ubezpieczenia w rolnictwie)* [in:] *Ubezpieczenia na rzecz gospodarki globalnej, sektorów, regionów*, red. I. Jędrzejczyk, published by the Warsaw University of Life Sciences in co-operation with Insurance and Risk Management Chamber of Commerce (IGUiOR), Warszawa 2015, p. 94–110.

3. Wałczak D., *PZU SA na polskim rynku ubezpieczeniowym* [in:] *U progu trzeciego stulecia ubezpieczeń*, published by PZU S.A., Warszawa 1993, p. 75 and 80.

4. Despite the public (national) nature of ownership of the monopolist in national insurance, PZU, the method of accumulating and spending insurance monies (for example the preventive fund) and establishment of legal relations of insurance and the organization of compensation processes in that insurance company lets us to pose a legitimate argument that such a method of implementing an insurance system could have fallen in the reciprocal, non-profit category, or at the very least into the commercial activity where the leading goal is not the profit but achievement of key social objectives. Cf. Płonka M., *Idea wzajemności wobec wyzwań rynku ubezpieczeniowego XXI wieku* [in:] *Ubezpieczenia wobec wyzwań XXI wieku*, red. W. Ronka-Chmielowiec, Wrocław, Wrocław University of Economics, 2008, p. 360. See also S.H. Nowak, *Problemy 25-lecia polskiego rynku ubezpieczeń (przymus ubezpieczenia w rolnictwie)*, op. cit., p. 102–109. Idem, *Nowa ustawa w ubezpieczeniach majątkowych i osobowych*, "Wiadomości Ubezpieczeniowe" 1984, nr 10, p. 1–13. Idem, *Szkoda i zakres jej kompensacji w obowiązkowym ubezpieczeniu budynków oraz mienia w gospodarstwach rolnych*, "Wiadomości Ubezpieczeniowe" 1983, nr 2, p. 1–10 and S.H. Nowak, J. Jagodziński, *Kryzys stałym elementem funkcjonowania polskich ubezpieczeń? Refleksje na tle dyskusji o stanie rynku ubezpieczeń* [in:] *Polski obszar europejskich rynków finansowo-ubezpieczeniowych A.D. 2017*, red. A.Z. Nowak, S. Nowak, J. Jagodziński, Warszawa, Scientific Publishing House of the Faculty of Management of the University of Warsaw, 2017, p. 270. R. Nowak, *Nowe przepisy o ubezpieczeniach rolnych w odbiorze społecznym*, "Wiadomości Ubezpieczeniowe" 1985, nr 6, p. 1–15.

5. Cf. Article 28 ustawa o ubezpieczeniach majątkowych i osobowych of 20.09.1984, Dz.U. Nr 45 poz. 242, and M. Brzostek, *Rola ubezpieczeniowa w strukturze organizacyjnej publicznego zakładu ubezpieczeń w Polsce*, "Wiadomości Ubezpieczeniowe" 1976, nr 2. Cf.: S.H. Nowak, *Nowa ustawa o ubezpieczeniach majątkowych i osobowych*, op. cit., p. 9.

expanding (along with trends in the leading insurance markets) the ideas to nationalize the insurance activity and the role of insurance functions led by the principles of the protective and preventive functions (in particular in the form of financial prevention)⁶.

So to speak, through performance of political and economic obligations, since the turn of the 20th and 21st centuries Poland has implemented the model of the market economy in its neoliberal version, with the market nature of the economy, freedom of contract, absolute primacy of private ownership, self-regulation and competition in the markets that have been created. The legislative and organisational grounds of the new system shatter the existing model of the agricultural economy (despite the private nature of agricultural ownership that has been mentioned), also in the sphere of the model of its business insurance that has actually operated for two centuries. In order to live up to the idea of political, social and economic Europeanization⁷ of Poland that had been assigned to it, the process of transformation into market-oriented economy that started along with political changes required profound (simply revolutionary) transformations⁸, both in the sphere of ideological principles as well as normative and organisational regulations imposed on economic processes⁹.

In order to implement the legal premises of the processes that had been initiated, on 28 December 1989 the Sejm of the Republic of Poland (the so-called Contract Sejm) adopted a package of 10 political acts of law, the promulgation of which implied political and legal confirmation of the fact that Poland had adopted a new political form of the market economy. This also proved that Poland returned to the capitalist path of development of business insurance and that the existing model had to be rebuilt, given the political changes.

6. The long-term practice of development of forms of insurance activities led, among others, to a considerable heyday of its preventive function (especially in 1960s, 1970s and 1980s), implemented both as the normative prevention targeted at development of rules of safe course of insurance among the insured, and as forms of financial prevention, namely support for the development of systems that secured the operation of the sectors of agricultural production and services. During the period of command economy, the Polish agriculture extensively used the latter insurance form of the preventive function to propagate education, also in the field of insurance, to propagate general knowledge, including agricultural knowledge, to support the development of technology and culture of management or the rules of safe use of economic processes. See, among others: A. Banasiński, *Ubezpieczenia gospodarcze*, Warszawa, Poltex, 1993, p. 209–210.
7. E. Kowalewski, *Reforma polskiego prawa ubezpieczeń gospodarczych w latach 1990–2001* [in:] *Ubezpieczenia w gospodarce rynkowej*, red. T. Sangowski, Bydgoszcz-Poznań, published by Oficyna Wydawnicza Branta, 2002, p. 9–30.
8. Since Poland aspired to accede to the EU and started its harmonization processes, that concept had been named “transformation”.
9. See, among others: R. Nowak, *Wczoraj i dziś ubezpieczeń w rolnictwie* [in:] *U progu trzeciego stulecia ubezpieczeń*, PZU, Warszawa 1993.

The existing system of mandatory insurance¹⁰, also called the statutory system because of the legal premises for its creation (treated selectively)¹¹, became a particular victim of those political changes, including the next, leading principle of market economy which says that, other than through legislation, the state should not interfere in a self-regulating market (the market will run on its own)¹².

Liquidation of mandatory protection for some types of the agricultural insurance (especially insurance carrying social and welfare element) that was not well-thought in economic and social terms, coupled with the mandatory protection preserved for other groups (or even expanded with the obligation with regard to the TPL group), became the foundation of the profound crisis of insurance in that sector of the economy that was triggered back then and has continued to date¹³.

The following table presents differences in the mandatory nature of insurance for various farms assets in Poland, before 1990 and after the political transformation.

Table 1. Mandatory nature of insurance before and after the political transformation

Tangible or intangible asset insured	Up to 1989/1990	After 1990
Residential and farm buildings	Mandatory (statutory)	Mandatory (contractual)
Tools, machines and other movable assets	Mandatory (statutory)	Voluntary
Crops and meadow/pasture grasses	Mandatory (statutory)	Voluntary
Farm animals	Mandatory (statutory)	Voluntary
Farmer's third party liability	Mandatory (statutory)	Mandatory (contractual)

Source: Own work based on K. Rojewski, *Historia i stan obecny ubezpieczeń rolnych w Polsce*, Warszawa 2012, <http://piu.org.pl/public/>, access 1.03.2023.

The insurance model developed in the historical, more than 150-year old process of developing protective solutions, dating back to the early capitalist economy, transferred and modified in terms of its development during the next phases of market economy, retained its original goal of securing the interest of the agriculture, also the non-nationalized agriculture (the vast majority of which was based on private ownership), even during the next political system of command management of the

10. Cf. S.H. Nowak, *Rynkowy model polskich ubezpieczeń gospodarczych w rolnictwie w okresie przygotowań do wejścia do UE (lata 1990–2004)*, op. cit., p. 105–126.

11. See ibidem.

12. The fundamental role of the state while the market framework is being created is to adopt legislation that meets the needs and that will allow the self-governing market to control market entities appropriately.

13. Among others cf. S.H. Nowak, *Problemy 25-lecia polskiego rynku ubezpieczeń (przymus ubezpieczenia w rolnictwie)*, op. cit., p. 94–110.

economy. That insurance model was described by the universality of protection and the extensive subjective and objective scope and the types of the risk insured. It was targeted at protecting key assets of farms (means of production and crops)¹⁴, based on a form of statutory automatism of the insurance, even regardless of payment of the premium due¹⁵. It was also relatively cheap in terms of premiums, easy to manage and understanding of the acts of negligence on the part of the insured¹⁶, while in case of contractual insurance, such acts of negligence resulted in a refusal to insure or pay damages (e.g. failure to report assets for insurance or failure to pay the premium)¹⁷. This model entrusted the monopolist, PZU insurance company, with the tasks of insurance registration, risk assessment, determination of rules and amount of the premium, preparation of the insurance value update and sums insured, evaluation of causes of occurrence and determination of the amount of the loss and damages, or appeals or complaint proceedings.

That model, which evolved from the age of the early Polish capitalism is taken over by the next political system of command economy, even though it is contrary to the political principles, namely the aspirations to have the private property of farmers nationalized. What is more, at the final stage of its existence (1970s and 1980s), that model further departs in the agricultural sector from the principles of absolute advantage of state-owned and nationalized economy that are associated with the model of socialist insurance. This is done by implementing uniform principles relating to the insurance cover of the buildings, property and crops in all sectors of the agriculture¹⁸. In the legal sphere of the statutory insurance, this is done by recognizing the civil and legal nature of the legal relation of the insurance created by law (*ex lege*)¹⁹.

14. For more details see S.H. Nowak, *Rynkowy model polskich ubezpieczeń gospodarczych w rolnictwie w okresie przygotowań do wejścia do UE (lata 1990–2004)*, op. cit., p. 111–112.

15. The concept of statutory insurance and the division of insurance into statutory and contractual insurance was introduced in the Act on Non-Life Insurance of 20 September 1984.

16. Cf. R. Nowak, *Wczoraj i dziś ubezpieczeń w rolnictwie*, op. cit., p. 114–119.

17. Idem, *Wczoraj i dziś ubezpieczeń w rolnictwie*, op. cit., p. 116.

18. For more details see A. Wąsiewicz, *Ubezpieczenia samochodowe*, Warsaw, Transport and Communication Publishers, 1984, p. 53. See also J. Ławrynowicz, S. Nowak, *Ubezpieczenia komunikacyjne. Teksty przepisów, orzecznictwo, komentarz*, Wydawnictwo Prawnicze, Warsaw 1987, p. 143 et seq.; see also judgments of the Supreme Court on that matter, for example judgment of 13 May 1983, case ARN 6/83, where the Supreme Court found that regardless of the origin (statutory or contractual), the legal relation of insurance is a relation of civil law. The legal and administrative elements of that relation, such as the ability to administratively collect an overdue premium, are only secondary in their nature and do not change the essence of the problem.

19. On that subject see, among others: R. Nowak, *Wczoraj i dziś ubezpieczeń w rolnictwie*, op. cit., p. 120; D. Walcerz, *PZU SA na polskim rynku ubezpieczeniowym*, op. cit., p. 79. See also S. Nowak, *Ubezpieczenia na tle realizacji przepisów wykonawczych do ustawy o ubezpieczeniach majątkowych i osobowych*, "PUG" 1986, nr 11, p. 310–314.

In spite of that idea to protect private agricultural property, the subsequent governments of the age of the new system of market economy at the turn of the 20th and 21st century, enthralled by the visions of implementation of the Western economic principles in Poland after the socially and economically bleak observations of the entire body of experience resulting from the implementation of the command model, were over-confident about implementing the market economic model, as we look back at it 30 years later. As it turned out, that process of implementation was devoid of legal and actual grounds or the need for the new agricultural insurance system to take into account solutions or experience and habits of the parties to the insurance legal relations that had been developed over the years. The demand side of insurance was blamed for failures of the new insurance system for the agricultural sector, accusing it of the “lack of insurance culture” or, simply speaking, peasant insurance nihilism.

Following that line of thought and the new insurance practice that promoted profit as the main goal, the pro-social or welfare aspects that were ideologically embedded in the insurance activity were disregarded, including those aspects that consisted in the implementation of preventive functions of insurance²⁰.

Just like the agriculture, with its lost position of one of the leading sections of the national economy, the insurance of the agricultural sector – pushed into groups and types of the new breakdown by provisions of insurance legislation on the breakdown of insurance (Sections I and II) – no longer mattered even in the key statistics of insurance by type. The importance of the entire sector, currently categorized in markets that are less important than other types of markets (e.g. financial market) of the economy, has diminished. This indicated decrease in the importance of the agriculture, marked by categorisation of the set of agricultural insurance products to the new objective structure of the breakdown of insurance by type (especially in Section II), has also affected other types of insurance that had previously fell into the agricultural group, such as non-farming buildings or property from rural areas and other towns.

By transposing legal and social market conditions of the new political model to the background of ownership reality (existing at the end of the command age) of the Polish agriculture which was largely owned by private owners of agricultural land both in terms of quantity (area) and numbers (owners), it was necessary

20. See for example S.H. Nowak, *Rynkowy model polskich ubezpieczeń gospodarczych w rolnictwie w okresie przygotowań do wejścia do UE (lata 1990–2004)*, op. cit., p. 122–123.

to consider if the potential 'inherited' from the former model²¹ deserved a more profound analysis of the need to have it adjusted to expectations of the parties interested in an insurance cover under the new, market conditions. All this instead of abandoning a series of forms of existing insurance cover²², proven in practice.

The next areas of the system of business insurance where the restriction or abolishing of the rules led to crisis phenomena in the agricultural economy or related spheres include the financial form of insurance prevention that has already been mentioned and the share of business insurance in the process of nationalization of rules of liability for damages that has been historically shaped in the global insurance economy²³.

In the first field that has been mentioned, the preventive field, the crisis begins with the liquidation of a series of statutory insurance products, including clauses obligating the insurers to pay the following percentage amounts to the preventive fund: up to 10% of the premium written for statutory insurance, and from 2% to 5% of the premium for the voluntary insurance and in addition at least 30% of the balance sheet surplus²⁴.

The national economy, in particular recipients of the fund such as the agricultural sector and the communities so far covered by the insurance system from which such insurance duties were paid, lost billions in funds which supported development and social and professional education.

As a reminder, the Act introducing the system of market insurance in the agricultural sector of 1990²⁵, as Prof. A. Banasiński mentions, "does not mention prevention at all"²⁶.

As regards the other issue, namely the share of business insurance in the process of nationalization of liability, the Polish legislation was slowed down in the field of insurance in the years from 1990 to 2004, and as regards insurance of the so-called agricultural areas, it simply took a step back in the nationalization processes, which has continued until present day. The reasons for this should be sought in the strong

21. 14 million hectares of crops owned by more than 2.4 million individual farmers, with all of their belongings, which consisted of 12 million buildings (with possessions therein); more than 2.9 million farms and approx. 1.8 million small owners of real property (up to 0.5 ha) from villages and towns, insured in the existing set of 'rural' insurance, shaped over the past 200 years.

22. For more details see S. Nowak, *Rynkowy model polskich ubezpieczeń gospodarczych w rolnictwie w okresie przygotowań do wejścia do UE (lata 1990–2004)*, op. cit., p. 105–123.

23. See for example Z. Brodecki, W.W. Mogilski, Z. Marek et al., *Ubezpieczenia w świetle zmieniającego się pojęcia odpowiedzialności*, "Studia Ubezpieczeniowe", t. X, Warszawa-Poznań, published by PWN and PTE Branch in Poznań, 1989, p. 101–115.

24. Cf. A. Banasiński, *Ubezpieczenia gospodarcze*, op. cit. p. 209.

25. Ustawa z 28 lipca 1990 r. o działalności ubezpieczeniowej, Dz. U. 1990 nr 59 poz. 344.

26. A. Banasiński, *Ubezpieczenia gospodarcze*, op. cit.

influence held by the lobby of the insurance private equity capital on the legislation in this sphere of the economic markets.

In the Polish set of agricultural insurance products, in the early times of the market economy, only the former insurance monopolist, PZU (which, at the beginning of the century, clearly dominated the market, acting as the PZU Group) clearly continued financing of preventive projects, albeit to a limited extent. Soon, when the large financial equity took over the majority of the ownership stake, the ideological principle of profit prevailed and less money was appropriated for the preventive fund²⁷.

*Legal and organisational regulations
applicable to the Polish model of insurance
for the rural sector (years 1991–2004)*

The said Act of 28 July 1990 on Insurance Activities, adopted as a result of the introduction of the aforementioned package of ten political acts of law, initiated the processes of transformation of the Polish system of business insurance to meet requirements of the market oriented economy. Besides general model regulations of the insurance subject²⁸, the Act introduced a new, market breakdown of business insurance²⁹, which replaced the historical breakdown of the legal relation of insurance that was particularly preferred in the command economy, namely by virtue of law (*ex lege*) and by virtue of contract (governed by provisions of the Civil Code)³⁰.

The classification standards adopted in the Act of 1990 (Articles 3–5) determined the principle of the contractual nature of the legal relation of the insurance as the governing exclusive principle and stipulated that from that moment on the sole source of that relation would be civil law insurance contracts with their systemic breakdown to contractual insurance: mandatory (created as a result of conclusion of

27. At the end of the 20th century, companies of the PZU Group, as part of financing of preventive projects, under conditions of new market regulations for the insurance sector, allocated PLN 3 million to rebuild river embankments in Opole, the bridge in Kłodzko, schools and a hospital in Nysa, among others. These were pennies compared to the money spent before 1990.

28. The conditions for taking up and carrying on economic activities, initial and guarantee capitals, re-insurance, legal forms of operation of the insurers and their financial management, bankruptcy proceedings, insurance supervision, insured protection funds – FOU and UFG – or agency.

29. See for example, *Reforma polskiego prawa ubezpieczeń gospodarczych w latach 1990–2001*, op. cit., p. 9–30.

30. See, among others, K. Przewalska; *Przebudowa polskiego prawa ubezpieczeniowego* [in:] *Ubezpieczenia w polskim obszarze rynku europejskiego*, Wyzwania i oczekiwania, Warszawa, IGUiOR, Kozminski University, 2003, p. 53–60.

insurance contracts, with the statutory obligation of concluding that contract)³¹ and voluntary (concluded upon the will of the parties to the contract)³².

The progressive processes of transposition of the EU law into the Polish insurance market, development of that market and the needs for the comprehensive regulation of the insurance subject resulted in the need for urgent amendment of the rules of the Insurance Act of 1990 that was the leading act of law to that date and to supplement the provisions on the subject from the legislative aspect. Among those changes, the most extensive amendment during the 1990s was the amendment of 8 June 1995³³, which was manifested in market practice by regulations on insurance agency, appointment of the State Office of Insurance Supervision (PUNU), Polish Motor Insurers' Bureau (PBUK), the Ombudsman for the Insured and liquidation of the Insured Protection Fund (some of its tasks were handed over to the Insurance Guarantee Fund, the UFG)³⁴.

That regulation, along with a series of other amendments³⁵, laid legal grounds that were necessary to prepare and adopt a comprehensive regulatory package (in its

31. If it is not concluded, the contract is not effective. Thus the punctual, annual submission of the application for conclusion of the contract, is supported by the system of relevant coercive solutions.

32. Which did not mean that conclusion of such contracts did not feature coercive elements whose nature was different than prescribed by the Act, e.g. elements of economic nature (loans and lease contracts), of corporate or professional nature. For more about coercion in insurance, see, among others: W.W. Mogilski, *Perspektywy rozwoju ubezpieczeń obowiązkowych* [in:] *Ubezpieczenia wobec wyzwań XXI wieku, Prace Naukowe Akademii Ekonomicznej we Wrocławiu*, red. W. Ronka-Chmielowiec, nr 1197, Wrocław 2008, p. 262–268 and by the same author: *Ubezpieczenia obowiązkowe w polskim systemie prawnym*, "Prawo Asekuracyjne" 1997, nr 1 and ibidem, *Postulowane kierunki zmian prawnych dotyczących ubezpieczeń obowiązkowych*, "Prawo – Ubezpieczenia – Reasekuracja" 1999, nr 11 and ibidem, *Przymus ubezpieczenia na tle projektu ustawy o działalności ubezpieczeniowej i reasekuracyjnej*, "Wiadomości Ubezpieczeniowe" 2005, nr 1. See also S.H. Nowak, *Problemy 25-lecia polskiego rynku ubezpieczeń (przymus ubezpieczenia w rolnictwie)*, op. cit., p. 96–104 and E. Kowalewski, M. Ziemiak, W.W. Mogilski, *Stan prawny ubezpieczeń obowiązkowych w Polsce (Wykaz z komentarzem)*, Warszawa, published by the Polish Chamber of Insurance, 2013, and also M. Orlicki, *Przymusowe ubezpieczenie od następstw nieszczęśliwych wypadków*, "Studia Ubezpieczeniowe – Zeszyty Naukowe" 2009, Poznań University of Economics, p. 397–404.

33. *Ustawa z 8 czerwca 1995 roku o zmianie ustawy o działalności ubezpieczeniowej, o zmianie rozporządzenia Prezydenta Rzeczypospolitej – Kodeks handlowy oraz o zmianie ustawy o podatku dochodowym od osób prawnych*, Dz. U. 1995 nr 96 poz. 478.

34. Liquidation of the Insured Protection Fund, despite partial hand-over of obligations of the financial protection of the insured and beneficiaries to receive benefits and damages in the event of bankruptcy of the obliged insurance company to the Insurance Guarantee Fund (UFG), with regard to mandatory insurance and life insurance (limited to 50% of the claim amount and €30,000), proved less favourable than previous regulations on the subject that were within competencies of the Insured Protection Fund (FOU). Thus, the amendment of 1995 clearly limited the rights available to the claimants, as it was introduced upon the initiative and influence of the insurance equity lobby, concerned about the limited scale of revenue from the insurance activities.

35. Among others *ustawa z 10 grudnia 1998 roku o zmianie ustawy o działalności ubezpieczeniowej*, Dz. U. nr 155 poz. 1015 and *ustawa z 21 lipca 2000 roku o zmianie ustawy o działalności ubezpieczeniowej*, Dz. U. nr 70 poz. 819. On that subject see also K. Przewalska, p. 53 et seq.

ultimate wording of 2003) that met the EU accession requirements³⁶ on membership in the unified insurance market³⁷. That package was preceded by the comprehensive bills of reforms of the Polish insurance law, prepared in 2000–2001, which encompassed the acts on insurance activities, mandatory insurance, the Insurance Guarantee Fund (UFG), Polish Motor Insurers' Bureau (PBUK), and insurance agency. The package was first adopted by the Sejm and Senate of the Republic of Poland, but did not enter into force as it was vetoed over by the President of the Republic of Poland (in September 2001).

Governmental work resumed with participation of the insurance market NGOs³⁸ led to development of another, new package of bills³⁹: on insurance activities⁴⁰, mandatory insurance, the UFG and the PBUK⁴¹ and on insurance agency⁴². That package, adopted by the Sejm on 22 May 2003 (and approved by the President of the Republic of Poland on 16 June 2003), was presented, as the package governing in the Republic of Poland, in the Poland's treaty of accession to the European Union (EU), signed in Athens on 16 April 2003⁴³.

36. For more details see *Problemy 25-lecia polskiego rynku ubezpieczeń (przymus ubezpieczenia w rolnictwie)* [in:] *Ubezpieczenia na rzecz gospodarki globalnej, sektorów i regionów*, op. cit., passim, incl. A. Sopoćko, *Ubezpieczenia w Polsce A.D. 2003. Gdzie jesteśmy, dokąd zmierzamy*, p. 24.

37. For more on the unification issues in the light of globalisation processes, see G. Kołodko, *Globalizacja rynków finansowych* [in:] *Ubezpieczenia w polskim obszarze rynku europejskiego. Wyzwania i oczekiwania*, Warszawa, Insurance and Risk Management Chamber of Commerce, Kozminski University, Oficyna Wydawnicza Branta, 2003, p. 27–39.

38. The considerable involvement of NGOs was confirmed during the scientific conference of the Insurance and Risk Management Chamber of Commerce and the Kozminski University (25 April 2003) by a representative of the Minister of Finance, Director K. Przewalska, who said: "The package of insurance acts is the result of years of work of the entire insurance community (...)"

39. That package became effective despite the disputes concerning the mandatory cover of agriculture by type, as expressed in the Act of 1990 (governmental doubts mainly concerned the need to offer insurance of farm buildings and farmers TPL in that form) – see K. Przewalska, p. 60. That package, ultimately acknowledged by resolutions of the Sejm and of the Senate and of the President of the Republic of Poland, meant that motor TPL, farmers TPL, the so-called professional TPL and farm buildings insurance against fire and other acts of God required insurance contracts to be signed. All those types of mandatory insurance products also refer to the agricultural sector.

40. *Ustawa z 22 maja 2003 roku o działalności ubezpieczeniowej*, Dz. U. 2003 nr 124 poz. 1151.

41. *Ustawa z 22 maja 2003 roku o ubezpieczeniach obowiązkowych, Ubezpieczeniowym Funduszu Gwarancyjnym i Polskim Biurze Ubezpieczycieli Komunikacyjnych*, Dz. U. 2003 nr 124 poz. 1152.

42. *Ustawa z 22 maja 2003 roku o pośrednictwie ubezpieczeniowym*, Dz. U. 2003 nr 124 poz. 1154.

43. This fact was recalled by Prime Minister G. Kołodko in his speech during the said conference of 24 April 2003, mentioned in: *Problemy 25-lecia polskiego rynku ubezpieczeń (przymus ubezpieczenia w rolnictwie)* [in:] *Ubezpieczenia na rzecz gospodarki globalnej, sektorów i regionów*, p. 27–39.

*Attempts at the socio-economic
analysis of harmonization processes*

In trying to identify causes of the profound crisis of insurance in the Polish agricultural sector after year 1990⁴⁴, when interpreting statistical results (indicators) of the market conditions since the times of political changes and the processes of transformation of the Polish economy (including the insurance sphere) to meet requirements of the market oriented economy, analysts of financial and insurance markets have mentioned various factors which, in their opinion, were at the foundations of the crisis of insurance in the Polish agricultural sector that has been prevalent until present day⁴⁵.

Regardless of political preferences of the analysts, most of them argue that despite the generally negative evaluation of the economic and political consequences of the period of command economy, the economic model of insurance in the Polish agricultural sector that has been developed since the early 19th century, starting from the germs of the capitalist system on the Polish lands⁴⁶ through further stages of development, including the system of insurance prevalent in the state economy, has developed its own Polish form of insurance activities that protected and developed the agriculture and afforded insurance cover for owners of means of production⁴⁷ and their families against material consequences of materialization of numerous kinds of risks. The fact that in its final form (of the last dozens of years of the system of business insurance as it operated during the period of socialism) the model was dominated by the insurance obligation must not justify the attempts to completely negate that model, because the social and protective effects that had been achieved proved to be much more effective than the effects achieved in the subsequent period of over 30 years of market economy.

The lack of respect for the insurance model that has been developed over centuries, perhaps best manifested by the loss of the common insurance cover in those kinds of insurance products that have been made not compulsory, has led to substantial losses of the insurance potential, which is best exemplified by the comparison of

44. Among many others see S.H. Nowak, *Problemy 25-lecia polskiego rynku ubezpieczeń (przymus ubezpieczenia w rolnictwie)*, op. cit., p. 98–104 and S. Nowak, J. Jagodziński, *Kryzys stałym elementem funkcjonowania polskich ubezpieczeń? Refleksje na tle dyskusji o stanie rynku ubezpieczeń*, op. cit., p. 265–278.

45. Among many others see T. Sangowski, *Ubezpieczenia gospodarcze*, Poltext, Warszawa 2001, p. 384.

46. Cf. L. Pokrzyński, *150-lat ubezpieczeń na ziemiach polskich w latach 1803–1914* [in:] *150 lat ubezpieczeń w Polsce. Cz. I i II*, Warsaw 1960. See also J.W. Przybytniowski, ks. D. Bucki, *Historia ubezpieczeń gospodarczych w Polsce i na ziemi kieleckiej* [in:] *Almanach Świętokrzyski, Świętokrzyski obszar rynków finansowo-ubezpieczeniowych oraz jego rola inwestycyjno-ochronna w procesie uprzemysłowienia regionu*, red. S. Nowak, t. III; A.Z. Nowak, J. Jagodziński, Warsaw, IGUiOR and Scientific Publishing House of the Faculty of Management of the University of Warsaw, 2018.

47. On the subject of damages in agricultural insurance see S. Nowak, *Problematyka szkody i odszkodowania w prawie odszkodowawczym a zakres ubezpieczeniowej odpowiedzialności gwarancyjno-reparacyjnej*, "Wiadomości Ubezpieczeniowe" 1982, nr 12, p. 1–6.

results of insurance cover during the last years of the command economy until 2002 (a year before the decision to join the EU was made).

Table 2. Agricultural insurance in Poland from 1987 to 2001

Years	Building insurance (in 000s)		Property insurance (in 000s)		Crops insurance (in 000s)		Animal insurance (in 000s)
	number of contracts	number of claims	number of contracts	number of claims	number of contracts	number of claims	number of contracts
1987	2,901	48	2,901	35	2,901	489	21,139
1988	2,886	113	2,886	23	2,886	428	22,155
Abolishment of the mandatory nature of insurance of movables, crops and animals							
1997	1,486	97	354	4	75	3	202
1998	1,449	21	373	3	61	6	187
2001	1,357	33	393	4	45	6	98

Source: Own work based on K. Rojewski, *Historia i stan obecny ubezpieczeń rolnych w Polsce*, Warszawa 2012, <http://piu.org.pl/public/>, access 1.03.2023.

The comparison of the data shown in the table above is shocking even today given the scale and values of the written premium and damages payable, which the agricultural sector lost following the abandonment of the mandatory formula of the groups of insurance mentioned in the table above⁴⁸, along with additional numbers of buildings in villages, small towns and rural areas which do not fall into the categories subject to mandatory insurance of buildings (after year 1990)⁴⁹.

In the buildings category alone, the difference between the number of buildings subject to insurance cover in 1988 vs. 2001 was more than 1.5 million buildings. Lost household property insurance over that same period in comparative values totalled approx. 2.9 million insured in the period prior to 1990 vs. 393,000 in 2001. For crops insurance, the number of insurance contracts fell from approx. 2.9 million

48. On the subject of crops insurance see M. Janowicz-Lomott, K. Łyskawa, *Funkcjonowanie dotowanych ubezpieczeń upraw w Polsce*, "Wiadomości Ubezpieczeniowe" 2016, nr 2, p. 72 and Z. Czekaj, *Zagrożenia klimatyczne w rolnictwie ubezpieczenia upraw*, "Wiadomości Ubezpieczeniowe" 2016, nr 2, p. 147.

49. Please note that since mandatory insurance does not extend to building at farms smaller than 1 ha, this means that the obligation to purchase insurance did not apply to nearly 978,000 buildings in 2002, approx. 772,000 in 2007 and approx. 702,000 in 2010. Cf. A. Czekaj, *Zagrożenia klimatyczne w rolnictwie a ubezpieczenia upraw*, op. cit. p. 147. See also K. Łyskawa, *Historyczny rozwój rynku ubezpieczeń upraw w Polsce* [in:] *Ubezpieczenia produkcji roślinnej w Polsce*, red. M. Kaczała, K. Rojewski, Warszawa, Poltext, 2015.

to approx. 45,000 contracts. For farm animal insurance, the number of insured animals fell from 22.2 million to approx. 98,000⁵⁰.

The Polish market of insurers, several years after the political and economic transformation, has become the subject of mass acquisitions of the insurance substance by foreign equity (up to 75% of its assets). The state and other forms of social ownership are pushed out from direct activities and limited in, so far extensive, forms of implementing the rules of nationalizing insurance activities and maintaining care and direct supervision over the market in other forms.

The subsequent formulas of nationalizing responsibility (that would improve the status of the insured and of the claimants), which had been previously developed with varying degrees of resistance, have become weaker and rarer, and the dominant large insurance equity has lobbied nationalization only if the new solutions foster and, at the very least, do not endanger its financial interests.

The system of business insurance, just like the entire market, is dominated by legal and economic solutions that prefer supply entities in the market (insurers) with the system of entities that support them, as the entities which implement the fundamental rules of the neoliberal economy. The demand side of that market depends on the practical dictate of the insurance companies, pursued in various forms with regard to insurance contracts and damages, or the refusal to provide insurance cover, if only for reasons of organisational and financial weakness and the number of non-profit undertakings (mutual insurance companies) that limit the competitive activity or the unwillingness of commercial companies to cover high-risk or low-risk structures.

When describing the Polish insurance market reborn after political changes, after 12 years of operation of that market in the reality of market economy (since 1990), Prof. T. Sangowski, who has already been mentioned,⁵¹ recognized as one of the leaders of the insurance science and practice, summarized deliberations on the state of the Polish insurance market in 2002. Among a number of issues noticed at that time, the professor mentioned excessive costs of the transformation, the poor financial results of insurers' operating activity and their insufficient equity, the excessive domination of foreign equity, insufficient demonopolization, the fact that qualitative development of insurance did not follow the quantitative development, low solvency of various types of insurance in Section II, and the low level of use of insurance cover

50. What is important, this high trend of resignation from insurance has been evident during Poland membership in the EU since 2004, through the following years, including the years of the 1st Strategy of the EU from 2007 to 2013 and 2nd Strategy from 2014 to 2020. Despite the introduced system of budgetary surcharges to the premium, the trend has remained at a level slightly higher than one hundred and several dozens thousand insurance policies at the turn of the second and third decade of the 21st century.

51. T. Sangowski, *Polski rynek ubezpieczeń – stan i kierunki rozwoju* [in:] *Ubezpieczenia w gospodarce rynkowej*, red. T. Sangowski, Bydgoszcz – Poznań, Oficyna Wydawnicza Branta, 2002, p. 179–229.

by quantity or by type in the sectors of state ownership and small business. He also noticed the faint importance of insurers from the group of mutual insurance companies and the insufficient technologization of the insurance sector. The author draws particular attention to the urgent need to “rebuild and develop a proper system of insurance cover for the agricultural sector”⁵² that has already been signalled.

Unfortunately, in his article, that author did not conduct a more direct and in-depth analysis of the insurance of the agricultural sector for the reviewed period, and built his analysis of that sector on indirect premises, namely the analysis of insurance of the Sector I and II of insurance by type, as defined in the relevant annex to the subsequent Insurance Acts. A reference made by the author to the analysis of the course of insurance in the agricultural sector from the angle of the adopted breakdown of insurance based on the European model does not practically explain the deeper reasons for the fall of the agricultural insurance, because it merely presents basic results of the insurance market.

Such general data about the market⁵³ are sufficient to draw indirect conclusions of the general nature. It can be concluded that insurance of means of production and of agricultural crops, essentially categorized into insurance groups 8 and 9 (property insurance) and insurance groups 11, 12, 13 (TPL insurance), as well as accident insurance, groups 1 and 2, underwent developmental crisis in 2000 as compared to 1995. Such conclusions were especially true with regard to group 8 insurance (losses caused by disasters) and 9 (other financial losses). The per cent share of those groups in the portfolio of Section II, determined at 22.94% in 1995, decreased to 16.75% in 2000, namely by 6.13 percentage points.

The true picture of the state of insurance of the Polish agricultural sector of the time can be observed and discussed against the background of results of studies and the legal and organisational condition⁵⁴ of the largest Polish insurer at the time, i.e. the PZU Group (here: PZU S.A.). However, at that time, the Group, which was close to the limits of approximate insolvency (also due to insufficient investments made

52. M. Więckowski drew a similar conclusion in his work entitled *Zarządzanie ryzykiem powodzi*, op. cit., p. 527–528, postulating reinstatement of the public insurance system for the agricultural sector to the extent similar to that in effect prior to year 1990.

53. See table 5 on p. 210, prepared on the basis of a work by E. Wanat-Poleć, *Tendencje rozwoju rynku ubezpieczeń w ostatniej dekadzie XX wieku na najbliższe lata* [in:] *Koniunktura na rynku usług finansowych w Polsce*, red. J. Garczarczyk, Poznań University of Economics and Business, Poznań 2000.

54. Such studies were conducted for the purposes of scientific conferences organised by the Insurance and Risk Management Chamber of Commerce in co-operation with the number of academic centres and insurance market organizations, and at the academic classes of academic teachers of insurance subjects who worked with the Chamber. As regards the state of insurance of the Polish agriculture from 1990 to 2004 (until Poland entered the EU structures), see S. Nowak *Rynkowy model polskich ubezpieczeń gospodarczych w rolnictwie w okresie przygotowań do wejścia do UE (lata 1990–2004)*, op. cit.

in the Group), did not have the developmental opportunities, given the expected sale of the dominant state-owned ownership stake to international equity holders⁵⁵. By type, from 1991 until the Polish insurance market joined the EU market in 2004, PZU S.A. offered approx. 10 forms of property insurance (Section II) that afforded financial cover of agricultural interests. Those types of insurance were as follows:

- mandatory insurance of farm buildings,
- mandatory TPL insurance of farm operation,
- voluntary crops insurance,
- insurance of animals against death and slaughter of necessity (voluntary insurance),
- voluntary insurance of movables in households (including agricultural households),
- “Safe Farm” comprehensive insurance,
- poultry insurance,
- apiary insurance,
- insurance of fur animals against death and slaughter of necessity,
- fish farming and pond farming⁵⁶.

Analyses of results for the entire Polish sector of insurance during the first years of membership in EU markets (measured by the scale of value of the written premium for that insurance market in 2002) demonstrate that written premium for Poland accounts for 45% of the general written premium of new Member States. This result means that the Polish market falls into the group with the highest dynamics. This dynamics is represented by the co-efficients of penetration⁵⁷ and insurance cover⁵⁸. The dynamics at 3.2% of the share is among the highest in the group of new Member States. However, in 2005 it has negatively departed from the EU median (7.8%), and even more from the co-efficients recorded for developed Member States, such as Great Britain with 12.5%, Belgium and France with co-efficients above 10%⁵⁹. In addition,

55. It should be added that from 1995 to 1998 PZU S.A. held 60.5% to 63.4% of the Polish market of Section II insurance in terms of value.

56. Cf. K. Rojewski, *Stan ubezpieczenia polskiego rolnictwa oraz wysokość odszkodowań z tytułu szkód spowodowanych przez żywioły* [in:] *Problemy i kierunki unormowań rozwoju rynku ubezpieczeniowego w Polsce*, 2002, published by IGUiOR, Kozminski University, Warszawa, p. 93–95.

57. The market penetration co-efficient measures the share of the insurance premium in the GDP.

58. The co-efficient of insurance cover is counted per capita, i.e. it defines the average level of the insurance premium per inhabitant of the examined population. For more details see the National Bank of Poland, *Raport Roczny 2005*, NBP, Warsaw 2006, https://ssl.nbp.pl/publikacje/raport_roczny/raport_2005.pdf, access 2.04.2023. Cf. K. Ortyński, *Rynek ubezpieczeniowy nowych członków Unii Europejskiej (krajów nowej Unii)* [in:] *Jednolity rynek ubezpieczeń w Unii Europejskiej (Procesy rozwoju i inteligencji)*, red. J. Monkiewicz, Bydgoszcz – Warsaw, Oficyna Wydawnicza Branta, 2005, p. 319.

59. The experience of 15 developed Member States shows that a considerable development of expenses made on the insurance cover per capita can be expected when the income per inhabitant is over \$11,840. For more details *ibidem*, p. 312.

despite the fact that during the period of 15 years of market economy in Poland (from 1990 to 2005) the percentage share of the insurance premium in the Polish GDP grew from 1.8% in 1995 to more than 3.7% in 2005, comparison of that development with the average results achieved by the so-called old Member States (15) demonstrates that the so-called old Member States recorded co-efficients triple as high.

As a rule, in the group of states with the developed insurance market, Section I of insurance (life insurance) clearly predominates over the penetration co-efficients for Section II (non-life insurance). The Polish market will soon achieve the state of desired proper development.

The situation in the states where low level of penetration is recorded is similar and refers to the prevalence of valuable premium in the general income from premiums in the domestic market. Although Poland belongs to the latter group, the trends in growth of the premium share in Section I suggested positive prospects of near acceleration of expected trends⁶⁰.

Similar conclusions are drawn by researchers and analysts who compare the Polish market with European markets, based on derived indicators of premium per inhabitant (per capita). In 2005, there was a considerable spread of results in this aspect, too, ranging from \$6,000 per capita in Switzerland to approx. \$100 per capita in Eastern Europe. Poland with its indicator of around \$250 drags behind the European median of just above \$1,500.

As regards the current position of the Polish agriculture against the background of the European market, research conducted by Statistics Poland (GUS) and relating to changes in the area of farms in Poland (period directly preceding accession to the EU) demonstrated that the agricultural sector was represented by more than 2.9 million farms in 2002. The agricultural acreage is counted on the area below 1 ha to 1000 ha and more. In that number, the largest group of farms falls into the category of 1 to 10 ha, accounting for approx. 53.7% of all farms. 33.7% of farms fell into the category from 0 to 1 ha, while 12.35% of farms fell into the category from 10 to 50 ha. Other groups (100–200 ha, 200–300 ha, 300–500 ha, 500–1000 and more ha) represented less than one per cent of total acreage⁶¹.

When Poland joined the EU, the existing Polish insurance market has become the Polish area of the EU market in which insurance of the agricultural sector was

60. Which soon led, also due to the peculiar system of insurance products used to secure bank loans (bancassurance), to the equilibrium between receipts of both sections and quick supremacy attained by Section I.

61. Cf. Z. Czekaj, p. 147. Cf. J. Handschke, K. Łyskawa, *Spoleczne aspekty ubezpieczeń majątkowych gospodarstw rolnych* [in:] *Spoleczne aspekty rozwoju rynku ubezpieczeniowego*, red. T. Szumlicz, Oficyna Wydawnicza SGH, Warsaw 2010, p. 260–271.

so dramatically marginalized that PZU (acting as the PZU Group),⁶² still holding more than 60% of the portfolio of the insurance market, with around 3.4 million agricultural insurance contracts,⁶³ collected merely approx. 4% of the written premium from the Polish market, which totals approx. PLN 3 billion, with the clear dwindling trend in the number of insurance contracts. It is worth noting that this number of contracts includes approx. 1,360,000 buildings covered by mandatory insurance and a similar number of farmers' TPL insurance contracts. In the area of contractual (voluntary) insurance, only a few per cent of farmers conclude such insurance.

Besides values relating to premiums and figures, the scale of marginalization of insurance in that sector in the market share is best evidenced by the classification approach of the legal and organisational system of the legislation of the EU and of the Member States, as mentioned before, and marked in the legislation relating to the breakdown of insurance into sectors, groups and types of insurance⁶⁴.

The bulk of transformation issues which the Polish market of business insurance, which was being formed at the time, had to face and deal with to meet accession expectations was considerably enlarged by new sources of risk, peculiar to domestic conditions (social and economic crises) and the risks embedded in the market economy and carried into the system of Polish insurance along with the adaptation of the neoliberal insurance model (e.g. political or global financial market crises).

Among the extraordinary events that accompanied the accession process, a catastrophic event was particularly impactful. It was the flood of summer 1997 in western Poland. Besides disastrous economic consequences, the flood resonated even in political and electoral choices made in Poland at the turn of the 20th and 21st century⁶⁵. It was met with a very active social commentary on the assessment of readiness of the insurance market to pay out damages. For the first time in history, the insurance market faced such massive consequences of a catastrophic disaster while the agricultural sector was left without insurance identity and the entities which offered insurance products lacked coverage ability. On the demand side of the market, the flood demonstrated the vestigial state of universality of insurance by type, useful given the variety of risks of the losses suffered.

62. A. Stander, A. Mrówczyńska-Kamińska, *Ocena podmiotów ubezpieczeniowych grupy PZU na rynku ubezpieczeń. Wybrane aspekty* [in:] "Wiadomości Ubezpieczeniowe" 2016, nr 20, p. 93–110.

63. K. Rojewski, op. cit., p. 94.

64. It should be added that as regards the analysis and evaluation of the needs for protection of life and health cover and financial cover of Polish families, farms have been absorbed by a model that is recognized on a wider basis, namely the model of households.

65. For more details see S.H. Nowak, *Problemy 25-lecia polskiego rynku ubezpieczeń (przymus ubezpieczenia w rolnictwie)*, op. cit., p. 100–104.

The July 1997 flood was a catastrophic disaster for the national economy and brought personal and financial damage and losses that were difficult to ultimately estimate by the individual entities. The element affected 26 voivodships, 733 municipalities, 1,360 localities and a million of people living in flooded areas. Nearly 600,000 hectares of land were flooded. More than 45,000 buildings of various types were flooded. The flood destroyed or damaged more than 3,170 kilometres of public roads and streets and water structures. The replacement costs were estimated at nearly PLN 5 billion.

Table 3. Estimated value of losses in various sectors of the economy and losses suffered by major economic entities as a result of the 1997 flood

Sectors/entities of the economy	Estimated value of losses (in PLN)
Telekomunikacja Polska (telecom)	1.3 billion
Agriculture (crops)	1 billion
Lasy Państwowe (National Forests)	240 million
PKP (Polish Railways)	63 million
Energy sector	30 million
Poczta Polska (Polish Post)	25 million

Source: Own work based on S.H. Nowak, *Problemy 25-lecia polskiego rynku ubezpieczeń (przymus ubezpieczenia w rolnictwie)*, op. cit.

Based on approximate figures from the international reinsurance markets, the losses resulting from the 1997 flood were initially estimated at nearly PLN 3 billion, of which the insurers operating in the Polish market were to pay out direct damages of over PLN 800 million⁶⁶.

Out of the insurance companies which carried insurance contracts, the main burden of insurance and damages was borne by PZU S.A. In the first loss year of 1997 the insurer appropriated a sum of nearly PLN 550 million for payments of damages⁶⁷. Liabilities of other insurers were estimated at approx. PLN 250 million. Warta, Hestia and Polisa had a considerable share in such liabilities, at approx. PLN 70–80 million each.

However, it were the communities of farmers and their families, the so-called non-farming households, and owners and residents from flooded areas who were the most acutely affected by the common scale of the event, the losses and their financial consequences compared to the assets held. Farms were particularly affected by high losses.

66. Ibidem, p. 100–105. This work uses source materials prepared by students of the Faculty of Management of the Kozminski University, during classes on "Insurance systems", 1997–2004.

67. Of which approx. PLN 336 million accounts for damages. Approx. PLN 8 million – the costs of liquidation and approx. PLN 200 million in provisions for unpaid and future claims.

Agricultural workshops of numerous farms were completely destroyed. It turned out that arable land accounted for nearly 70% of the flooded areas and the flood destroyed approx. 280,000 hectares of arable fields (approx. 3% of crops nationwide). Based on estimates by experts, published by Statistics Poland, the flood reduced the potential of agricultural crops by more than 600,000 tons of bulk as a result of the flood. Damage to fields flooded in 1997 and incurred in the years to follow should be added to that scale of direct losses. This was the result of the fact that damaged (contaminated) acreage of arable land could not be used for production. Total related losses of the agricultural sector were estimated at approx. PLN 2.5 to 2.7 billion, of which the value of crops was approx. PLN 1.7 billion.

Considering the fact that since the systemic act on insurance came into effect in 1990 the contractual insurance of crops covered 75,000 farms nationwide during the year of the flood (approx. 6.5% of the potential), the scale of losses incurred by the farms in flooded areas was considerable and the social losses, given the fact that mandatory nature of such insurance cover was abolished, were noticeable⁶⁸.

Similar, adverse indicators of the level of loss coverage were noticed for movables of farms and non-farming households in rural areas, mainly as a result of liquidation of the mandatory insurance of movables of farms and non-farming households in 1991 and the minute indicator of universality of conclusion of such insurance contracts in the new, voluntary insurance system.

The cited results of insurance cover of movables in the attached table for 1997 demonstrate that 354,000 contracts (farms) were covered on the nationwide scale, vs. approx. 2,900,000 insurance contracts in 1988. Thus the losses of equipment, machines, means of transport and outbuildings only were estimated at PLN 700–800 million after the flood.

The share of business insurance in coverage of losses to headage of farm animals covered by insurance should be assessed in a similar, critical manner. On the nationwide scale, it was 202,000 insurance contracts during the year of the flood, with 22.1 million animals in 1988. Following the flood, 2,000 cows, 6,000 pigs and 1.1 million poultry animals were lost, with the total loss value of PLN 100 million.

Probably the only insurance “beneficiary” on account of the relative common prevalence of the cover, which was affected by the risk of the flood that year, were farm buildings which were subject to the mandatory insurance of farm buildings⁶⁹ in accordance with provisions of subsequent “market economy” acts on insurance activities (of 1990 and 1995).

68. Mandatory insurance of the so-called subsidised animals and crops came into effect in 2005.

69. Cf. S.H. Nowak, *Problemy 25-lecia polskiego rynku ubezpieczeń (przymus ubezpieczenia w rolnictwie)*, op. cit., p. 99.

The relative common prevalence of insurance cover resulted from the fact that insurance of each farm building was conditioned upon annual (since 1991) conclusion of an insurance contract for a specific one-year period⁷⁰ by the farm owner with the competent insurer. Those conditions were generally not met.

In the year of the flood, of approx. 3 million buildings which were subject to the insurance obligation under law, 1.486 million buildings in Poland were covered (meaning that more than 50% owners did not comply with the obligation to conclude the contracts in time)⁷¹. The insurance cover was even less common among owners of summer homes which were not subject to mandatory insurance. Out of approx. 1 million summer homes, merely approx. 14% buildings were insured.

The events of 1997 flood, compensated with insurance in the year of claims and the subsequent year (1998), were not all catastrophic or mass natural events. PZU alone, at that time the leader in the insurance of the agricultural and related sectors (approx. 80%), registered 93,000 claims caused by hurricanes and reported for adjustment from 1997 to 1998. For such claims, damages worth PLN 65 million were paid out. Until August 1998, a total of 19,500 claims caused by other catastrophic events were adjusted.

Such a large scale of catastrophic events in terms of their scope and value (estimated at PLN 3–4 billion) and only partially compensated with insurance damages of PLN 800–900 million would seem to motivate all the stakeholders interested in the problem to conduct a thorough analysis of the state of protection of the agricultural economy and of millions of households, and to seek new, comprehensive protective solutions, also insurance solutions. The solutions implemented in the new, market-economy model, proved to be definitely insufficient⁷².

The disasters of years 1997–1998 demonstrated that practically all the interested parties were unprepared⁷³:

- the insurers' market – given the lack of the adequate offer and the high costs of service,

70. Despite such a scant use of the insurance potential for such insurance during the year of the flood (1997), damages were paid for 18,000 claims in 1997 and 15,000 claims in 1998 (compared to the following years: e.g. out of 98,000 contracts damages for approx. 4,000 claims nationwide were paid in 2001).

71. In the legal status imposed by acts on non-life insurance in effect before 1990, each building in the category which was subject to statutory insurance, upon notification of occupancy of such a building to the competent administrative authority, was automatically subject to insurance cover without limitations in time until it was removed from the category that was subject to insurance.

72. For more on the impact of catastrophic events on the market of the agricultural insurance in Poland, see among others: S. 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), p. 123–152.

73. Cf. S.H. Nowak, *Problemy 25-lecia polskiego rynku ubezpieczeń (przymus ubezpieczenia w rolnictwie)*, op. cit., p. 100.

- policyholders – given the faint interest in insurance and the lack of awareness of the need for insurance and
- the authorities – trying to shift the responsibility for the situation in the insurance area to negligence on the part of the claimants.

The experience of disasters of 1997 and subsequent years did not considerably affect the governmental and legislative party, which, at that time, prepared a set of comprehensive insurance bills for the purposes of accession to the EU. Bill proponents, ideologically referring to market principles of freedom of contract, unfortunately disregarded the experience and conclusions of the natural disasters. They even leaned towards suggestions to have the proposed legislative solutions restrict the scope of mandatory insurance to motor TPL insurance and professional TPL (even excluding TPL of farmers and farm buildings)⁷⁴.

Still, after the bills were extensively discussed with the interested parties (including the NGOs and scientific circles), the governmental bill was submitted for legislative proceedings. That bill assumed mandatory nature of insurance, also (except motor TPL) with regard to farms buildings – against fire and other acts of God and farmers' TPL⁷⁵. With that scope of mandatory nature, the relevant set of regulations was adopted as the package of insurance acts of May 2003. Those acts were approved during the accession process by the EU and became part of regulations of the sphere of EU protective measures relating to the agricultural sector of the Single Market.

*The system of business insurance
at the times of accession as viewed by scientific
circles and insurance practitioners*

Sharp observers of the history of legal and organisational regulations and practice of the insurance system of life and health protection and assets of the agricultural and related sectors, established and implemented in accordance with the rules of the Insurance Act of July 1990, will easily notice shortcomings and obstacles of social, political and organic nature which were embedded in that system when it became part of the EU insurance market.

For obvious reasons, one of the first to notice the issues of the new neoliberal model of insurance in fulfilling the insurance functions for the agriculture were the addressees

74. Even the President of the Republic of Poland, when vetoing over the insurance acts adopted during works of the Sejm and Senate of the Republic of Poland in 2001, did not formally refer to shortcomings in the scope of insurance cover in such acts and mentioned arguments relating to costs.

75. For postulates put forward by some scientific circles and insurance practitioners on the common nature of insurance cover, see issues signalled in another part of this work.

of the new regulations, who also reported such issues, namely farmers and households from rural areas and small towns, as well as the parties implementing the new insurance system coming from groups professionally related to the supply side, usually employees of the former monopolist in the market of national insurance, PZU⁷⁶.

Other stakeholders of the operating state of the new model of insurance for agricultural and related sectors saw a wider scale of adverse insurance phenomena relating to the agricultural insurance system only after some time, also in the analytical context and given the scale of shortcomings.

Results of insurance statistics from 1990 to 2004 (considerably less common and available than prior to 1990) demonstrate a considerable loss of the previous position of the agricultural economy in the overall national economy⁷⁷, and consequently the systems that protected the agriculture. Those trends heavily affected accession processes of the Polish economic markets, both with regard to the agriculture, as well as the system of business insurance accompanying agriculture. Thus, such trends became a matter of particular interest for agricultural circles and households, as well as the academic circles and NGOs from financial and insurance markets.

For a variety of reasons, including political and system reasons as well as mental aspects, agricultural and related circles, which expected the benefits of free market after 1989, have not enjoyed particular support from subsequent political forms, be it the command economy or market economy (in its neoliberal version) since WWII ended (after 1945). The socialist system saw the peasant conservatism and its predatory urge to retain the private ownership of land and crops as the key ideological obstacles posed by such circles to the implementation of the political principles and expected acceptance of processes of nationalization of the agricultural economy.

Still, using the legal and practical compulsion in insurance activities (as a matter of fact originating from 150 years of history of capitalist economy) and the mathematical and statistical regularities of the cheaper premium when insurance is mandatory in terms of subject and object, the socialist system maintained a versatile

76. Cf. e.g. joint publication: *U progu trzeciego stulecia ubezpieczeń*, op. cit., incl. R. Nowak, *Wczoraj i dziś ubezpieczeń w rolnictwie*, op. cit., p. 99–120, S. Walcerz, op. cit., p. 75–82. See also A. Banasiński, who was critical of the fact that the Insurance Act of 1990 did not offer solutions on the insurance prevention function in the insurance sector, A. Banasiński, op. cit., p. 209–210.

77. Generally noticed and promoted (see materials from conference of 22 March 2002 which took place at the Kozminski University) as regards the loss of position agriculture in the economy of the times, see among others R. Lewandowski, *Jaka polityka wobec wsi i rolnictwa* [in:] *Ocena komplementarności działań Polityki Spójności Wspólnej Polityki Rolnej i Wspólnej Polityki Rybackiej na obszarach wiejskich*, red. I. Jędrzejczyk, Warszawa, published by the Warsaw University of Life Sciences, 2008, p. 51–65. The same author (p. 57) writes: "(...) the role of agriculture as a workplace and an element of national income has been diminishing" and "The agriculture has played a limited role in the national economies of all Member States, although it remains a crucial sector given its functions", p. 55–56.

insurance protection of agricultural families and their assets. This way, the socialist system established (at least partially) material protection of existence while turning the adopted method of insurance into forms of nationalizing responsibility and social protection of the interested parties. It also used receipts from insurance (including cash from premiums) to support investments in agriculture and the general social and economic development⁷⁸.

The same premises, gradually transposed to subsequent circles and their assets in rural areas and small towns, resulted in the common nature of insurance cover of key assets and non-asset values of such groups of population (millions types of risk by object), insured on the basis of various forms of compulsion, starting from buildings through property to third party liability, comprehensive (AC) insurance of motor vehicles, farmers TPL, crops and animals. The compulsory nature of common protection was justified with various arguments – starting with megalomaniac arguments (the authorities know what is best for the citizen) through arguments of relative attractiveness of an insurance premium when insurance is common, to historical traditions of mandatory nature of insurance cover (for 200 years), to social and welfare forms of cover, professional education and insurance education, to extensive support provided by insurance funds in the modernization of farms and households (e.g. subsidizing the costs of roofing, modernization or construction of outbuildings).

If the signs of benefits resulting from business insurance, which, because of the compulsory nature, also extend to entities which need welfare support, are expanded by the system of health and pension insurance addressed to the agricultural sector (KRUS), the protective role of the state becomes obvious (up to the then potential of the state).

The second political formation, the market economy, despite the attitude of farming and agricultural communities to private ownership of means of agricultural production that favoured the nature of that economy, has not been particularly interested in pursuing projects in those sectors of the economy and living conditions given too low profitability (rate of return) of the necessary investments. These trends also pertain to the sphere of business insurance due to too low production and purchasing potential of the prevailing part of peasant economy, namely small-scale commodity production, and households in villages and small towns, which account for the majority of the insurance potential in those sectors. Despite globally considerable value of agricultural production in the agricultural market, coming from

78. In the insurance doctrine, the latter practice was called the function of supporting social and economic development of the state with insurance funds. Cf. among others: A. Banasiński, op. cit. p. 197 et seq. See also J. Łańcucki, *Finanse ubezpieczeń gospodarczych*, Warszawa, published by Poltext, 1993, p. 9 et seq.

small-scale production farms⁷⁹ and allotment garden farms, the profits expected from such economic ventures are extremely low and uncertain (also when it comes to purchasing voluntary insurance cover). Such ventures are difficult in terms of profitability and often go beyond the purchasing power of buyers of services and products targeted at agricultural (rural) spheres⁸⁰.

Thus the small or even scant interest of commercial insurance companies (especially foreign companies)⁸¹ in insuring those spheres of dwelling and the economy during the entire accession period. However, the insurance companies were interested in common mandatory insurance, especially insurance that was profitable or insurance where the premium was substantial (e.g. motor vehicle TPL).

If that general principle of pursuing commercial activities to earn a fair profit, a principle which is recognized in the practice of neoliberal economy, is coupled with the actual liquidation of forms of social and preventive financial function of business insurance in agriculture in the insurance activity, with the extreme containment of the rule of the so-called insurance goodwill⁸², then it can be seen that the argument about considerable restriction of implementation of the financial sphere of the preventive function in the Polish system of business insurance of the agriculture (rural areas) (from 1990–2004) until it was no longer pursued by the vast majority of insurance companies was confirmed by the operating practice of that sphere of the market.

The aforementioned social and welfare role of insurance applied in insurance of agriculture and related sectors met a similar fate. Having regard to that, Prof. A. Banasiński wrote the following of the positive aspects of the earlier model of the investment activity carried out in connection with performance of the preventive

79. During work on the National Recovery Plan, the governmental party (2022) disclosed, as part of the scheduled aid programme for rural areas and agriculture, that the sector of small-scale production farms (up to 2 ha) accounts for 12% of global agricultural production.

80. When assessing poor income of rural areas and agriculture against the background of town and city inhabitants, R. Lewandowski wrote: “income earned by rural households nationwide accounted for 70% of total income earned in towns and cities and just half of the income earned in cities with more than 0.5 million residents in 2006. In 2007 families in rural areas and small towns were the ones that most often lived in relative poverty. 10.5% of all the population in rural areas and approx. 2% of population in cities with more than 0.5 million residents lived at the minimum level of existence. The highest rate of poor persons in rural areas (approx. 31%) was found in families without their own farm, who mostly lived on welfare benefits other than pension or disability pension. The rate of extreme poverty in individual voivodships ranges from approx. 4% to approx. 11%” (R. Lewandowski, op. cit., p. 56. Data sourced from: *Polska wieś 2008, Raport o stanie wsi*, red. J. Wilkin, I. Nurzyńska, Foundation for the Development of Polish Agriculture, FDPA, 2008).

81. Especially since, in the analysed period from 1991 to 2004, there were at most 2–4 insurance companies in the market of non-life agricultural insurance besides the dominant PZU that were not competitive against the PZU Group in terms of the premium.

82. In referring to provisions of the Insurance Act of 1990, back in 1993 Prof. A. Banasiński wrote the following: “It is surprising that the Act on Insurance Activity of 1990 completely disregards prevention,” A. Banasiński, op. cit., p. 209.

function⁸³: “The preventive fund accumulated by PZU was used to finance purchase of millions of TB cattle, to fit lightning arresters on several million of buildings in rural areas (at that time usually made of wood with straw roofing), to provide financial support to build thousands of fire stations, veterinary clinics, rural water supply systems, rebuild hazardous sections of roads, etc.”⁸⁴.

The economic and social consequences of such omissions with regard to rural circles and the lack of simultaneous and equivalent social and support projects of the state (whose role is deemed subsidiary in the neoliberal doctrine of the market economy) have resulted, in numerous Member States, in decisions to expand modest aid programmes for the agriculture (especially after the neglected economies of the 8 Member States acceded the EU)⁸⁵.

The perceptible lack of interest of the supply side of the insurance market in the agricultural sector did not fortunately affect all the financial and insurance markets, which, during the accession processes, developed subjectively and technically, re-viving support for a series of entities engaged in insurance practice to moderate the resulting state of the insurance cover.

A visible sign of that revival was establishment of a group of non-governmental (social) organizations of the insurance market, which associated professional entities of the market as well as entities and persons related to the market on a professional plane as well as those interested in other issues related to insurance, such as supply of services for the market, insurance education, professional training and analyses of insurance phenomena.

Insurance circles were also interested in noticeable crises tendencies in insurance practice in the agricultural and related sectors, marked by consequences of implementation of the neoliberal model of insurance, given the shortages or actually the lack of forms that were beneficial for customers as alternative types of insurance to replace the forms that had been withdrawn⁸⁶.

Despite the widespread approval of the unified EU market in the early years of the 21st century by financial and insurance circles, crisis symptoms of the market model that was being built⁸⁷ were incidentally signalled against the background of

83. Payment by way of an exception depending on circumstances of the case and the consent of the insurance company. Cf. E. Kowalewski, op. cit., p. 18.

84. A. Banasiński, op. cit., p. 210.

85. Including in the EU strategy for 2007–2013, and, after it failed, even more strongly highlighted in subsequent EU programmes, including programmes for years 2014–2020.

86. For more details see S.H. Nowak, *Rynkowy model polskich ubezpieczeń gospodarczych w rolnictwie w okresie przygotowań do wejścia do UE (lata 1990–2004)*, op. cit., p. 105–126.

87. See R. Holly, speech during a conference on 25 April 2003, in Warsaw: *Ubezpieczenia w polskim obszarze rynku europejskiego. Wyzwania i oczekiwania*, recorded in: *Ubezpieczenia w polskim obszarze rynku europejskiego*, op. cit., p. 229–238, proving a profound and accurate assessment of developmental risks to the Polish insurance market.

positive results of development of the Polish market. These symptoms also affected the agricultural economy⁸⁸.

The latter symptoms, pointing to the structural crisis of agricultural insurance that had taken place for the past 10 years and the need for modernization of selected sectors was somewhat bridged by arguments and comments by Prof. T. Sangowski that read as follows: „the need to change the structure of the insurance portfolio in Section II of insurance. There is an urgent need to rebuild and develop a proper system of insurance cover for the agricultural sector⁸⁹.”

It is worth noting that at the same time few authors who have postulated the need for insurance moderation of the sector (including Prof. Sangowski), as well as other stakeholders, have not identified the legal and organisational solutions to that problem yet. Among unique postulates are those proposing resolute solutions, such as those put forward by M. Więckowski⁹⁰:

- to reinstate universal insurance of buildings, movables and crops to the extent existing prior to 1990 (with a number of protective features);
- to reactivate the pre-war system of mandatory insurance managed by PZU;
- to introduce mandatory insurance of crops against consequences of natural disasters (with the premium co-financed by the state);
- to apply tax reliefs for policyholders of home insurance in the form of deducting the insurance premium from taxable income;
- to exclude the risk of flood and sell it as a separate product;
- to engage the equity market through the issue of disaster bonds and through diversification of catastrophic risk outside the insurance sector.

Although the work on the development of the new market system of agricultural insurance has lasted for more than 10 years, the considerable scale of individual and sectoral losses as well as losses incurred by the entire economy, given the liquidation of a series of types of statutory insurance cover⁹¹, with the rudimentary form of common nature of new types of insurance proposed instead, somehow is not a subject of social and economic interest from the opinion-forming and political and governmental circles.

88. Cf. *Wnioski z dyskusji konferencyjnej konferencji* of 22 March 2002 [in:] *Problemy i kierunki unormowań rozwoju rynku ubezpieczeniowego w Polsce*, p. 141–142 and arguments from the speech by T. Sangowski: *Aktualne problemy oraz podstawowe trendy polskiego rynku ubezpieczeniowego*, in the same publication, p. 57.

89. T. Sangowski, *Polski rynek ubezpieczeń – stan i kierunki rozwoju*, op. cit., p. 179–230.

90. Speech during the conference of 25 March 2003, *Zarządzanie ryzykiem powodzi – poszukiwanie nowych rozwiązań* [in:] *Ubezpieczenia w polskim obszarze rynku europejskiego. Wyzwania i oczekiwania*, op. cit., p. 510–530.

91. Cf. R. Holly, *Problemy rozwoju polskiego rynku ubezpieczeniowego w pierwszej dekadzie XXI wieku*, op. cit., p. 229–238. See also W. Ciesielski, *Wprowadzenie do dyskusji* [in:] *Ubezpieczenia w polskim obszarze rynku europejskiego. Wyzwania i oczekiwania*, Warsaw, Insurance and Risk Management Chamber of Commerce, Kozminski University, 2003, p. 16–18.

Thus the weakness of impact of technically reasonable initiatives and proposals to solve the problem. Anyway, the market economic model that was born under conditions of the organisational chaos of the time, evident when economic markets are created, the economic crisis of the turn of the centuries, including the insurance market⁹² and the progress of EU accession works (including works on the new model of market insurance, including agricultural insurance) was not conducive to identification of the weakness of the solutions that were proposed and implemented.

Also for this reason the creators (governmental and legislative teams) of the new model of Polish business insurance and of the system of insurance for the rural and agricultural domains, and executors of that model (the supply side of the insurance market) and even the main parties interested in the insurance cover (farmers, households, other insured and beneficiaries) failed to notice, had no causative power and did not envisage all the consequences such as the social and economic results of consequences of liquidation of the mandatory nature of the former statutory system of common insurance in the agricultural sector or the introduction of new types of insurance and the way in which contractual insurance was developed.

This replacement process, given unattractive new proposals, was not welcomed by its audience who, contrary to expectations of creators of the system, did not find the proposed set of insurance the “basic necessity”. As the time passed by, the audience firmly expected development of new, practical and social principles that would support agriculture, at least to the extent that preserved its existing output capacity⁹³.

Summary

The legislative and organisational grounds of the new system, which had been developed since the early 1990s, shattered the existing model of the agricultural economy, also in the sphere of the model of its business insurance that had actually operated for two centuries. With regard to insurance, the changes took place for the first time when the Act of 28 July 1990 on Insurance Activities was adopted and came into effect.

92. See, among others, A. Sopoćko, op. cit., p. 24–26. See also G. Kołodko, *Globalizacja rynków finansowych*, op. cit., p. 27–39.

93. This triggered the organisational and legislative works at the Ministry of Agriculture and Rural Development in 2004 on the development of Systemic Solutions in the Field of Insurance of Crops and Farm Animals, which ended with adoption of the Act of 7 July 2005 on Insurance of Crops and Farm Animals, Dz. U. 2005 nr 150 poz. 1249.

While the ultimate goal of the new economic model, which was to earn profit, was pursued, the pro-social and welfare elements embedded in the insurance activities were disregarded. In the opinion of the authors, the changes that were introduced and which followed the spirit of the neoliberal economy did not produce the desired effects. On the contrary, they resulted in a decline in development of those fields.

This work points to political solutions as one of the main if not the key reasons for the severe collapse of the system of business insurance that affected the Polish agriculture and rural areas (with related sectors of the economy) in the period of political transformations, also at the times when the EU accession processes were taking place. That state of affairs was largely caused by the liquidation or, at least, a considerable restriction of the principle of the universal nature of the system of non-life insurance, including the principle of the mandatory nature of insurance. It was the liquidation of the mandatory nature of cover for some of the agricultural insurance, which was ill-considered in the economic and social terms, that became the fundamental reason for the profound crisis of insurance in that field of the economy.

Comparison of results of the insurance cover during the last years of the command economy until the moment Poland joined the EU demonstrates the thoughtless, as it seems, negation and lack of respect for the insurance model that had been developed over centuries, and is largely demonstrated by the loss of the universal cover for these types of insurance. This resulted in a considerable decrease in the insurance potential for the group of widely understood agricultural insurance. In addition, in the analysed period, the system of business insurance was dominated by legal and economic solutions that preferred supply entities in the market with the system of entities that supported them, as the entities which implemented the fundamental rules of the neoliberal economy.

The authors believe that the crisis has remained until present day despite a considerable improvement in the material conditions of management, including conditions that result from system-wide solutions which have been implemented as part of the common policies of the European Union. The way the Polish system of agricultural insurance worked during Poland's membership in the EU structures will be analysed and an attempt at arriving at a synthesis will be made in the second part of the work.

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