

“ICONS” – INSURANCE CONTRACTS AS AN OPPORTUNITY FOR THE NEW SOCIAL SECURITY SYSTEMS. REDEFINING ICONS AND LOOKING FOR NEW GUARANTEES OF WELFARE STATES

“ICONS” – umowy ubezpieczeniowe jako szansa dla nowych systemów zabezpieczenia społecznego. Definiowanie ICONS i szukanie nowych gwarancji państwa opiekuńczego

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STRESZCZENIE

Powszechne w XX wieku prawo do świadczeń społecznych dla wszystkich obywateli oraz rozliczne dodatkowe przywileje dla licznych grup socjodemograficznych w dostępie do tych dóbr, w wieku XXI nie będą już stanowiły fundamentu europejskiego państwa dobrobytu. Przesądzają o tym dokonujące się zmiany demograficzne, ekonomiczne i kulturowe, które przewartościowują dotychczasowe i generują nowe ryzyka społeczne, rodzą nowe potrzeby i oczekiwania, wymuszają powstawanie nowych technologii produkcji dóbr i ich dystrybucji. Pogłębiająca się równocześnie świadomość *społeczeństwa ryzyka* stymulowana narastającymi zagrożeniami może okazać się szczególnie wrażliwa na niedostatek czy wręcz brak zabezpieczeń podstawowych potrzeb społecznych. Brak oferty rozwiązań odpowiednich do aktualnych potrzeb i oczekiwań może sprawić, że wraz z początkiem wyczekiwanego okresu stabilizacji i rozwoju gospodarczego, paradoksalnie, rozpocznie się nowa era niepokoju, roszczeń, trudnych do kontrolowania i niemożliwych do przewidzenia inicjatyw i ruchów społecznych. Wizję tę potwierdzają doświadczenia ostatniego tylko pięćdziesięciolecia – od ruchu *sytuacjonistów*, po ruch *oburzonych*. Powstaje zatem konieczność stworzenia nowego wzorca/modelu państwa dobrobytu, odwołującego się do nowych symboli odpowiadających współczesnym potrzebom, a zarazem wywodzącym się z systemu wartości i imponderabiliów współczesnych Europejczyków, modelu możliwego do wdrożenia w państwach UE różniących się etapem rozwoju gospodarczego, tradycjami, kulturowymi, orientacjami ideologicznymi i politycznymi.

Słowa kluczowe: społeczeństwo ryzyka, państwo dobrobytu, zabezpieczenie społeczne, kontrakty społeczne

Keywords: risk society, welfare state, social security system, social insurance contracts

PROJECT CONCEPTUALIZATION

Increasing awareness of risk society [Beck, 1986, 1990, 2007] stimulated by the increased number of dangers may turn out to be particularly vulnerable to the deficiency or even lack of any forms that would protect basic social needs. In the light of those benefits

being refused to citizens, as they are based on inefficient systems of intergenerational contracts, and lack realistic programmes of creating and distributing goods that meet the purposes of contemporary conditions, there may occur social initiatives that will offer populist, equally unrealistic and destructive solutions, which, in given situation, will not be opposed to by rational and socially-based

programmes, even if they are formed. If there is nothing on offer that would meet the expectations of the moment, the result may paradoxically be social unrest, claims, unpredictable and uncontrollable initiatives and social movements, rather than the expected period of stabilization and economic growth. Last fifty years, from the Situationists to Outrage Movement, only prove the theory. Thus, a need for new pattern/model of welfare state arises, that would refer to the new symbols applicable to contemporary needs, and at the same time derived from the system of values and imponderables of contemporary Europeans, one that is likely to be implemented in European countries that vary in the stage of economic growth, traditions, culture, ideologies and political orientations. [Habermas, 2011]

The range and level of uncertainty in societies increases and deepens together with the occurrence and increase of new risks. [Adam, 2008; Mackenbach, 2012] The less secure the “old” protection systems, the deeper the uncertainty. [Bambra, Netuveli, Eikemo, 2010, 2011; Van de Ven, Beck 2007] Response to those unrests may be found in new, more socially up-to-date methods and instruments that would guarantee (or, at least facilitate) meeting the rudimentary human needs, which we (be it right or not) aggregate and refer to as social security need, whereas the system that is aimed at meeting the needs-welfare. [Eikemo, Bambra, Joyce, Dahl, 2007; Unger 2012]

Search for new interpretations of the concept of welfare state and new systemic solutions has already led to the system of social contract signed by the representatives of Chamber of Commerce, associations of employers, trade unions as well as government agencies. [Lupton, 1995; Baker, Simon, 2002; O'Malley, 2004] However, those projects are limited to declarative covenants regarding mutual values and objectives, socio-economic areas in which these objectives are to be met, means and methods of implementation. [e.g. Slovenian Gaudlines for the Social Contract 2012-2017] Any attempts to make use of the rules of insurance contracts in order to structure them are unknown to us. In turn, parallel attempts to work out mutual European unified pattern of insurance contract aim at improving the functionality of European

insurance market. Creating and popularizing unified European insurance contract has benefits that were already recognized years ago, and encouraged a group of scientists to take part in the project called “Restatement of European Insurance contract Law”, whose aim was to create basic rules for a universal insurance contract—Principles of European Insurance Contract Law (PEICL). [Basedow, Blaas, Brömmelmeyer, Clarke, Cousy, Dufwa, Fuchs, Heiss, Loacker, Luik, Marxer, Müller, Pontiller, Reichert-Facilides, Rokas, Wandt, Wansink, Zobel, 2002-2012] This initiative was supported by a European Parliament Resolution, due to which works on PEICL were not only included in the project of general European Contract Law, but also given the priority status [point 25 of Green Paper from the Commission on Policy Options for Progress towards a European Contract Law for consumers and businesses]. The proposed project is also linked to the new framework strategy “Health 2020”. [Michelsen, Brand, 2012]

Such a model of insurance contract could become useful in order to neutralize the social risks, on the condition that they are built in a system of clauses (e.g. Modeled on those stated by the Institute of London Underwriters clauses), that are relevant to the type and character of risks, which would be described by the clauses. Both the risks and clauses would undergo constant process of updating and verification. We could therefore avoid the drawbacks of market *insurance industry* system, which favors the interests of the producer-insurer, as well as the faulty public insurance subordinate to the game of interests and political tenders typical for statist system (Polish case). [Holly, 2011, 2012, 2013]

Taking into consideration the legitimacy and plausibility of the theses, assumptions and solutions put forward in our project “ICONS”, re-evaluation of the already existing welfare state icons seems to be the initial point. By such icons-symbols in European tradition and culture one can mean a set of rights and privileges of common access to the goods that aim at meeting the entire range of social needs, simultaneously neutralizing the respective social risks. Capacity to fulfill those needs (neutralizing the risks) by means of specifically structured protective systems

(providing goods that meet the needs) is a prerequisite for social security, sustainable development and social peace. Therefore, the effectiveness of the systems used to be (and still is) one of the major problems of governing bodies, which in turn aim at providing efficiency to the systems in terms of generating and distributing the goods at a level that would correspond with current demands.

Experience gained through subsequent financial and economic crises teaches us that the mechanisms of capitalistic market economy are effective in generating and distributing products that are to meet various demands of individual customers, but fail in response to general social needs. [Reich, 1998, 2007] Such situation requires even the most limited supervision supported by state intervention. Due to many recognized drawbacks and unfavorable effects of state interventionism, one can observe a search for solutions that would be deprived of the flaws of traditional inefficient protective systems that are constantly, and for flawless and “clean” free market models and their stopgap economic measures or hybrid models that combine the drawbacks of static and market solutions. [Moran, 2000]

When joining in the search, one should consider the possibility to apply the ideas and methods of insurance that have already been verified for years in practice, but they have been used instrumentally by public sector for decades, predominantly to ensure financial efficiency of the system, and by private sector to secure the interests of providers. It can be acknowledged that in the light of ongoing social transformations and the predictions regarding the direction, dynamics and effects of these, models based on codified contracts rather than traditional, intergenerational ones are more effective in meeting social needs. Insurance security model in which public and private interests are well-balanced may turn out suitable in the designing and production of complex system of mutual complementary covenants/contracts regarding neutralization of major social risks.

The security pattern based on a contract modeled on the algorithm of contract of insurance is a guarantee that the unified system covering all major social risks is apolitical, universal, financially balanced, with transparent rules of participation in risk community, as well as highly developed technology of neutralizing the risk, equal access to goods that meet social needs, treating all stakeholders equally. Such a model could, therefore become a framework for the new security system with defined benefits, that would be in accordance with contemporary demands and expectations and replace the existing systems of defined fee (usually based on percent capital), imbalanced, and therefore constantly inefficient and insecure. [Reinhardt, 2013]

Thus, it seems legitimate to regard the results of works done on the subject as the basis for structuring the contract, which, according to the leading thesis of “ICONS” – should replace intergenerational contracts. In order to verify the thesis one should provide answers to the following questions:

- What is the change and how is it performed with regard to understanding and methods of dealing with concepts, such as equality, justice, social rightness, freedom “to” and “from”, solidarity, effectiveness?
- Whether and in what way does it correlate with the alternation in the range of needs, expectations and aspirations of various social groups in different countries of EU?
- To what extent does it relate to the needs, expectations, social aspirations and methods of satisfying them (regarding the range, diversity of forms, quality, rules of availability, price)?
- What, and to what extent does security of contemporary citizens in the EU depend on?
- What do they expect from their governments, public institutions, public and non-governmental organizations and enterprises?
- What determines the integration of citizenship?
- What determines the sense of security among the citizens of EU countries?

- Family (What pattern?)
- Household (What structure?)
- Stability of employment (What kind of? What form?)
- Stability of work (What is it? What should it rely on?)
- Health (What is it seen as? What does it aim at?)
- Security on the part of the state regarding:
 - Supplying social benefits (What?)
 - Employment (access to work)
 - Physical security
 - Sustainable economic development of the country
 - Civil liberties (What kind of?)
 - Defined rights (e.g. freedom “to” be informed, freedom of choice, freedom “from” discrimination, exclusion)
- What is the definition of, and what is social citizenship in EU countries based on? What does it serve and in what way? (“democracy”, stability of the state and its institution, stability of social insurance systems?). What are the benefits for the citizen, and what are the victims?
- What should social contracts deal with? What should be their subject-matters? “Old” – “new” social risks/dangers? What type? How defined?
- Who (what type of institutions, with what organization system, according to what rules and procedures? Can/should define:
 - The subject-matter of contracts
 - The range of subjects-matters/ types
 - Diversity of forms
 - General laws of contracts
 - The rules and procedures of contracting
 - Costs and prices
 - Forms of administering (organizing risk communities, running insurance funds, realizing and calculating the risk and amount due),
 - Financial guarantees
- Who should establish:
 - Compulsory contracts and their range
 - Voluntary contracts
- What can/should be the systemic model of social insurance contracts?
- How to ensure completeness, complementary character and cohesion to the system of social insurance contracts?
- What should the formula and formal-legal status of social insurance contracts? What should be mutual and differentiated included (based on the risk’s generic differences, their character and a place in the hierarchy of values)
- Is there any universal algorithm (if yes, then what should it be like) used to structure a social insurance contract?
- How to secure (organize) the transformation from contemporary, so called intergenerational social contracts to the system of social insurance contracts?
- Whether, and—if yes—then, to what extent is it possible to make use of ideas/ concepts, such as Risk Adjustment and Risk Sharing [Holly, Michelsen 2011; Van de Ven, Beck, 2007] in the process of designing and structuring the algorithm of social insurance contract?
- Whether the offer of insurance product may constitute an instrument /tool to neutralize the conflict of interests between the “new” social groups?
- What are the changes in the importance of values: social equality, freedom (of choice), social solidarity, social justice, social rightness, effectiveness, can be transferred on the insurance offer:
 - Its range
 - Diversity
 - Quality
 - Availability
 - Cost
 - Price
 - Form
 - The character of offer
 - The addressee of the offer (customer segmentation)

So as to make it (1) attractive for the beneficiary/consumer and profitable for the producer, (2) play the role of an instrument to neutralize potential social conflicts

- Whether the regionalization of social protection may allow for increase in the effectiveness of protection systems?
 - What should/can be delegated locally
 - What should/can be left within the range of governmental competence

In order to:

- Better diagnose the specific needs of particular groups (“local societies”)
- Better diagnose the dangers
- Better use the potential of particular socio-demographic groups
- Better use the groups’ potentials
- More accurately designate/address the benefits (increase their availability)
- React to any symptoms of a change in a more flexible way
- What other (insurance) contracts are signed between public institutions and the citizens, beneficiaries of the insurance system, could result in the increase in the system’s efficacy?

DESIGNING AND CREATING OF INSURANCE CONTRACT

Acknowledging the risk of *health loss* and *ageing* as basic factors that endanger the sense of social security, we are going to verify the leading thesis of the “ICONS” project.

Let us then assume that, particular needs are accompanied by specific risks of deprivation. Type and character of the risks involved, on the other hand, create the possible methods of neutralizing them and, this is where the range of products aimed at meeting the objective should occur. [Bethencourt, Galasso, 2008; Paz-Fuchs, 2013] To put it straight, one might say that, products that aim at neutralizing the risks should follow the rule “such is the insurance as is the risk”. [Holly, 2013]

The first stage of structuring a system of popular social insurance contracts should be thorough recognition of specific needs and their potential risks, and following the

route – **creating a new** (constantly updated in the future) **catalogue of social risks**, continuously reinterpreted according to its subject range, the level of popularity, potential social effects and costs that result from them.

Designing and creating products that would neutralize the risks can only then occur as the **next stage** (in the form of insurance contracts). The final shape of European, popular system of social insurance contracts should, therefore, offer a wide range of varied products that neutralize the constantly monitored major risks, thus creating a basis for an entire system of coherent, mutually complementary welfare. If we assume that current catalogue of social risks will correspond with health-care, education, long-term care together with the systems of pensions, and employment, we will establish general frames of subject range of the contacts, i.e. what they should refer to in practice—objectives they are supposed to meet. Additionally, when taking into consideration cultural values, together with their patterns and symbols (ICONS), such as, equality, social solidarity, social justice, or freedom “from” and “to”, which constitute the concept of European welfare state, one can define the standards and ways to meet the above mentioned objectives. Updating and reinterpreting the symbols, accompanied by simultaneous reference to the verified and reinterpreted catalogue of contemporary needs and social interests, will constitute a framework for formulating the above mentioned system of social insurance contracts that would work under the following conditions (1) popularity, (2) universality, (3) equal access, (4) risk participation of all beneficiaries, (5) cross-border character, (6) economic profitability, (7) financial balance and (8) financial availability to all potential beneficiaries of the system.

REALIZATION OF THE PROJECT

Realization of the project requires taking the following steps:

1. Establishing a “new” catalogue of social risks
 - 1.1. Identifying and verifying contemporary needs and social interests as well

- as the risks associated with meeting them, in order to update the catalogue of major social risks.
- 1.2. Updating and reinterpretation of the symbols of contemporary European welfare state.
 - 1.3. Defining the subject range of necessary social welfare that will form and realize the concept of contemporary European welfare state.
 - 1.4. Defining objectives (and possible methods to meet them) of contemporary European welfare state.
2. Designing and structuring products (insurance contracts) that serve to neutralize particular risks.
 - 2.1 The possibility to neutralize particular types of specified risks with insurance method
 - (a) *by means of*:
 - Education
 - Prophylaxis
 - Preventive measures
 - Repair actions
 - (Re)compensation acts
 - Conservative
 - (b) *within the frames of*:
 - State agencies
 - Public institutions
 - Market solutions/mechanisms
 - Solutions/mechanism of citizen participation (shares, charities, charitable foundations aimed at specific purposes)
 - 2.2. Establishing rules for structuring popular insurance contracts that serve the coherent system of mutual social welfare suitable for: particular risks and dangers, particular groups of beneficiaries – regarding the range of benefits, their variety, quality, availability, costs, prices, which are characterized by: being complete, complementary, compatible (coherent).
 - 2.3. Defining the sense, conditions and usability of Risk Sharing and Risk Adjustment mechanisms in the structure of unified social insurance contract system.
 3. Defining the rules and assumptions that condition the introduction of unified social contract systems in European countries. Proposed systemic methods on the macro-micro (public-individual), economic, political and formal-legal level.
 - 3.1 Determining whether-and if yes, then to what extent and in what way, does the unified, common system of social insurance contracts may facilitate the realization of objectives resulting from the concept of welfare state. Rules that govern the organization and functioning of the unified insurance contracts system covering all (possibly many) risks and welfare, all beneficiaries in the following societies:
 - Local
 - Regional
 - Supranational
 - Homogeneous due to: range of insurance, variety of protections, their availability, quality, price and the possibility of common/ mutual financing and mutual cost accounts.
 - 3.2 Designing a project of product offer that would serve to neutralize contemporary social risks–exemplified by product range available in healthcare.

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