In everyday language, solidarity functions as a catchword. It is commonly associated with the banners of the Polish socio-political movement 'Solidarity' and the famous French motto of liberté, egalité, fraternité. Despite this important, symbolic role the notion of solidarity played through the ages of history, its philosophical content remains unclear and is still insufficiently studied. This is clearly illustrated by the intriguing observation made by H. Frankfurt: this excellent American philosopher reported with surprise that in the Yale University library, one may find 1,159 entries under 'liberty', under 'equality' – 326, and under 'fraternity' – none (with 4 entries under 'brotherliness').

The ambiguity is just as considerable in social and legal sciences. Despite the fact that solidarity is considered to be one of the foundations of the European legal system, there is no theory of solidarity following the model developed for justice, freedom, or equality. In traditional interpretations, solidarity is equated to 'an obligation to help the suffering, the ones with problems, and the socially disabled', which is to be carried out by state institutions. This interpretation is false for two reasons.

Firstly, it presupposes an incomplete definition of solidarity. Solidarity cannot be simply reduced to an 'obligation to assist', as it is not a synonym of benevolence, charity, or mercy. Solidarity stems from the Roman law institution of obligatio in solidum, which assumed radical liability of each of the debtors for the entire obligation. The legal sources of the principle of solidarity emphasize that in the case of a solidary obligation, provision of mutual assistance is secondary to cooperation and common action resulting from common values or community of interests or goals. Referring to Aristotle, one can describe solidarity as civic friendship, and friendship, contrary to mercy, where the benefactor's position is higher than the beneficiary's, is a symmetrical relation ('one for all and all for one').

The second flaw of the traditional interpretation is burdening state institutions with 'solidary obligations'. This concept of solidarity is one of the ideological foundations of the welfare state. Solidarity, when reduced to the requirement of 'state benevolence', causes a number of paradoxical results, primarily the paradox of humiliation. 'Benevolent' state institutions were supposed to reduce the feeling of shame evoked by accepting help and mercy from others, but it turned out that in fact, this anonymous apparatus of assistance exacerbated the feeling of humiliation by treating humans as nonhumans, e.g. as numbers, application forms, or cases, which is a common practice in welfare bureaucracy. This 'dehumanization', intended to reduce the master/slave emotions of pity and dependency, not only does disservice, since feelings, including the unpleasant ones, are the most powerful catalyst of change, but also induces learned helplessness and breeds a pervasive culture of complaints. Another paradoxical consequence is the growing number of beneficiaries of social assistance resulting from the crowding out effect (private voluntary benevolence being pushed out by state benevolence), as well as the necessity to assign more and more financial resources to maintain the expanding mechanism of administrative assistance.

The welfaristic model of solidarity is fallacious, produces negative social consequences, and, due to the actual crisis of the welfare state, contributes to the spread of the conviction about the decline of the principle of solidarity itself. However, like in the times of E. Durkheim, who, facing the 19th-century social transformations, observed the transition from 'mechanical solidarity', based on collective consciousness, to 'organic solidarity', based on division of labour, the contemporary crisis of solidarity creates the opportunity for a new, deeper understanding of solidarity and building its legal model on new conceptual foundations. The main research goal of this project follows from these premises. Two objectives are put forward: due to the ambiguity and confusion around the notion of solidarity, the first of these objectives is a philosophical analysis of the concept itself; due to the distortion of the welfare state, the second one concerns the transformation of the welfaristic model of solidarity into an alternative: a liberal one.

The philosophical definition of solidarity will be supported with an analysis of the output of empirical sciences. An ethical theory of solidarity cannot be developed without knowledge of actual solidary behaviours, their causes, aims, and social determinants. Entrepreneurs starting a joint venture, workers struggling for decent treatment, neighbours taking care of the common housing estate together, people of good will helping refugees – all these (and many other) examples reveal aspects of solidarity and contribute to a deeper understanding of this notion. At the same time, one must avoid the naturalistic fallacy: inferring the norms of conduct from mass solidarity practices. In some situations, solidarity may require observing the customary norms of a given group, while in other cases, quite the contrary – it will require objection to such norms (an example of such a paradoxical situation is objection to 'amoral familialism', typical of e.g. mafia structures). Such an objection does not arise from any empirical reasons, but from a normative feeling of moral obligation that goes beyond the situational context.

A quest for reflective equilibrium between the theoretical and practical spheres will accompany the second research objective. The legal model of solidarity under the rule of law must avoid not only the naturalistic, but also the moralistic fallacy, which consists in imposing unrealistic, impossible duties upon citizens. This is one of the reasons for which the proposed model introduces a distinction between the minimal and maximal content of solidarity. The first one involves the solidarity obligations that can be reasonably demanded in a state under the rule of law. Establishing this minimum content requires answering two questions. The first of these questions concerns the cooperative dimension of solidarity: Which areas of social life are our common (public) obligation? (health care, education, social insurance – and if so, to what extent?). The second one refers to the assistance dimension of solidarity: Who should we necessarily help? (e.g. do the people who, as a result of underserved inability to cooperate, have the right to our assistance that is not rooted in common action?). The maximal content of solidarity introduces the ideal of a solidary society – a society where citizens take up common obligations, help one another, and join their forces in a struggle for common goods. This a regulative ideal in the Kantian sense, which means that it is not aimed at imposition and coercion of a particular model of behaviour, but at orienting our ideas and efforts in the right direction. In this respect, wise and human-tailored legal arrangements can only approximate this ideal.

This function of law, instrumental for interpersonal solidarity, presupposes a particular – positive and minimalistic – vision of law.

It is positive because legislation is seen primarily as a mechanism of coordination, not repression. The purpose of law is not to limit freedom, but to protect it and regulate, in the most adequate and just manner, the public forum, where individuals can confront and harmonize their different, frequently contrasting interests. I. Bohnet, a Harvard scholar, emphatically expresses the minimalism of this vision: her succinct proposition of 'more order with less law' arises from the conviction that law, when carefully building on human psychological inclinations, can use soft and non-coercive legal means to effectively achieve the essential goals. For instance, in some cases, the simple labelling of a given behaviour as 'banned' may prevent it due to the phenomenon of 'risk-aversion', as described by the Noble prize winner D. Kahneman. One of the detailed objectives of this research is to examine the conditions under which such minimal legal means can be effective.

The issues of the liberal model of solidarity and the requirements of the science of good legislation will be discussed in the context of health care. This area of law is not only the most important domain of the principle of solidarity, but is also a critical point of contact between the private and public spheres, concerning the most vital human interests: life and health. Legal arrangements developed in this particular domain will increase citizens' trust towards state institutions and, by reference to other areas of law (education, labour law), will be an introduction to a more general reflection on the legal frames of a solidarity society.