

Tailoring the insurance product to the client's needs - a revolution or evolution of legal provisions on concluding insurance contracts?

The objective of the research is to develop a sustainable model of customer protection in the economic insurance services market, from the point of view of tailoring insurance products to customer needs and demands. This purpose is justified by the fact that one of the major problems present on the insurance market is that customers purchase products not corresponding to their needs. Non-adequacy of an insurance product to the customer's needs and demands leads to the lack of insurance protection against specified risks, to incomplete insurance protection against a particular risk or to excessive (unnecessary) insurance protection. This phenomenon is to be minimized by the Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (hereinafter: IDD), which in line with the general trend to protect persons considered the weaker party to an obligational relationship imposes a new pre-contractual duty on insurance distributors, namely the requirement of a demands-and needs test.

The problems of interpreting IDD's provisions have not been addressed in academic studies consistently analysing the civil law consequences of the requirements laid down in IDD. The scope of IDD's implementation and the protection afforded to customers is especially important in Polish law, where the Act on insurance distribution (AID) is a quite faithful reflection of the European legislator's assumptions. However, that Act gives rise to interpretative doubts, because its terminology is incompatible with the Civil Code and the civil law regime of insurance contracts. In Germany, on the other hand, as a result of IDD's implementation the respective provisions were dispersed among various legislative acts so that the new regime could fit in the well-established conceptual framework of the German legal system. In France, in turn, the Act and the Decree transposing IDD have added provisions in the Insurance Code. Spain followed the Polish model, however, the Spanish legislator aligned the provisions of the newly adopted Act with the existing conceptual terminology and, in certain areas, chose to adopt a higher level of the weaker party's protection than laid down in IDD.

As a result of the conducted research, covering an analysis of the Polish system and comparative law research, I will propose a sustainable (i.e. economically justified and legally acceptable) and most importantly up-to-date and suited to the level of economic development, model of customer protection on the market of economic insurance services in the context of ensuring the insurance product's suitability to the customer's demands and needs. It is beyond any doubt that situations in which purchased insurance does not guarantee protection against the risk in relation to which the customer bought the insurance product are unacceptable. One should aspire to create law minimizing the risk of such situations occurring and to effectively ensure, particularly on a European scale, a uniform and at least a minimum protection level as postulated in IDD.