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Title: Active Aging through Employment: A Critical Feminist Perspective on Polish Policy

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Abstract

Age has become a crucial factor in labour market regulation measures undertaken in Poland in the last several years. Inspired by *Europe 2020* strategy of ‘smart, sustainable and inclusive growth’, Poland’s own long-term development plans, especially those adopted by the former Civic Platform-led administration, feature significant emphasis on extended working lives as essential to economic sustainability. Given low employment rates among Poland’s older age cohorts, and the shortfall between the actual and statutory age of retirement, many of the country’s active aging measures have focused primarily on employment activation of workers above the age 50. The policy mix of supply-side activation techniques and demand-side incentives, combined with pension system reforms, have been the key measures designed to encourage longer working lives. Yet, to what extent are these measures achievable and adequate? Using a feminist, socio-legal perspective, this paper critically evaluates Poland’s active aging policy and reforms by locating them at intersection of the transformation and re-structuring of the Polish welfare state and the re-regulation of the country’s labour market according to neoliberal proscriptions. Two key points of interest – or sources of tension – are identified: the extent to which the efforts to bolster older people’s employment participation take adequate notice of labour market conditions and the roles that older people play in the provision of care and other activities involved in maintenance of living standards. As the paper shows, the potentially negative consequences of this policy trajectory for older people’s wellbeing in and out of the labour market, and for the organization of care and the broader processes of social reproduction, have tended to be downplayed in policy and legal reform, while being potentially exacerbated by them.

Keywords: labour law reform, employment, European Union, Poland, active aging, pensions, social reproduction, care

Introduction

The process of population aging is afflicting most European countries, and concerns about its consequences for living standards as well as national pension systems and Europe’s long-term economic sustainability have prompted interest in the promotion of ‘active aging’. What active aging refers to tends to be conceived broadly within the European Union (EU) policy to encompass community participation, improvements in health and life expectancy, lifelong

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learning, and other aspects of social inclusion of older people. However, the emphasis on extension of working lives is perhaps the key and most developed aspect of this agenda. As is evident from the EU's *Europe 2020 Strategy for Smart, Sustainable and Inclusive Growth*,¹ for instance, the active aging agenda feeds directly into the perennial objective of increasing overall employment rates by identifying and seeking to activate groups previously excluded or marginalized from the labour markets. Consequently, at the national level, promotion of longer working lives has become also an important component of member states' employment policies and mid- and long-term development plans.

Despite its usually positive casting on the one hand, and the language of necessity and inevitability in which it is often phrased on the other, the active aging agenda has not been without controversy or critique. Critical scholars of ageing and gerontology have cautioned, for example, that the increasingly productivist, agentic focus of the active aging discourse might in fact undermine its emancipatory potential and the goal of improving older people's life quality.² The focus on longer working lives not only appears to erode previously accepted notions of 'deserved' retirement and intergenerational solidarity, it also might further marginalize those older people facing barriers to employment (i.e. by reason of disability and various forms of discrimination) and thus potentially unable to maintain longer labour market attachment. In the political context, a particularly strong critique of this agenda informed Poland's 2015 parliamentary election, where open contestation of policies aimed at extending working lives was a key element of the winning electoral strategy adopted by the right-wing, populist Law and Justice party. Among others, the Law and Justice's promise to reverse the previous Civic Platform-led government's 2012 reform increasing the statutory pension-

¹ Communication from the Commission, COM(2010) 2020 and COM(2010) 682 final.

² T. Moulaert & S. Biggs, *International and European Policy on Work and Retirement: Reinventing Critical Perspectives on Active Aging and Mature Subjectivity*. 66 *Human Relations* 1, 23-43 (2012), S. van Dyk, *The Appraisal of Difference: Critical Gerontology and the Active-aging-paradigm*, 31 *Journal of Aging Studies*, 93-103 (2014).

entitlement age, stood in a sharp distinction to the apparent enthusiasm with which the latter embraced active aging through employment participation as a fundamental element of Poland's long-term development plans.³ While the critique of later retirement, and especially the proposed return to gender differentiated retirement ages championed by Law and Justice was not unproblematic, and was clearly deployed for political gain, the fact that it was key among the policies that managed to convert the popular anger and disenchantment with the previous government's strategy into a political victory is undisputable and significant. As such, this direct questioning of what the preceding reforms presented as the new *status quo* provides an interesting context, or a point of entry into a critical examination and evaluation of Poland's active aging agenda, and for a broader reflection on similar policies currently promoted in Europe in general.

By taking the example of Poland then, this paper critically examines whether policies aiming to extend working lives are indeed viable in light of the material and institutional realities currently in place in particular member states. Rather than adopt the perspective advanced by Law and Justice, however, the paper critically evaluates recent policy directions by locating the active aging agenda at the intersection of the longer-term transformation and re-structuring of the Polish welfare state into a 'workfare state' buttressed by a 'welfare society' – a goal explicitly articulated by the 2012 *Poland 2030 – Development Challenges* policy paper⁴ – and the re-regulation of the Polish labour market according to neoliberal proscriptions. Two key points of interest – or sources of tension – are the extent to which the efforts made to bolster the employment retention and activation of older people take into account Polish labour market conditions and the roles that older people, especially older

³ *National Development Strategy 2020: Active Society, Competitive Economy, Efficient State*. Attachment to Resolution No 157 of the Council of Ministers of 25 September 2012, Warsaw. *Poland 2030 – Development Challenges*. Board of Strategic Advisers to the Prime Minister of Poland. <http://www.Poland2030.pl/>.

⁴ *Ibid.*

women, play in the provision of care and other activities involved in maintenance of living standards. As the paper shows, the potentially negative consequences of this policy trajectory for older people's wellbeing in and out of the labour market on the one hand, and organization of care and the processes of social reproduction in Poland on the other, have tended to be downplayed in policy and legal reform, while being potentially exacerbated by them.

The paper unfolds in four sections. It begins by proposing a conceptual framework for evaluating the current policies of active aging from the perspective of their actual viability and long-term sustainability. Anchored by the feminist conceptualization of the process of social reproduction, this framework combines several perspectives on welfare state and labour market restructuring, with the common thread being the critique of neoliberal policies, particularly their tendency to privatize and individualize responsibility for wellbeing and maintenance of living standards and their consequences for managing risk and processes that are inherently relational. Next, shifting to the case of Poland, a brief statistical portrait of the Polish labour market is presented, focusing on how older people fare, when they tend to exit, and how gender and other social relations influence labour market positions of people in the 50+ age group. Section three summarizes the development of Polish active aging policies over the last twenty years, focusing on their trajectory and key thrust. In section four the paper turns to the two sets of tensions inherent older people's labour market engagement: those related to their employment status and those related to their caregiving roles within families and communities. The extent to which these tensions are addressed by the current policy and their potential consequences for older people's wellbeing and for social reproduction more broadly then serve as a focus for my concluding remarks.

1. Active aging through employment: a critical perspective

As this section will elaborate, policies that seek to promote active aging through extension of working lives can be understood as an element of the crosscutting and intersecting processes

of restructuring welfare and labour market regimes ongoing in most European countries since the 1980s, albeit with different levels of intensity. In Poland, these processes were mobilized at the onset of the country's political economic transition in the early 1990s. As I will show here, analyzing these processes from a feminist perspective that centers on social reproduction and a critique of neoliberalism helps us reveal and understand a number of key tensions that the active aging agenda surfaces and illuminate their potential consequences for care regimes and standards of living.

Making a living and caring for others are two key components of social reproduction, a process that feminist scholars define to include the essential activities that are required to reproduce the working population, but also sustain and reproduce communities, culture, society itself.⁵ Because an integral part of social reproduction is biological, while relational bonds and care provision constitute another important aspect, social reproduction is inherently gendered; it also reflects and involves negotiations of imbalances in other social relations, such as class, race, and citizenship, and is affected by structural inequalities in those relations.⁶ Despite the inextricable intertwining⁷ of productive and reproductive processes, under the conditions of capitalism the two have been separated, with social reproduction structurally subordinated to the needs of production and profit making and thus exhibiting a crisis tendency when insufficiently supported.⁸ While the family has historically constituted the key site of social reproduction, with women family members being particularly engaged in

⁵ B. Laslett & J. Brenner, *Gender and Social Reproduction: Historical Perspectives*, 15 Annual Review of Sociology 381-404 (1989); J. Fudge & B. Cossman, *Introduction*, in *Privatization, Law and the Challenge to Feminism* (B. Cossman & J. Fudge eds., University of Toronto Press 2002); I. Bakker & S. Gill (eds.), *Power, Production and Social Reproduction* (Palgrave Macmillan 2003); M. Luxton, *Feminist Political Economy and Social Reproduction*, in *Social Reproduction: Feminist Political Economy Challenges New-liberalism* (K. Bezanson & M. Luxton, eds., McGill-Queens University Press 2006); I. Bakker & R. Silvey (eds.), *Beyond States and Markets: The Challenges of Social Reproduction* (Routledge 2008).

⁶ J. Acker, *Class, Gender, and the Relation of Distribution*, 13 Signs 473 (1988); Fudge & Cossman 2002 *ibid.*; Bakker & Gill 2003 *ibid.*; Luxton 2006 *ibid.*; Bakker & Silvey 2008 *ibid.*.

⁷ K. Rittich, *Recharacterizing Restructuring* (Kluwer Law International 2002).

⁸ A. Picchio, *Social Reproduction. The Political Economy of the Labour Market* (Cambridge University Press 1992); Fudge & Cossman 2002 *supra*.

it, the state has traditionally acted to regulate, moderate, and provide residual support to ensure that the process continues.⁹ The manner in which this support was institutionalized varied across different contexts, with cultural, social and other specificities accounting for the resulting diversity. Relying on locally-specific if mostly traditional gender contracts this process of stabilization and institutionalization was itself constitutive of unequal gender relations.¹⁰ Nonetheless, while gender inequality was certainly a feature of post-WWII welfare, production (Fordist-style), and care regimes, social reproduction tended to be supported and stable during that period. In most Western economies welfare-state institutions supported an ideal-typical model based on standard employment for male breadwinners with a range of related benefits, a key of which was the family wage to support a dependant housewife and children. In the context of state-socialist planned economies such as Poland prior to 1989, the party-state assumed a more direct role in provisioning and supporting social reproduction, and thus assisting men and women's full labour market engagement on the basis of a socialist egalitarian ideological stance. Nonetheless there too, traditional gender contracts remained largely intact in relation to the residual work of care and maintenance that had to be carried out within the home.

Feminist political economists have shown that restructuring of Western welfare states and systemic transitions (such as that which has taken place in Poland) executed through a neoliberal policy mix, have had a particular effect on social reproduction.¹¹ By shedding or reducing responsibility for a range of social services and welfare provision, states have effectively withdrawn or minimized their support of this essential process, leaving women,

⁹ Picchio 1992 *supra*; Fudge & Cossman 2002 *supra*; Rittich 2002 *supra*.

¹⁰ J. Fudge, *The New Dual-Earner Gender Contract: Work-life Balance or Working-time Flexibility?*, in *Labour Law, Work and Family: Critical and Comparative Perspectives*, 261 (J. Conaghan & K. Rittich, eds., Oxford University Press 2005); J. Conaghan, *Work, Family and the Discipline of Labour Law*, 19 in J. Conaghan & K. Rittich *ibid*.

¹¹ Rittich 2002 *supra*; Fudge & Cossman 2002 *supra*; K. Beznanson, *Gender, the State and Social Reproduction. Household Insecurity in Neoliberal Times* (University of Toronto Press 2006).

families, and communities to meet the challenge.¹² This privatization of responsibility for individual and family welfare has gone hand in hand with other parallel shifts. For instance, deregulation of employment relationships and labour markets in order to usher in more flexibility and thus support competitiveness and growth has been another key feature of the neoliberal orthodoxy. Labour and pension law reforms, a move away from formal legal protections towards non-discrimination legislation, and labour market policies designed to activate and render employable a greater number of workers – including those previously excluded – have contributed to the fracturing of standard employment forms and norms, including their collective expression, in a manner largely consistent with the agenda of flexibilization and individualization of employment conditions.¹³ While emphasis on labour market engagement and participation in economic activities for all have opened new possibilities to previously excluded or marginalized groups, at the same time these forms of involvement became the only officially sanctioned means to meaningfully engage in the social life, and have reified work attachment as a key marker of citizenship for everyone.

Although their precise expression, breadth, and depth vary across different contexts, these linked processes of welfare state and labour market restructuring tend to be universally aimed at facilitating individual choices while privatizing risk and responsibility; they also tend to prioritize markets, business efficiency, competitiveness, and economic growth.

However, *contra* this dominant logic, feminist scholars have long urged that not all processes

¹² *Ibid.*

¹³ L. Vosko, *Managing the Margins: Gender, Citizenship and the International Regulation of Precarious Employment*, 6-9 (Oxford University Press 2010); J. Fudge, *Labour as a 'Fictive Commodity': Radically Reconceptualizing Labour Law*, in *The Idea of Labour Law* (G. Davidov & B. Langille, eds., Oxford University Press 2011); N. Countouris and M. Freedland (eds.) *Resocialising Europe in a Time of Crisis* (Cambridge University Press 2013); K. Stone & H. Arthurs, *Rethinking Workplace Regulation: Beyond the Standard Contract of Employment* (Russell Sage Foundation 2013); K. Strauss, *Equality, Fair-mutualisation and the Socialization of Risk and Reward in European Pensions*, in Countouris & Freedland 2013, *ibid.*; A. Numhauser-Henning, *Labour Law, Pension Norms and the EU Ban on Age Discrimination: Towards Ultimate Flexibilization?* in *Age Discrimination and Labour Law* (A. Numhauser-Henning & M. Ronnmar, eds. Kluwer Law International 2015).

can be completely individualized, as social reproductive activities involved in care, for instance, are inherently relational and cannot be fully commodified, individualized, and marketized.¹⁴ Indeed, as feminist scholars have shown, failure to support these activities – or, in other words, create the conditions under which social reproduction can thrive – poses a major risk to long-term sustainability of social and economic life and, indeed, life itself.¹⁵

This tension between the productive and socially reproductive regimes, particularly as they have been rearticulated by neoliberal policies in the course of welfare state restructuring, is also present in the context of the active aging agenda and related institutional and legal reforms. Thinking about labour market inclusion of older people through the framework of social reproduction may not seem obvious at first, given that their reproductive capacities do not seem to be at stake given their age. Yet, since care constitutes a crucial component of social reproduction, and the latter process is in fact much broader than its biological features – i.e. it also refers to the support of the standards of living and reproduction of communities, cultures, societies, and ways of life – this framework can prove very useful. The active aging perspective renders older people increasingly responsible for supporting their own standards of living (and have a responsibility to remain healthy, fit, and engaged). Moreover, since older people are also important providers of care and support for others, be they adults or children, they are too encumbered and enmeshed in the processes of social reproduction. Thus, it is from the perspective of the extent to which active aging policies support and are reconcilable with the social (reproductive) roles that older people increasingly assume that these policies should also be considered, which is a task I undertake in section four of this paper. The next

¹⁴ A. Picchio (ed.), *Unpaid Work and the Economy: A Gender Analysis of the Standards of Living* (Routledge 2003), while others have noted its relational and affective, thus not readily commodifiable, dimensions: S. Himmelweit, *The Discovery of 'Unpaid Work'*, in *Inside the Household From Labour to Care* (S. Himmelweit, ed., St Martin's Press 2000); and J. Lewis & S. Gulliar, *The Adult Workers Model Family. Gender Equality and Care. The Search for New Policy Principles and the Possibilities and Problems of a Capabilities Approach*. 34 *Economy and Society* 1, 76-104 (2005).

¹⁵ Gill and Bakker 2003 *supra*; S. Rai, C. Hoskyns & D. Thomas, *Depletion*. 16 *International Feminist Journal of Politics* 1, 86-105 (2014).

two sections set the stage for that analysis by outlining the labour market context Poland's older workers currently encounter and examining the key developments in the country's active aging agenda.

2. Older people in the Polish labour market: a statistical portrait

The *Poland 2030* vision of older people's active labour market participation as a linchpin of Poland's new intergenerational solidarity¹⁶ strategy and the country's long-term sustainable development clashes with the current reality. Of the EU-28 countries, Poland continues to have one of the lowest activation rates among older people. At the end of 2012, only 50 percent of Poles aged 50-64 were employed; a rate eleven 11 below that noted in EU-15 that year.¹⁷ Above the age of 55, that rate is lower also, with 41.8 percent of people aged 55-64 active and 39 percent of that age group actually employed, as opposed to 53 and 49 percent, respectively, in EU-27.¹⁸ The activation rate falls further, and below the EU average, for the 60-64-age bracket. At the same time, in contrast with the divergence between the EU and Polish employment activation and employment rates, the rate of unemployment for the 50+ age group in Poland approximates that noted for EU-27; a phenomenon that can be partially explained by deactivation through early retirement, which, until recently, was chosen by large percentage of Polish workers.¹⁹ Retired workers are not registered as unemployed,

¹⁶ While in many 'old' EU members the notion of inter-generational solidarity is typically invoked in relation to redistributing labour market opportunities between the old and the young and is cited as a key amongst justifications for maintenance of mandatory retirement policies, in Poland, inter-generational solidarity is often called upon to support the idea that older people who are capable of engagement in paid work should *remain in the labour market*, even once they reach the statutory retirement age: M. Duszczyk, *Starzenie się i Solidarność Miedzypokoleniowa w Polskich Strategiach Rozwoju Społecznego*, 17 Problemy Polityki Społecznej (2012).

¹⁷ Eurostat.

¹⁸ Eurostat.

¹⁹ L. Kostrzewski, cites figures as high as 80%: *Co nowego w emeryturach w 2009 roku*, *Gazeta Wyborcza*, 8 January 2009, http://wyborcza.pl/1,89614,6134711,Co_nowego_w_emeryturach_w_2009_roku.html. According to the government statistics 7.2% of women opt to retire between 6 and 10 years before reaching statutory retirement age and nearly 59% leave the labour market 5 years before retirement. Likewise 15% in the 55-59 age group and 55% of men aged 60-64 takes pension benefits: Act no. 239 of the Council of Ministers (24 December 2013) on adoption of the Solidarity

and hence not reflected in those statistics. Thus, in 2012, the unemployment rate in this age group was 7.7 percent, with the EU average rate being only marginally lower at 7.4 percent.²⁰ In any case, this was a marked improvement, as only in 2005 the Polish rate was double of the EU's. At the same time, among workers in the 60-64 age group unemployment remains high and long-term unemployment affects nearly half of all unemployed workers over 50, of whom half remain unemployed for more than two years.²¹

There are marked gender differences among the 50+ age group in Poland, as far as their labour market engagement is concerned. Given women's historically lower retirement age and other institutional factors that will be elaborated on below, women's activation and employment rates are unsurprisingly much lower than men's, and older women also represent a higher proportion of the unemployed. While similar gender differences are present across the EU members, the extent of the difference is particularly marked in Poland. In 2013, for example, only 28 percent of women between ages of 55 and 64 were employed, compared to 45.3 percent of men in the same age group.²² Likewise, in 2011 half as many women as men in the 65-69 percent bracket were employed, albeit employment rates above the age of 65 are low for both genders (6.9 versus 12.8 percent respectively).²³

In addition to gender, other factors that contribute to differentiation among older workers, in so far as labour market status, are level of education, place of residence, and disability. Higher educational attainment and living in a city tend to translate into longer working lives than lower education and being located in a rural community, although it is

Between Generations Program: Actions to Increase Employment Activation of Persons 50+. Polish Monitor, 4 December 2014, item. 115 (*Solidarity Between Generations*).

²⁰ Eurostat.

²¹ Human Capital, Population Survey 2012. Online: <http://bkl.parp.gov.pl/raporty-iii-edycja-badan>.

²² B. Urbaniak, *Aktywizacja Zawodowa Starszego Pokolenia – Czy Europejski Rok Aktywności Osób Starszych i Solidarności Międzypokoleniowej Dobrze ją Pojmuje?* 291 *Acta Universitatis Lodzensis Folia Oeconomica* 7-17, 15 (2013).

²³ Act no.104 of the Council of Ministers (18 June 2013r) on adoption of the Human Resource Development Strategy 2020. Polish Monitor, 7 August 2013, item. 640, 70.

likely that the type of post and level of income are more decisive (albeit both can be related to the level of education and place of residence).²⁴ For people with low wages and insecure position, early retirement is often considered as a safe solution that might even provide some stable income.²⁵ Likewise, disability is a decisive factor, with disabled workers facing barriers to labour market entry and opportunities, and being less likely to remain in employment as they age. According to data, over a fifth of Poland's working-age population lives with some form of a disability, but in 2008 only 18 percent of that group remained attached to the labour market; the figure, at 16.3 percent, being even lower for those between 55 and 64 years of age.²⁶ In 2012, only 13.1 percent of disabled workers over the age of 50 were reported to be in employment, with men constituting 60 percent of that group.²⁷

These low rates of employment activation among older people explain the significant shortfall between the statutory retirement age, which is currently set at 67 as of 2012, albeit subject to a lengthy phasing in period, and the actual average age of retirement. At the end of the 1990s, for example, when the statutory age of retirement was still set at 60 for women and 65 for men, actual average retirement ages were 55 and 59 respectively; by 2007, these ages have risen only very slightly, to 55.8 and 59.5.²⁸ In 2011, the average rate of retirement remained at 59.8 (unsegregated by gender).²⁹ With the dependency ratios resulting from this early exit culture likely to become unsustainable in the long-term given Poland's aging population and low fertility, policies aimed at stimulating longer labour market participation

²⁴ *Osoby Powyżej 50 roku życia na Rynku Pracy w 2011 roku*. Ministerstwo Pracy i Polityki Społecznej, Departament Rynku Pracy. Online: <http://www.mpips.gov.pl/analizy-i-raporty/raporty-sprawozdania/rynek-pracy/sobypowyzej50rokuycianarynkupracy/rok-2011/>.

²⁵ I. Kotowska & I. Wóycicka (eds.) *Sprawowanie Opieki oraz Inne Uwarunkowania Podnoszenia Aktywności Zawodowej Osób w Starszym Wiekku Produkcyjnym. Raport z Badań* (Ministerstwo Pracy i Polityki Społecznej 2008).

²⁶ *Program Solidarność Pokoleń: Działania dla Zwiększenia Aktywności Zawodowej Osób 50+. Program przyjęty przez Radę Ministrów*. Warszawa, 2008. Online: http://www.mpips.gov.pl/gfx/mpips/userfiles/File/rynek%20pracy%20proramy/Program50+_po_RM.pdf/

²⁷ Central Statistical Office, *People Over 50 in the Labour Market in 2012* (GUS 2012).

²⁸ Central Statistical Office, *Human Capital in Poland* (GUS 2011).

²⁹ *Ibid.*

in order to rectify this shortfall between statutory and actual retirement age, to re-activate those unemployed, or to keep people working even beyond retirement, have been on a steady rise, at least until the 2015 Parliamentary election. I consider these policies next, after I place them in the context of historical developments related to the active aging agenda in Poland.

3. Development of Polish active aging policies: background, trajectory, key thrust

Poland's active aging agenda is relatively recent, as before mid-2008 there were few policies adopted explicitly with this purpose in mind. On the contrary, Poland's characteristic labour market-exit-through-early retirement tendency is a legacy of policies adopted in the early 1990s to tackle the high unemployment that followed the country's political-economic transition.³⁰ Nonetheless reversing this trajectory has been an object of policy for some time, with the earliest interventions designed to extend working lives being already implicit in the reform of the Polish pension system, which focused on measures limiting early exit options, creating incentives to longer tenure, and increasing the statutory age at which pension benefits could be accessed. Thus, beginning with the 1999 reform,³¹ employment de-activation, or early retirement, were made less attractive through a process akin to the shift from defined benefit to defined contribution pension system.³² Specifically, the key thrust of this reform was to introduce a three pillar system designed to reduce the proportion of public contribution towards the retirement fund (pillar 1, fully state operated) by creating a system of mandatory (pillar 2, subsidized by the state by operated by private funds) and voluntary individual accounts (pillar 3, fully private funded by employer or employee).³³ Although the shift of

³⁰ See A. M. Zajicek, T. Calasanti, & E. Zajicek, *Pension reforms and old people in Poland: An age, class and gender lens*. 21 *Journal of Aging Studies*, 55-68 (2001), where they describe the 1990 and 1991 pension reforms.

³¹Originally, Act of 17 December 1998 on retirement pensions and other benefits from the Social Insurance Fund, *Journal of Laws* 2004 No. 39, item. 353; **now in consolidated text, *Journal of Laws* 2015, item 748, with further amendments.**

³² Zajicek et al, *supra* note 30 at 61.

³³ The 1999 reform was reversed partially in 2011, with the key changes aimed at reducing the level of contributions going to the second pillar – open pension funds – from that previously set at 7.3% to

responsibility for funding pensions away from the state to individuals and the private sector employers achieved by this pension reform was subsequently gradually reversed³⁴, the logic underlying the original reform – that possession of individual accounts would encourage people to work longer to accrue more money and ensure higher payouts – was strongly ideological and consistent with Poland’s embrace of neoliberal prescriptions. These changes to the structure of the pension schemes were accompanied by rather limited policy emphasis on employment activation of people above the age of 50, with the first dedicated government policy targeting older workers (50+) prepared by the Ministry of Labour and Social Policy only in 2003 (for the years 2004 and 2005).³⁵ Additional changes to the pension system introduced in 2009 further restricted eligibility for early entitlement. Among others, the ‘bridge pension’ reform³⁶ eliminated the option to retire five years prior to attaining the statutory retirement age of 60 and 65 for women and men respectively for a wide range of occupational groups (though not all) previously entitled to it.³⁷ Nonetheless, some occupational and special interest groups were not encompassed by this reform, since they had been earlier excluded from the standard pension regime,³⁸ and thus workers in these groups continued to be eligible for early retirement.

2.3%, with that amount diverted to the public pension regime or the first pillar (yet to be stored in separate accounts). Moreover, tax cuts were introduced to encourage third-pillar contributions that had been underused. P. Jarrett, *Pension Reforms in Poland and Elsewhere: A View from Paris*. Case Network Studies and Analyses No. 425/2011. More recently, the second pillar has been transformed into a voluntary element of the old age scheme: Law of 6 December 2013 on amendment of several statutes concerning retirement scheme, Journal of Laws 2013, item 1717.

³⁴ *Ibid.*

³⁵ J. Perek-Białas, A. Ruzik, & L. Vidovicova, *Active Aging Policies in the Czech Republic and Poland* 190 International Social Science Journal 58, 559-570, 563 (2008).

³⁶ Originally, Act of 19 December 2008 on Bridge Pensions, Journal of Laws 2008 no. 237, item 1656; now consolidated, Journal of Laws 2015, item 965.

³⁷ The ‘bridge’ pensions apply to workers who have worked in hazardous conditions for at least 15 years and who have service of at least 20 or 25 years, and are 55 or 60 years old (women and men respectively). The 2009 reform reduced the positions eligible for early retirement from 300 to 60. Prior to this reform, as many as 80% of all workers took advantage of the right to retire early: see, Kostrzewski, *supra* note 19.

³⁸ I.e. uniformed services including military, police and judges in 2003 and miners in 2004, farmers who are covered by a separate scheme.

Coinciding with the EU-wide European Year for Active Aging and Solidarity between Generations,³⁹ year 2012 saw the most intensified policy and legislative activity on the front of active aging in Poland. Most controversially, statutory retirement age was increased to 67 and equalized for women and men from the previous ages of 60 and 65 respectively.⁴⁰ The latter move was to bring Poland in compliance with equal treatment provisions of the Polish Constitution and the EU, and the country's Constitutional Tribunal ruling to that effect. In addition, and in contrast with the previous lack of attention on active aging in broader policy (beyond that related to pensions), emphasis on labour market activation of people above 50 years of age and activation of people above pensionable age, was integrated into a range of policy documents. Namely, Poland's mid- and long-term strategic documents such as *Poland 2030* and *National Development Strategy 2020*,⁴¹ made broad reference to supporting active aging through, among others, promotion of longer working lives, as a key component of Poland's long-term sustainable development. This emphasis was further developed in the 2012 (amended in 2013) *Human Capital Development Strategy 2020*,⁴² one of nine sectoral strategies devised to support the development vision. Geared even more specific to active aging were the *Government Program for Social Activation of Older People 2012-2013*,⁴³ its renewed version for years 2014-2020,⁴⁴ which was approved by the Council of Ministers in December 2013, and the accompanying policy document outlining *Poland's Long-term*

³⁹ The Year of Active Aging was launched by the Danish European Council Presidency. However, during the preceding Polish Council Presidency, the Council already discussed a number of issues related to active aging, particularly labour market participation and anti-discrimination measures, as well as the importance of tapping into the economic and consumer potential of older people through development of a 'silver economy': See *The demographic Challenges of Poland and the EU on the Eve of the European Year of Active Aging and Intergenerational Solidarity*, online: http://analizy.mpips.gov.pl/images/stories/publ_i_raporty/ER2012/Polityka_52_53_2011_EN.pdf.

⁴⁰ Journal of Laws 2012, item 637. The Law took effect on 1 January 2013. The provision is subject to a phasing in period, where men will be expected to retire at 67 by 2020 and women by the year 2040.

⁴¹ *Supra* notes 3.

⁴² *Supra* note 23.

⁴³ (Warszawa 2012).

⁴⁴ Act No. 237 of the Council of Ministers (24 December 2013) on adoption of the Government Program for Social Activation of Older People 2014-2020. Polish Monitor, 24 January 2014, item 52.

*Senior Policy for years 2014-2020.*⁴⁵ The *National Plan of Action for European Year for Activation of Older People and Solidarity between Generations 2012*,⁴⁶ adopted by the Ministry of Labour and Social Policy at the start of 2012, was another noteworthy document in this policy package. The most recent addition was the Civic Platform government's program *Solidarity between Generations: Actions for increasing employment activation of persons 50+*,⁴⁷ adopted at the end of 2013 and published in February 2014.

What is the overall message of this policy package in so far as active aging agenda is concerned? According to *Poland 2030*, strengthening labour market attachment for persons 50+ will be integral to developing the country's human capital - one of the cornerstones of Poland's 'new civilizational project' aiming to combine competitive and innovative economic growth with improvement of living standards.⁴⁸ In this vision, a 'workfare state', as opposed to a traditional welfare state, is presented as the best model for such developmental aims.⁴⁹ Supported by a 'welfare society' composed of civil-society organizations, and underpinned by the new intergenerational contract, as the basis for social solidarity and responsibility, the workfare state policy will, according to *Poland 2030*, create the conditions for broader labour market participation, including among older people. Specifically, policies aimed at lifelong learning, preventative healthcare, active labour market institutions, and development of new solutions for the provision of care for dependents to support families in face of population aging, are identified as essential components of this new approach of enabling employment attachment as the primary guarantor of welfare. As authors of *Poland 2030* document project, effective implementation of these policies will result in creation of a 'silver economy,' a much

⁴⁵ Act no. 238 of the Council of Ministers (24 December 2013) on adoption of the Principles of Poland's Long-term Senior Policy 2014-2020, Polish Monitor, 4 February 2014, item 118.

⁴⁶(Ministerstwo Pracy i Polityki Społecznej 2012).

⁴⁷ *Supra* note 19.

⁴⁸ *Poland 2030* supra note 3 at 2.

⁴⁹ *Ibid.*, 2-4.

higher employment rates among people who are 50+, and employment rate in excess of 30 percent for people in the 65-69 age group.⁵⁰

Poland 2030's emphasis on development and better use of the human capital – including that of older people – as central to building a competitive economy is also echoed by the mid-term *National Development Strategy*, which sets out to increase the employment rate of the 55-64 year olds to 40 percent by the year 2020.⁵¹ Here emphasis is placed on both negative and positive actions, that is: 1) eliminating factors that 'discourage' employment and maintenance of labour market attachment through further tackling elements of the social security system that enable early de-activation, and 2) supporting activation of older people.⁵² The year 2020 is also the horizon for the *Human Capital Development Strategy*, which aims to boost the employment rate among older people with the view to increasing the average *actual* age of retirement to 63.5.⁵³ Even more ambitiously, the 2013 *Solidarity between Generations* program sets as its key objective to ensure that by year 2020 half of all 55-64 year olds remain in employment.⁵⁴ As the program sets out, facilitating employment among historically less active or excluded groups, including all people over 60 years of age, as well as women, people with disabilities, and people living in rural areas who are older than 50, in addition to maintaining intergenerational solidarity, are the key horizontal priorities the realization of which will support this overarching goal.⁵⁵

At first sight, the approach that is proposed by the above noted policy instruments appears comprehensive and cognizant of the need to address the cultural, social, and institutional barriers to longer labour market participation that exist in Poland. As such, it opens possibilities to meaningful inclusion of older people in the labour markets in a way that

⁵⁰ *Ibid.*, 17.

⁵¹ *National Development Strategy*, *supra* note 3.

⁵² *Ibid.*

⁵³ *Supra* note 23 at 70.

⁵⁴ *Solidarity between Generations*, *supra* note 19 at 33.

⁵⁵ *Ibid.*, 33-34.

enhances their standards of living and social integration. Yet, the strategy is also articulated in the familiar productivist tone and (neoliberal) language of active labour markets, matching of supply and demand, and an enabling state wherein individual choices are to be facilitated, yet where the overarching objectives are clearly economic and risks are largely privatized. Setting aside the broader critique of this sort of approach for a moment, a number of more immediate, practical questions need to be asked. To what extent are the goals and aspirations of the active aging policy supported by concrete measures including legal entitlements and institutional supports for older workers? What balance is being achieved between the measures taken to enable the development of the ‘workfare state’ and the ‘welfare society’ components of the social model desired by Polish policymakers, in so far as they relate to the objective of active aging? The next two sections consider 1) the existing legal measures intended to safeguard and facilitate older workers’ employment chances in light of the increased emphasis on individual responsibility for welfare and maintenance of living standards through longer employment, as well as 2) the extent to which the current legal framework supports work-family reconciliation for older people who may have caring responsibilities and other socially reproductive tasks. The former contextualizes the need for legal protection within the current labour market realities and examines how active aging policies facilitate further re-regulation and flexibilization of the employment relationship and the Polish labour market. The latter, examines the dominant model of care, the state of institutional care provision and legal entitlements related to work-family reconciliation, and any current actions aimed at improving the existing infrastructure.

4. Tensions within the active aging agenda: risks and opportunities

a. Older workers and employment: facilitating employability, creating incentives, and re-regulating the labour market

Apart from the aspirational impetus behind active aging policies, the restructuring of pension systems and increase in the statutory age of retirement has created a strong financial incentive for people to maintain longer labour market attachment. Indeed, failure to remain in work can have significant consequences for people's material wellbeing in case of pension ineligibility or low pension benefits resulting from insufficient years of service; a risk that is exacerbated by the actual conditions that exist in the Polish labour market as well as the proposed reforms to the legal framework designed to counteract them.

To begin with the conditions, age-related discrimination in employment context is a significant issue in Poland,⁵⁶ although given the generally low rate at which discrimination is reported and claims filed with the Labour Courts or the Workplace Inspection Agency, it is largely considered to be a 'silent' problem. Nonetheless, empirical studies confirm the presence of discrimination at the hiring stage⁵⁷ and others show that older workers are often perceived as less motivated and qualified, while also being regarded as more expensive.⁵⁸ Thus, despite parallel evidence that older workers are valued for their experience, loyalty, and interpersonal skills,⁵⁹ and *contra* the current policy focus on older people's employment activation, firm-level studies have found that employers still prefer to shed older workers

⁵⁶ P. Szukalski & J.T. Kowaleski (eds.) *Pomyślne starzenie się w perspektywie nauk o pracy i polityce społecznej* (Zakład Demografii 2008), J. Stypińska, *Age discrimination in the labour market in Poland. A socio-legal perspective. Employment and Economy in Central Eastern Europe* (2014) Online: http://www.emecon.eu/fileadmin/articles/1_2014/1%202014%20Stypinska.pdf, B. Kłos, *Dyskryminacja ze względu na wiek osób starszych na polskim rynku pracy*, *Studia BAS*, Nr. 2926, 183-210 (2011). B. Szatur-Jaworska & B. Rysz-Kowalczyk, *Rynek pracy a osoby bezrobotne 50+. Bariery i szanse. Raport z badań*, (Akademia Rozwoju Finlantropii w Polsce 2007); Centrum Badań Opinii Publicznej, *Polacy wobec ludzi starszych i własnej starości. Komunikat z badań* (2007).

⁵⁷ K. Kędzior, K. Śmiszka, & M. Zima. *Równe Traktowanie w Zatrudnieniu. Przepisy a Rzeczywistość* (Polskie Towarzystwo Prawa Antydyskryminacyjnego 2009).

⁵⁸ J. Perek-Białas & K. Turek, *Organization-level policy towards older workers in Poland*. 21 *International Journal of Social Welfare*, 101-116 (2012).

⁵⁹ Based on two empirical studies: *Bilans Kapitału Ludzkiego w Polsce, Najważniejsze wyniki III edycji badań BKL z 2012 roku: raport*, online: <http://bkl.parp.gov.pl/raporty-iii-edycja-badan>, and *Polacy na temat aktywności zawodowej seniorów – raport z badania*, online: http://www.prezydent.pl/download/gfx/prezydent/pl/defaultopisy/2354/5/1/50_raport_z_badania.pdf

through encouraging early retirement than invest into their retraining or accommodation.⁶⁰

Importantly, this discriminatory outlook has a strong gendered dimension, with older women workers being perceived even less favourably or regarded as having ‘less to lose’ in labour market exit (because they are presumed to have other tasks to keep them occupied and to define their sense of self-worth – i.e. care for grandchildren or other dependents⁶¹).

Although early retirement has been a prevalent practice and, until recently, often chosen voluntarily, in reality, not all workers opt for or can even afford to leave the labour market before they reach statutory retirement age. Indeed, in light of the 2009 restrictions on early retirement, fewer people are actually able to do so, with changes in pension schemes also penalizing early exit with lower benefits. For those people who do remain active or wish to remain in employment even beyond retirement, there are a number of legal protections. First, reaching pensionable age is not equivalent to mandatory retirement, as the latter does not exist in Poland, and, except in some limited situations, age discrimination is prohibited.⁶² Moreover, the Polish Labour Code mandates a protective period – of four years before the attainment of the statutory retirement age – during which an employee cannot be dismissed⁶³ or have their terms and conditions of work unilaterally changed by the employer.⁶⁴ Such a provision makes sense given employer attitudes just noted and the fact that older workers who are dismissed or made redundant will face significant difficulties in finding replacement employment in a highly competitive conditions. Yet not only has the employer practice of

⁶⁰ K. Turek & J. Perek-Białas, *The role of employers’ opinions about skills and productivity of older workers: example of Poland*, 35 *Employee Relations* 6, 648-664 (2013); Perek-Białas & Turek 2012 *supra* note 58.

⁶¹ See for instance, M. Wilińska, *Because women will always be women and men are just getting older. Intersecting Discourses of Aging and Gender*. 58 *Current Sociology* 6, 879-896 (2010).

⁶² Originally, Act of 26 June 1974 concerning the Labour Code, *Journal of Laws* 1974, no. 24, item 141 (Labour Code), amended, arts. 11, 18; **now consolidated in *Journal of Laws* 2014, item 1502, with further amendments, arts. 11³, 18^{3a}**. For a discussion of the equal treatment with respect to age see: L. Mitrus, *Age discrimination and Labour Law in Poland*, in A. Numhauser-Henning & M. Ronnmar 2015, *supra* note 13.

⁶³ Labour Code *ibid.*, art. 39. However, this protective period does not apply in the case of an employer’s bankruptcy or liquidation (art. 41¹).

⁶⁴ *Ibid.*, art. 42.

preemptively terminating employees approaching this four-year period rendered the provision practically ineffective,⁶⁵ *contra* the approach the provision embodies the current policy discourse maintains that special protections in fact constitute a barrier to employment of older people. Hence, one of the key proposals of the *Solidarity between Generations* program is to review and reconsider this provision's usefulness and viability.⁶⁶

This proposed reconsideration is consistent with the overall tendency to move away from employment protections as an obstacle to employment and labour market flexibility. Instead, the preferred approach by which to achieve the objectives of active aging in Poland centers on changing organizational cultures, combating stereotypes and strengthening the principle of non-discrimination⁶⁷ on the one hand, and supporting employability (along with the flexicurity approach advocated by EU policy) of older people on the other. Thus, a range of supply and demand-side actions aimed at facilitating employment and re-employment of people in the 50+ age category has been proposed, with a strong emphasis on matching these factors, as well as focus on the active role of labour market institutions in facilitating this process. Among the supply-side priorities we find emphasis on improvement of qualifications through lifelong learning and re-training (with the view to labour market demands), the aforementioned processes of increasing the age of retirement and removal of institutional incentives for early retirement, as well as creation of supports for longer employment (i.e. possibilities for combining employment with drawing of pension entitlements, or care supports), development of entrepreneurship in the 50+ age group, and promotion of healthy and active aging.

⁶⁵ Mitrus, *supra* note 62.

⁶⁶ *Solidarity between Generations*, *supra* note 19 at 43. Priority 2.3 related to 'introducing systemic solutions encouraging employers to hire and retain people aged 50+' suggests establishing a working group at the Ministry of Labour and Social Policy to re-evaluate the pre-retirement protective period.

⁶⁷ *Ibid*, 44.

In practice, however, only some of these priorities have been concretized through legal provisions. For example, some supply-side subsidies, including loans for entrepreneurial activities of unemployed persons over age of 50 have been introduced through the Statute on the Promotion of Employment and Institutions of the Labour Market.⁶⁸ The same statute provides for subsidies for paid internships, as well as education, skills development, and vocational training activities for older job seekers (50+) and persons 45+ who are registered in a job center or are at risk of job loss due to collective redundancy. A National Training Fund was established in 2014 in order to support these activities. Moreover, older people who are unemployed can also apply for a refund of costs associated with job search or training related travel. On the demand-side, the set priorities include making workplaces friendlier and more adaptable to the needs of 50+ workers, challenging stereotypes and counteracting workplace and institutional age discrimination, and creating incentives for employers to hire and retain older people. Yet, despite demonstrated need for addressing discrimination and prejudice in the workplace, a lot less has been done in this area in practice, with focus placed primarily on information and awareness-rising campaigns. Instead, review of the measures adopted up to now shows that incentivizing employers to hire unemployed people in the 45+ and 50+ years of age categories, or to hold on to workers in those age groups who are already on their payrolls constitutes the most developed elements of the government strategy. Statutory instruments, such as the Promotion of Employment and Institutions of the Labour Market, have introduced a range of cost-saving solutions subsidies for employers intended to stimulate employer demand for older workers. For example, legally mandated subsidies for training⁶⁹ or adaptation of the workplace to the needs of an older job entrant, subsidies for up to half of the salary costs associated with hiring unemployed persons above the age of 50,⁷⁰ waivers of the

⁶⁸ Originally, Law of 20 April 2004, Journal of Laws 2004 no. 99, item 1001, as amended, art. 46(1)2; now consolidated, Journal of Laws 2015, item 149, with further amendments.

⁶⁹ *Ibid.*, art. 69a.

⁷⁰ *Ibid.*, arts. 51, 59, 60d

requirement that employers pay into the Labour Fund for a period of 12 months,⁷¹ and reduction of the duration of paid sick leave entitlement⁷² have already been introduced with the practical effect of cutting the salary costs for employers; a response to the perennial complaint among Polish employers about the costs of labour, and the perception that older workers are particularly expensive.⁷³ Yet, the time-limited nature of these incentives means that the jobs that are created for older people are of temporary nature and are most frequently eliminated once the subsidy dries up. Along with those employer-focused measures, policies incentivizing deployment of older workers in outsourcing and outplacement through subsidies for labour market institutions and human resource management agencies to do so – all a feature of the *Solidarity between Generation* proposals,⁷⁴ with some concrete measures already introduced through the Promotion of Employment and Institutions of the Labour Market statute – tend to also support the view that older workers are being deployed in a manner that effectively reregulates the labour market to the advantage of employers and enterprises. While older unemployed people may be indeed supported in (or forced into) finding employment, whether they actually benefit from that sort non-standard and precarious labour market inclusion that ensues is a separate issue, although given the individualization of risk that stems from reorganization of the social security and pension system, being ‘choosy’ hazards material insecurity and social exclusion. As politicians so often say in Poland, ‘a bad job is better than no job,’ and this adage now applies to older workers too.

b. Older workers as carers: supporting the family care model?

Another tension identified in relation to the policies of active aging through extending working lives relates to the care roles that older people often assume in the Polish society.

⁷¹ *Ibid.*, art. 104b.

⁷² Art. 92 of the Labour Code, as amended by Act of 19 December 2008 amending the Promotion of Employment and Labour Market Institutions and other legislative acts, Journal of Laws 2009, no. 6, item. 33.

⁷³ Perek-Białas & Turek 2012, *supra* note 58.

⁷⁴ *Solidarity between Generations*, *supra* note 19 at 42.

Importantly, this crucial position has been acknowledged in a number of the policy documents that refer to active aging, and these documents do place some emphasis on the need to develop better solutions and infrastructure for the provision of care, as well as better support work-family reconciliation among this group of workers.

At the moment, the model of care dominant in Poland is that in which the family plays a central provisioning role. In part, this model has significant cultural and normative underpinnings, although there are also important structural reasons that contribute to its prevalence. According to several recent studies, both, care providers and care recipients expressed strong preference for family and home-based care.⁷⁵ Indeed, data confirms that elder care and care of dependant adults is assumed mostly by their adult children, and in fewer cases, by relatives or spouses,⁷⁶ with only 1 percent of people being looked after in institutions and less than 2 percent looked after at home by a non-family care provider.⁷⁷ This family-care model is one of the key contributing factors to older people, particularly older women's, lower rates of employment activation. Thirty one percent of women and twenty percent of men aged 50-69 report being responsible for primary care provision to an older

⁷⁵ For a good summary of recent empirical research see E. Bojanowska, *Ludzie Starsi w Rodzinie i Społeczeństwie in O Sytuacji Ludzi Starszych*, 19-32 (J. Hryniewicz ed., Zakład Wydawnictw Statystycznych 2012). Bojanowska cites a study suggesting that 90% of Poles – the largest proportion in the 14 EU Member States polled – agreed that children should provide care for elderly parents; 80.2% agreed that they should also provide care for elderly relatives (Dialog). In a 2007 Eurobarometer study 60% of Poles agreed that parents should live with their children (Special Eurobarometer 283/Wave 63.7). In yet another study 86.9 % of Poles responsible for care of an elderly person, usually a parent, indicated they were not prepared to move the care recipient to a care home (EUROFAMCARE study 2003-2005). Similarly, a poll of people in the 65+ age group indicated that 70% never want to live in a care home, with 22% indicating they would consider it only as a last resort (P. Czekanowski, *Rodzina w życiu Osób Starszych i Osoby Starsze w Rodzinie*, in *Polska Starość* 101–114 (B. Synak ed., Gdańsk 2002).

⁷⁶ According to the EUROFAMCARE study, 51% of older people are cared for by their children and 18.2% by their spouses, with 85% of carers and caregivers living in the same residence. Moreover, according to a study carried out by the Polish Gerontological Society, 60% of older people rely on the younger generation for help with basic home activities, every second older person gets help with grocery shopping and errands, while 41% rely on younger generation for provision of care.

⁷⁷ F. Bettio et al, *Long-term Care for the Elderly: Providers and Provisions in 33 European Countries*. (European Commission, Office of the Publications of the European Union 2012), cited in J. Perek-Białas, *Możliwości Opieki nad Osobami Starszymi – Włoskie Inspiracje*, in *(Nie) Czekaając na Starość*, 111-116 (Małopolski Kongress Polityki Społecznej 2012).

adult (parent or in-law) on a daily or several-times-a-week basis, totaling at least ten hours per week.⁷⁸ Another study reported that a quarter of all persons in the 45/50+ age bracket spend at least six hours a day caring for dependents.⁷⁹

While cultural preference is often cited as an important factor explaining the Polish model of care, these preferences must be understood within their broader context, as they are also a response to the insufficient institutional care solutions for both, children and dependant adults that, in turn, stem from particular historical developments, ideological tendencies, and political choices. Dearth of public and high-quality care facilities for dependents is, in part, a legacy of ‘public maternalism’ feature of the socialist welfare system⁸⁰ and the post-1989 political-economic transition. During Poland’s socialist phase, the state played a significant provisioning role and some care, particularly of young children, was publically funded and institutionalized. Nonetheless families were assumed to be important sites of care and women were presumed to be key care providers, particularly in the earliest years of a child’s life or with respect to dependant adults. At the same time, women’s care roles were accommodated and supported so that they could partake in the labour market at full capacity in accordance with the dominant adult-worker model. After the onset of transition, and particularly after 1999, reforms aimed at decentralization of social policy shifted the responsibility for the funding, organization, and delivery of care and care institutions (including child and elder care facilities) to the territorial and municipal authorities. Underfunding and effort at further decentralization led to partial privatization and/or mass closures of these facilities with the

⁷⁸ Kotowska & Wóycicka 2008, *supra* note 25. The figure for men reporting the same level of care provision is 20%, which is also significant.

⁷⁹ Diagnoza 2013, as cited in *Solidarity between Generations*, *supra* note 19 at 21.

⁸⁰ M. Wilińska & E. Cedersund, “Classic Ageism” or “Brutal Economy”? *Old Age and Older People in the Polish Media*. 24 *Journal of Aging Studies* 335-343, 342 (2010), citing C. Glass & E. Fodor, *From Public to Private Maternalism? Gender and Welfare in Poland and Hungary after 1989*. (Fall) *Social Politics*, 323-350 (2007).

result of leaving families with the primary responsibility for care provision.⁸¹ Slow growth of market services due to their unaffordability (low pension and low family incomes) and slow development of non-governmental care delivery sector compound this situation.⁸² In light of the state's withdrawal and attrition of the institutional care infrastructure, families have had to step in or double their efforts to provide care. Women have been particularly affected by this process, with many women's early retirement decisions having been linked to either voluntary withdrawal from the labour market (to care for others), or in some cases, particularly during periods of highest unemployment, to being 'pushed out' on the rationale that they should free jobs for men (or young women) and provide the necessary, yet unpaid, work of care to unburden their daughters (and sons). The process of re-privatization or re-familiarization of care and other tasks of social reproduction continues to have a disproportionate impact on women of all ages, and carries different financial risks for women than it does for men as they age and retire.

Thus, whatever the local cultural preference might be, or however it may be changing, contemporary Polish families have, in reality, little choice but to provide care within homes, and that care will be provided by families has been largely taken for granted by policy. This presumption stems from what Polish sociologist Mariola Raćław describes as a 'myth of the family's care capacity', which assumes that the family has an infinite and inexhaustible potential to provide care on an unpaid basis.⁸³ This policy assumption combined with the lack of institutional support produces for people what she calls a 'hidden ... risk of becoming an informal carer' as the other side of the 'risk of dependency' coin, with the informal carers being the 'invisible subjects' because their needs are largely ignored by policy.⁸⁴ This 'risk'

⁸¹ Bojanowska, *supra* note 75.

⁸² M. Raćław, *Opiekunowie Nieformalni: Krótkookresowa Funkcjonalność Nieopłacanej Pracy*, in *O Sytuacji Ludzi Starszych*, 71-81 (J. Hryniewicz ed., Zakład Wydawnictw Statystycznych 2012).

⁸³ *Ibid*, 77.

⁸⁴ *Ibid*.

has a highly gendered dimension, as it is women who are most often exposed to it because they are (and are expected to be) the primary caregivers within families. While this affects all women, women of middle age or older are often ‘sandwiched’ between caring for dependant adults (whether spouses, parents or other older or otherwise dependant relatives) while also assuming the primary or residual care of grandchildren. Not only is this ‘informal’ work largely unacknowledged and unsupported, the demands (on time⁸⁵, material, emotional, etc.) create also problems from the perspective of labour market engagement.

In this context, the fact that Poland’s long-term development strategy documents are increasingly acknowledging the need for work-family reconciliation solutions for older people/workers, and not just for working parents of young children, is an important shift,⁸⁶ as is the recognition that it is necessary to invest in and support development of better and more extensive care infrastructure. However, the commitment to improving care infrastructure and supporting older workers’ work-family reconciliation needs remains insufficient and largely rhetorical. In relation to care institutions, progress has been slow and most emphasis thus far has been placed on provision of care for young children, which while clearly important is aimed at assisting working parents mostly and only partially addresses the challenges faced by workers-caregivers.⁸⁷ Recently, the Ministry of Labour and Social Policy has commissioned the Centre for Human Resource Development to carry out a review and evaluation of the formal and informal care provision with the view to examine its possible development over

⁸⁵ According to the EUROFAMCARE study carried out between 2003 and 2005, two thirds of Poles spend 5 hours per day on care activities, 18.2% spent 12 hours, and 9.2% cared for someone 24 hours per day. People who care for an elderly person on average do so for 6 years.

⁸⁶ As in *Poland 2030* supra note 3, for instance.

⁸⁷ Program Maluch coordinated by the Ministry of Labour and Social Policy aims to increase the range and availability of child care services. However, assessment of progress against government’s own projected goal reveals marginal progress on the care development front: see, B. Kłos & J. Szymanczak, *Institucje Opieki dla Dzieci w Wiek do lat 3 w Polsce*. 97 BAS Analizy 8 (2013).

the course of the next five years (2015-2020).⁸⁸ Improvement of care services was one of the key components of a pilot program ran in the coastal city of Sopot (2009-2011), where a quarter of the population is of ‘post-productive’ age.⁸⁹ While the program has been well evaluated, its scope encompassed only those older dependant adults already receiving non-family care support. Time will tell whether similar programs are extended to cover a broader range of people and what other policy options and concrete actions ensue. In the meantime, very few concrete actions have been undertaken and the commitment to developing care supports remains an aspiration.

Similarly, despite commitment to supporting work-family reconciliation needs for older workers there are few legal entitlements that would facilitate this objective beyond occasional accommodation in cases of illness or emergency. At the moment, all workers have a right to a compensated (at 80 percent replacement) leave of up to 14 days per year to care for an ill member of a family who is not a child under age 14, provided that there is no other person within the household who is able to provide this care.⁹⁰ In the case that care for an ill adult is combined with care of a child (one’s own, whether biological or adopted) who is under 14, there is an entitlement to an additional leave, up to the combined total of 60 days per year.⁹¹ Apart from these limited leave entitlements, work-family reconciliation for older adults has mostly been supported through promoting more flexible forms of employment, work organization, and organization of working time, and encouraging employers to offer a broader range of such policies in their workplaces. Yet, not all forms of employment and

⁸⁸ <http://crzl.gov.pl/projekty-systemowe-realizowane/pomoc-spoeczna/koordynacja-na-rzecz-aktywnej-integracji/256-projekty/projekty-systemowe-realizowane/pomoc-spoeczna/formalne-i-nieformalne-instytucje-opieki-w-polsce-etap-pierwszy-prac>.

⁸⁹ M. Chrzanowska, *Podnoszenie Jakości Usług Opiekuńczych – Doświadczenia Sopockiego Programu Wsparcia Osób Objętych Usługami Opiekuńczymi w Środowisku ‘Tęczowa Jesień’* in *(Nie) Czekając na Starość*, 131-135 (Małopolski Kongress Polityki Społecznej 2012).

⁹⁰ Originally, Act of 25 June 1999 on pecuniary benefits from social security in case of sickness, and maternity, Journal of Laws 2007 no. 11, item 74, art. 32(1)(3), art. 33(1)(2); **now consolidated Journal of Laws 2014, item 159, with further amendments.**

⁹¹ *Ibid.*, art. 33(2).

working-time flexibility are conducive to this task, and while various forms of employer-friendly flexibility have proliferated, employee-friendly flexibility is still in short supply in most Polish workplaces.

Thus, despite the aspirational tone of the active aging policy documents, few concrete measures have been adopted to develop and support the ‘welfare society’ counterpart to the ‘workfare state’ ideal, unless the latter refers mostly to individualized and familiarized solutions, which indeed, are also the preference of the current Law and Justice administration. In the meantime, what exists is a major paradox between the emphasis on individualization of life courses, choices, plans, as well as risk, and responsibility for welfare on the one hand, and assumption that family remains a central site for delivery of care and support of living standards, with family members collectively responsible for each other’s welfare, on the other.⁹² Not only are these two sets of values and approaches in tension with each other (and largely irreconcilable), the practical effect of the policy space they create is to expose those people most encumbered with collective and familiar responsibilities (women carers) to the risk of marginalization and exclusion (from labour markets, economic participation and hence material security, with knock on effects on their social status, etc.), while at the same time depleting⁹³ their care capacities and potential and thus, undermining the long term sustainability of social reproduction itself.

5. Concluding remarks

There is no doubt that inclusion of older people into working life has positive aspects and, indeed, that policies supporting this are essential given that the changing demographic profiles and process of population ageing are going to put enormous strain on public provision, services, and pension systems, as well as on the working age population who will

⁹² Raław, *supra* note 82.

⁹³ Rai, Hoskyns & Thomas, *supra* note 15.

have to support these systems. While acknowledging these realities, it is also crucial to think critically about this policy agenda, its ideological basis, implications, and potential consequences. As this paper suggested, the active aging agenda, particularly as it relates to extending working lives, represents another, complimentary step in the ongoing re-regulation of labour markets and welfare regimes. In the case in Poland, these dual processes have accompanied the country's political-economic transition project since 1989, with the project currently articulated as a shift away from a welfare state to a workfare state supported by a welfare society. Focus on active citizenship through productive engagement in paid work, and privatization and individualization of responsibility for personal and family welfare (which this engagement is to support) are its key elements.

This paper's aim was to examine Poland's active aging agenda and assess whether it is possible for older people in Poland to fulfill the aspirations that have been set for them, and whether there are any consequences associated with longer working lives for older people's own wellbeing and the wellbeing of those who may rely on their support. The review of Polish policies vis-à-vis current social, economic, and institutional realities suggests not only that the goal of active aging will be difficult to achieve, but that the pressures associated with the need to work longer are likely to place many people in precarious labour market positions and expose them to economic insecurity. Work into later life may also have deleterious effects on older people's living standards and the living standards and wellbeing of those who rely on their support and care. Unless better provisions are made for care of dependents, particularly through affordable, high quality public services that are accessible to all who need them, and unless older people's needs for work-family reconciliation are meaningfully accommodated, achieving the objectives of active aging through work into later life will also serve to undermine care – a key relational element of social reproduction that is also significant to

people who provide it. The result is likely to be a significant care deficit and/or depletion of the care and social reproductive capacities of the Polish society.

Among critiques of active aging policies, one common point of convergence is the criticism that the agenda builds on the reification of economic engagement and reification of work as *the* appropriate, desirable, and socially responsible way of participating in the life of a community and/or being a good citizen. Critical scholars of aging and gerontology, for instance, claim that despite the positive language of independence, self-reliance, and inclusion in which this policy agenda is framed there is an aspect of implicit coercion and discipline that permeates it. According to this line of critique, when framed in neoliberal policy terms, the refusal to retire – once regarded as the staple leftist critique of mandatory retirement policies – has been turned on its head and stripped of its transformative potential. The criticism of productivism and reification of work to the exclusion of other forms of engagement that lies at the core of this perspective echoes that of an American sociologist of work, Kathi Weeks, who recently called for a move beyond work and proposed a post-work imaginary, where work is integrated into life and intended to support it without taking it over.⁹⁴ While Weeks rejects the idea that care should constitute the key reason for expanding our ‘free’ time, her imaginary is nonetheless consistent with feminist writing on care, particularly the idea that people should have the right and time to engage in care of one another, and the care of their communities.⁹⁵

The critiques drawn from critical gerontology and Weeks’ work suggest that active aging policies should be construed in a way that provide people with more autonomy and choice in how to organize their time in later life. Crucially, such policies should recognize that people – through their lives – are not only engaged in economic relations but that they are

⁹⁴ K. Weeks, *The Problem with Work: Feminism, Marxism, Antiwork Politics, Postwork Imaginaries*, (Duke University Press 2011).

⁹⁵ See for instance, N. Busby, *A Right to Care?* (Oxford University Press 2012).

encumbered with and involved in other social relations, with care being one that is essential and time intensive yet often remains unaccounted for. Thus, active aging policies should take care and people's care duties into account. This means supporting older workers in their tasks as caregivers should they wish to take on these roles, and ensuring that the care gap that remains is filled in other ways.