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Solidarity in social insurance on the example of the Polish pension system

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The occurrence of social solidarity within the community of risk and the so-called social compensation resulting from it is included in the literature as a categorical feature of social insurance as a social security technique.[1] The community (group) of risk in social insurance is formed by social groups of persons performing gainful employment and thus exposed to the risk of loss of capacity to work as a result of random events of biotic nature, which by paying social insurance contributions jointly bear the costs of financing benefits for those members of this community who are affected by this risk. The solidarity-based sharing of the burden of covering the material consequences of certain random events between individuals is part of the essence of both social and economic insurance. In social insurance, social solidarity includes another dimension, which is not present in the case of economic insurance, namely the so-called social compensation.[2] In business insurance, the amount of the premium is differentiated according to the size of the individual risk.

1 K. Kolasiński, *Pojęcie i kryteria rozróżniania form zabezpieczenia społecznego*, „Praca i Zabezpieczenie Społeczne" 11 (1969) no. 5, p. 17; G. Wannagat, *Lehrbuch des Sozialversicherungsrecht,* Bd. 1, Tübingen 1965, p. 2; B. Schulin, *Techniken und Instrumente sozialer Sicherheit*, [in:] B. von Maydell, A. Nussberger, *Die Umgestaltung der Systeme sozialer Sicherheit in den Staaten Mittel- und Osteuropas*, Berlin 1993 (Der Schriftenreihe für Internationales und Vergleichendes Sozialrecht, 13), p. 178, M. Fuchs, *Zur Unterscheidung von Privatversicherung und Sozialversicherung*, "Vierteljahresschrift für Sozialrecht" 1991, p. 281.

2 G. Wannagat, *Lehrbuch des Sozialversicherungsrecht,* p. 2; B. Schulin, *Techniken und Instrumente sozialer Sicherheit…,* p. 178; M. Fuchs, *Zur Unterscheidung von Privatversicherung…,* p. 281.

In social insurance, the premium is set in such a way as to ensure that the balance between the income and expenditure of the insurance fund is achieved in a global account.[3] Therefore, it does not depend on the probability of a particular random event, e.g. age, gender, or health condition of the insured, but on their economic earning capacity (amount of earned income). Social equalisation causes that in social insurance there is no individual equivalence of mutual benefits making up the legal relationship of social insurance, i.e. premium and insurance cover, and within the community of risk, there is an additional redistribution of funds both horizontally (from healthy and professionally active people to the sick and unable to work) and vertically (from the better paid to the less wealthy).[4] The scope of this redistribution may vary in different branches of social insurance. In Poland, it occurs to a large extent in universal health insurance. Its degree is minimal in pension insurance.

Assumptions of the 1999 pension reform

The structure of the pension system currently operating in Poland was determined by the pension reform introduced on 1 January 1999. The reform implemented the postulates formulated in the World Bank report published in 1994 entitled *Averting the Old Age Crisis. Policies to Protect the Old and Promote Growth*. Its basic assumptions included: (1) diversification of pension financing methods, (2) diversification of sources of livelihood after retirement age, (3) change in the construction of pension risk and the conditions for acquiring the right to a pension and (4) application of a new formula for determining the amount of a pension.[5]

The reform first assumed a change in the existing technique of financing pension benefits. It was decided to replace the pay-as-you-go pension system with a structure based on a partial application of the funded method for securing income in old age. The introduction of the funded segment was

3 W. Szubert, *Ubezpieczenie społeczne. Zarys systemu*, Warszawa 1987, p. 15.

4 W. Szubert, *Ubezpieczenie społeczne…*, p. 15; I. Jędrasik-Jankowska, *Pojęcia i konstrukcje prawne ubezpieczenia społecznego*, Warszawa 2017, pp. 32-34.

5 M. Zieleniecki, *Reforma emerytalna – bilans zysków i strat*, "Gdańskie Studia Prawnicze" 24 (2010), p. 523; M. Zieleniecki, *Emerytura pomostowa w nowym systemie emerytalnym*, Fundacja Rozwoju Uniwersytetu Gdańskiego, Gdańsk 2011, p. 69; M.Zieleniecki, *20 Jahre Rentenreform in Polen*, [in:] *Arbeits- und Sozialrecht für Europa. Festschrift für Maximilian Fuchs*, eds. F. Marhold, U. Becker, E. Eichenhofer, G. Igl, G. Prosperetti, Nomos 2020, p. 789.

to contribute to limiting the risks related to demographic factors, pressure from the labour market, and political pressures, to which the previous fully pay-as-you-go pension system was exposed, and thus ensure a higher level of social security.[6] The funded method is traditionally considered immune to these risks, and its partial introduction was supposed to protect the pension system from the inevitable, as it was claimed, collapse due to a lack of funds to finance future pensions. This effect was to be achieved by dividing the uniform pension contribution of 19.52% into two parts. The first, amounting to 12.22% of the base, was transferred to the Social Insurance Institution (ZUS) and was used to finance pensions using the pay-as-you-go method. The second, amounting to 7.3%, was directed to open pension funds (OFEs) selected by the insured and was intended to finance pensions using the funded method. At the same time, this meant a reduction in the revenue of the Social Insurance Fund intended for the current financing of benefits using the pay-as-you-go method. A prerequisite for the success of the reform was finding sources of financing for the resulting shortfalls in the Social Insurance Fund. The authors of the reform assumed that covering the financial deficit of social insurance resulting from the capitalisation of a part of the pension insurance contribution would be possible thanks to the rationalisation of expenditures of the pay-as-you-go segment of pension insurance and using funds coming from the privatisation of state property.[7] In practice, these assumptions turned out to be wrong and the deficit of the FUS was covered through supplementary subsidies from the state budget and budget and commercial loans.[8] In December 2013, a radical change was made to the rules governing the functioning of OFEs in Poland.[9] It assumed: (1) introduction of voluntary transfer of a part of the pension insurance contribution to OFEs, (2) the reduction of the interest

6 Biuro Pełnomocnika Rządu ds. Reformy Zabezpieczenia Społecznego, *Bezpieczeństwo dzięki różnorodności. Reforma systemu emerytalno-rentowego w Polsce*, Warszawa 1997, p 4. On the risks in the pension system see also: M. Góra, *System emerytalny*, Warszawa 2003, p. 84-85 and 181.

7 *Bezpieczeństwo dzięki różnorodności*, pp. 102-111.

8 The unrealistic assumptions of the authors of the reform were pointed out as early as in 1998 in: W. Muszalski, *Finansowanie i organizacja ubezpieczenia społecznego. Istotne metody i cele reformy emerytalnej*, [in:] *Wybrane zagadnienia prawa pracy i ubezpieczeń społecznych*, t. 6, ed. U. Jackowiak, Gdańsk 2000, p. 126. The practice of the Social Security Fund borrowing from the budget and the free market raised the concerns of see: K. Antonów, *Finansowe aspekty ubezpieczeń społecznych*, "Praca i Zabezpieczenie Społeczne" (2002) nr 11, pp. 5-6.

9 It was made by virtue of the Act of 6 December 2013 on amending certain acts in connection with determining the rules of payment of pensions from funds accumulated in open pension funds ("Dziennik Ustaw" 2013, item 1717.)

rate of the contribution transferred to open pension funds, (3) compulsory redemption of 51.5% of the settlement units recorded in the accounts of OFE members, (4) transfer to the FUS of assets with a value equivalent to the redeemed settlement units and recording on individual subaccounts of insured persons kept by the ZUS the value of these units, and (5) the liquidation of life-long capital pensions and the transfer of funds accumulated in OFEs to the FUS through the mechanism of the so-called "safety slide." (6) The liquidation of life-long capital pensions and the transfer of funds collected by OFEs to the FUS through the so-called safety slide mechanism. The application of the safety slide mechanism was tantamount to complete abandonment of the capital-based method of financing pension benefits. It assumes that for a period of 10 years, the equivalent of 1/120 of the assets accumulated by the insured in the OFE is transferred monthly to the FUS pension fund. These funds are recorded on the insured's sub-account with ZUS and are used to finance current pension payments using the pay-as-you-go method. The amount of the funds deposited then increases the basis for the assessment of the pension from the Social Insurance Fund. When the insured reach retirement age, the last tranche of funds accumulated in OFEs is transferred to the FUS and is used to cover current expenditure on benefits.[10]

In addition to changes in the basic pillar of the pension system, the 1999 reform assumed the development of a segment covering various forms of voluntary savings supported by the state, which could constitute a supplementary source of income for future pensioners after they reach retirement age. This pillar of income security in old age was to cover around 25% of the population. During the 22 years that the reformed pension system has been in force, four legal instruments have been introduced enabling the accumulation of funds with a view to using them after reaching retirement age. Employee pension schemes (EPPs), introduced under the 1997 Act, and employee capital plans (ECPs), introduced on 1 January 2019, are forms of group voluntary, long-term accumulation of funds for an additional pension. Individual Retirement Accounts (IKE), introduced in 2004, and Individual Retirement Security Accounts (IKZE), introduced in 2011, allow individual, voluntary and long-term saving for old age.

10 *Prawne mechanizmy przekazywania środków OFE. Oceny konstytucyjno-prawne*, ed. R. Pacud, Kraków 2013, pp. 9–21; M. Zieleniecki, *20 Jahre Rentenreform in Polen*, p. 795.

The pension reform assumed taking steps to increase the effective retirement age. To this end, it was decided to change the existing pension risk structure and to exclude the possibility of early retirement. It is assumed in the literature that in the old pension system, the right to a pension was based on the construction of presumed inability to work due to age and service. In the defined-contribution pension system, the presumption of service (insurance seniority) was abandoned as a prerequisite for acquiring the right to a benefit. The right to a pension was based on the construction of the risk of living to the pensionable age.[11] In the new pension system, the contributory and non-contributory periods play only the role of a premise that determines whether the insured person is covered by the guarantee of obtaining the lowest benefit. As a result, every person who has reached any, even minimum, period of insurance acquires the right to a pension. However, only persons who have completed a contributory and non-contributory period of at least 20 years for women and 25 years for men are guaranteed that their pension will not be lower than the amount of the lowest pension defined by law. The new pension risk structure is consistent with the assumptions of the defined contribution pension system, where the amount of pension depends on the value of the pension contribution made to the Social Insurance Fund during the period of professional activity and not on the length of the period of contribution, let alone the so-called non-contribution period.[12]

The elimination of the possibility of early retirement and the increase in the statutory retirement age in 2012 contributed to a significant increase in the so-called effective retirement age. On the eve of the reform (in 1998), women in Poland retired at an average age of 54.7 years and men at 58.7 years. In 2016, the actual retirement age was 61 for women and 63.3 for men. In 2017, the legislator decided to return to the retirement age of 60 years for women and 65 years for men which resulted in a reduction of the actual retirement age for women. In 2018, it was 60.7 years for women and 64.4 years for men. It should be stressed that in the 20 years since the beginning of the pension reform, the extent of the gradual elimination of the possibility of early retirement has been reduced.[13]

11 K. Antonów, *Prawo do emerytury*, Kraków 2004, pp. 37-45.
12 M. Zieleniecki, *20 Jahre Rentenreform in Polen*, p. 802.
13 M. Zieleniecki, *20 Jahre Rentenreform in Polen*, p. 803.

The most durable element of the pension reform is the introduction of a new mechanism for determining the amount of the pension called the defined contribution formula. It makes the amount of the future pension dependent on the value of the pension contributions made during the period of being insured and the age of the person retiring.[14] The importance of this change is demonstrated by the fact that the term of the new benefit formula (the so-called defined contribution mechanism) is used as the name of the pension system covering persons born after 31 December 1948.[15] It was based on the principle of a close link between the pension insurance contribution paid during the period of being subject to insurance and the benefit. In both segments of compulsory pension insurance, the amount of the benefit depends directly on the value of contributions recorded (accumulated) in the individual account of the insured person during his/her professional activity and the age of retirement. The characteristics of the new formula for determining the amount of the benefit are complemented by mechanisms aimed at maintaining (increasing) the real value of contributions (valorisation and investment activity) and the institution of the so-called initial capital, which illustrates the estimated value of benefits that people covered by the new pension system could count on due to paying social insurance contributions before the date of the pension reform.[16] The defined contribution formula includes economic incentives for extending the time of retirement. Postponing the decision to retire makes it possible to achieve the effect of a significant increase in the pension due as a result of extending the period of paying contributions and shortening the statistical period for receiving the benefit.[17]

The introduction of a new formula for calculating pension benefits meant a significant reduction in the redistributive function of social insurance, which was fulfilled by the previous system (the so-called defined benefit system). This was expressed by resignation from the so-called social part of the pension and from taking into account, when establishing the amount of the pension, periods for which no pension insurance contributions are paid, as well as the determination of the maximum annual basis for the assessment of

14 M. Zieleniecki, *20 Jahre Rentenreform in Polen*, p. 804.

15 The etymology of the term 'defined contribution' is explained at length see: J. Jończyk, *Prawo zabezpieczenia społecznego*, pp. 111–112.

16 J. Stelina, *Kapitał początkowy* [in:] *Leksykon prawa ubezpieczeń społecznych. 100 podstawowych pojęć*, ed. A. Wypych-Żywicka, Warszawa 2009, p. 82.

17 M. Zieleniecki, *Emerytura pomostowa…*, p. 76.

contributions for pension and disability insurance. In place of the mechanism in which the principles for calculating pensions were defined by law and known to the insured (for each year of insurance, an increase by a specified percentage amount of remuneration), a principle was introduced in which the amount of benefit depends exclusively on the amount of contributions paid in the period of insurance and on the index of valorisation or the results of the investment activity of Open Pension Funds.[18]

The limitation in the new pension system to a minimum of social functions realised by the pension system was criticised by the doctrine of social insurance law. It was argued that the essence of both social and economic insurance is the removal or mitigation of the effects of random events from the funds created by the collective efforts of the insured.[19] In both branches of insurance, separate communities of persons are exposed to similar fortuitous events and jointly bear the burden of individual risks from a collective fund in return for participation in its creation.[20] In the classic model of social insurance, however, the redistribution of resources from the insurance fund takes place to an extent unequal to the share in its creation. This is due to the fact that in social insurance the amount of the premium is determined by the amount of income obtained by the insured (and not the risk of damage), and benefits are due only to those members of the risk community who have been affected by a specific event. Meanwhile, the new pension system was based on the principle of equivalence of contributions and benefits, which is characteristic of civil law constructions of personal insurance. In this system, pensions take on an individual character, and the significance of social solidarity is reduced.[21] The responsibility for the size of the future pension benefit is borne by the insured themselves. It is their resourcefulness in life, measured by their earnings and the length of their working lives, that will predominantly determine the size of future pension benefits. The standard of living after

18 M. Zieleniecki, *Reforma emerytalna – bilans zysków i strat*, „Gdańskie Studia Prawnicze" 24 (2010), p. 531; M. Zieleniecki, *Emerytura pomostowa…*, p. 76.

19 T. Zieliński, *Ubezpieczenia społeczne pracowników*, Warszawa-Kraków 1994, p. 24.

20 According to Z. K. Nowakowski and A. Wąsiewicz, the awareness that sharing the risk of adverse effects from random events is significantly more beneficial for the individual constitutes the guiding principle of all insurance. See: Z. K. Nowakowski, A. Wąsiewicz, *Prawo ubezpieczeń majątkowych i osobowych*, Warszawa-Poznań 1973, pp. 5-6. See also: W. Szubert, *Ubezpieczenie społeczne.*

21 R. Pacud, *Zasady prawa emerytalnego*, „Państwo i Prawo" 3 (2003), p. 59; M. Zieleniecki, *Emerytura pomostowa…*, p. 77.

reaching retirement age will be determined not only by the amount of benefits financed from the two compulsory segments of pension insurance but also by individual decisions on using the possibility of voluntary fundraising for old age in the so-called third pillar.[22] The literature on the subject rightly notes that basing the mechanism of calculating pension benefits on the defined contribution formula favours the maintenance of income stratification of the population after reaching retirement age. This is because the new pension system is only beneficial for those who, over a sufficiently long period of being insured, will achieve an income significantly higher than average.[23] For the vast majority of insured persons, the new principles for calculating the amount of pension entail a lowering of the standard of social security in the event of living to retirement age.[24]

Legal nature of the new pension system

The introduction of new legal solutions assuming diversification of sources and methods of financing benefits as well as the application of the defined contribution formula in calculating the amount of the old-age pension have led to a discussion on the legal nature of the new pension system. Three positions have been presented in the literature on this issue.

According to the first one, benefits paid from both segments of the pension system do not have an insurance character, and pensions financed by the capital-based method are located outside the broadly understood social security system.[25] Among the arguments in favour of the non-insurance character

22 M. Zieleniecki, *Reforma emerytalna…*, p. 531, M. Zieleniecki, *Emerytura pomostowa…*, p. 77.

23 This aspect of the introduction of the defined contribution formula is highlighted in: J. Jończyk, *Nowe prawo emerytalne*, p. 41; see also: K. Antonów, *Prawo do emerytury*, p. 53.

24 In particular see: K. Kolasiński, *Konstytucyjne prawo do zabezpieczenia społecznego a nowy system ubezpieczeń społecznych*, "Państwo i Prawo" 5 (1999), p. 9; J. Jończyk, *Kosztowna prywatyzacja ryzyka starości*, „Rzeczpospolita" 23.04.1997, p. 17. The authors of the pension reform assess the effects of the introduction of the defined contribution formula differently in the document Safety through diversity. In their opinion, the lack of income redistribution in the pension system will result in an expansion of the poverty sphere by about 1%, an increase in the number of households which will feel the worsening of their situation by about 17% and an increase in the number of households which will feel an increase in income by about 9.5%: *Bezpieczeństwo dzięki różnorodności*, p. 46.

25 He expressed this view when assessing the assumptions of the draft new pension system: J. Jończyk, *Kosztowna prywatyzacja…*, p. 17.

of the new pension system was the lack of such basic social insurance categories as community of risk, solidarity in life's needs, self-government, the public character of the insurance institution, or state guarantees in cases of extraordinary losses in the system.[26] The application of the defined contribution formula in calculating the amount of benefits deprived the new system of the essential feature of all insurance, which is the determination of the insurance amount, i.e. the sum that can be expected in the event of the occurrence of an insured event.[27] According to this concept, in both the pay-as-you-go and funded segments of pension insurance, there is a change in the way an individual is protected against the risk of reaching retirement age. Social insurance is replaced by compulsory saving for old age.[28]

According to the second concept, despite changes aimed at reducing the redistributive function, the pay-as-you-go segment of the pension system has retained its previous insurance character. This is evidenced by such features as its universality and compulsory character, the public character of the institution administering the system, the existence of a contribution that constitutes revenue for the pension fund, the pay-as-you-go method of financing benefits, the existence of a valorisation mechanism guaranteeing the preservation of the value of the contribution, or securing a minimum income in old age by increasing the due benefit (from both segments) to the amount of the lowest pension.[29] The use of the defined contribution method in the so-called first pillar does not exclude the insurance character of this segment, because the method of individual accounts used in it only means keeping a "register of payments and withdrawals," which is not equivalent to keeping an account within the meaning of banking law.[30] The capital segment of the pension system is of a different character. The institutions that administer this system

26 J. Jończyk, *Kosztowna prywatyzacja…*, p. 17.

27 K. Kolasiński, *Konstytucyjne prawo…*, p. 9.

28 T. Zieliński, *Nowe emerytury – samoubezpieczenie na starość,* [in:] *Konstrukcje prawa emerytalnego*, ed. T. Bińczycka-Majewska, Zakamycze 2004, p. 21; J. Jończyk, *Nowe prawo emerytalne*, „Państwo i Prawo" (1999) nr 7, p. 41; U. Kalina-Prasznic, *Uwagi o reformowaniu systemu emerytalnego*, „Praca i Zabezpieczenie Społeczne" 9 (1997), p. 2; *Uwagi na temat reformy ubezpieczenia społecznego pracowników*, „Praca i Zabezpieczenie Społeczne" (1999) nr 1, p. 4; K. Kolasiński, *Konstytucyjne prawo…*, p. 9; M. Zieleniecki, *Emerytura pomostowa…*, p. 78.

29 He draws attention to this: K. Antonów, *Prawo do emerytury*, pp. 60–61.

30 M. Rymsza, *Docelowy model ubezpieczeń społecznych w Polsce*, „Praca i Zabezpieczenie Społeczne" (1998) nr 9, pp. 6–7.

are private, and their activities are profit-oriented.[31] Benefits due in the case of the occurrence of a fortuitous event are not defined in this system, and the insured have been transferred the risks connected with the functioning of the managing entities. This system lacks any manifestation of solidarity between fund members, which is a consequence of paying contributions to individual accounts in OPFs, and benefits are financed using the capital-based method.[32] The analysis of the scope of activity conducted by Open Pension Funds leads the supporters of the discussed concept to the conclusion that in this case we are not dealing with social insurance, but with a new technique of securing income, usually referred to as compulsory saving for old age, which transforms into economic insurance as soon as the funds are transferred to a fund for life.[33] More recent literature rightly points out that the use of the term "saving for old age" in relation to the activities of open pension funds is not correct. Saving in a bank account includes the guarantee that in the event of withdrawal the amount of savings will not be lower than the sum of payments made. Since persons gathering funds for retirement in open pension funds are not covered by such a guarantee, one should rather speak of forced individualised capital investments.[34]

The third position is based on the assumption that the activity of open pension funds cannot be assessed in isolation from the basic objectives of the functioning of the entire pension system. Open pension funds carry out only a part of the tasks performed by various entities (ZUS, Open Pension Funds, life annuity funds) in the capital segment of the pension system. The subject of OFE activity is the investment of funds coming from the part of the pension insurance contribution allocated for financing a capital pension, i.e. a benefit which, similarly to the pension from the Social Insurance Institution, is of a life nature.[35] The activity of an open pension fund covers, there-

31 Different point of view: T. Bińczycka-Majewska, *Konstrukcja zabezpieczenia ryzyka starości w nowym systemie prawnym,* [in:] *Konstrukcje prawa emerytalnego*, pp. 62–63.

32 K. Antonów, *Prawo do emerytury*, pp. 60–61.

33 U. Kalina-Prasznic, *Uwagi na temat reformy…*, p. 7; K. Antonów, *Otwarte fundusze emerytalne w systemie zabezpieczenia społecznego w Polsce*, „Praca i Zabezpieczenie Społeczne" (1999) no. 11, p. 14; K. Ślebzak, *Próba charakterystyki prawnej ubezpieczenia społecznego pracowników*, „Państwo i Prawo" (2001) no. 12, pp. 79–80.

34 U. Kalina-Prasznic, *Otwarte fundusze emerytalne…*, p. 54; M. Zieleniecki, *Emerytura pomostowa…*, p. 79.

35 This principle does not apply to insured persons drawing a capital periodic pension. During the period of drawing of this pension, the activity of an open pension fund also covers the realisation phase of the pension insurance relationship.

fore, only a part of the pension insurance relationship called the guarantee phase. When an application for a pension is submitted, the Social Insurance Institution takes over the task of paying out the pension financed entirely by the pay-as-you-go method. According to advocates of this concept, saving for old age could be legitimately discussed only when the exhaustion of the funds accumulated by the insured (caused by reaching a higher than average age) would deprive the insured of the right to a pension.[36] The discussed view is also confirmed by the wording of Article 3 (1) (2) of the Act on the Social Insurance System, which lists open pension funds among the entities performing social insurance tasks.[37]

Conclusions

I share the view on the insurance character of the new pension system. It is true that the essence of social insurance includes social equalisation of benefits understood in such a way that the lowest earners receive a relatively higher benefit than would result from the amount of contribution paid by them. However, this feature is not unconditional. Limitations of the principle of equivalence of benefits and contributions are applied only in cases where it is purposeful to reduce the burden on weaker economic units at the cost of a greater burden on stronger economic units. The existence of full equivalence of contributions and benefits does not exclude the insurance character of a given system.[38]

Also, in the new pension system, one can see elements indicating that the system performs, to a very limited extent, a redistributive function. This role is fulfilled by the guarantee of the lowest pension in the case when the pension from the Social Insurance Fund does not reach the minimum amount set by law. It is an expression of solidarity in society as a whole, rather than solidarity within the community of risk, as the compensation of the due benefit

36 J. Jończyk, *Prawo zabezpieczenia społecznego*, p. 131. Supporters of this concept seem to include: T. Bińczycka-Majewska, *Konstrukcja zabezpieczenia ryzyka starości…*, pp. 66-67; K. Antonów, *Prawo do emerytury*, pp. 60-61.

37 This is pointed out in: K. Antonów, *Prawo do emerytury*, p. 60; M. Zieleniecki, *Emerytura pomostowa…*, p. 80.

38 M. Zieleniecki, *Emerytura pomostowa…*, p. 80; J. Piotrowski, *Zabezpieczenie społeczne…*, p. 172; J. Łazowski, *Wstęp do nauki o ubezpieczeniach*, Warszawa 1948, pp. 13-14.

to the amount of the minimum pension is financed from the state budget and not from the resources of the insurance fund.[39] The new pension system also assumes that there will be a redistribution of funds between those entitled to a pension, who have not reached the average life expectancy of people at the age corresponding to their retirement, and pensioners drawing the benefit for a longer period.

The concerns formulated by the doctrine even before the pension reform began are confirmed by statistical data on the development of the replacement rate by pensions calculated according to the defined contribution formula. As recently as in 2012, the average pension paid by ZUS amounted to PLN 1872.32, which was 60.8% of the average salary. At the end of 2020, the average pension paid by ZUS was PLN 2486.81, which was only 53.45% of the average salary.

The decreasing replacement rate is the result of many factors. The most important of these include: (1) the growing share of pensions calculated according to the defined contribution formula in the structure of pensions paid by the Social Insurance Institution (ZUS), (2) the dynamic growth in recent years of the average remuneration in our country, (3) the steady decrease in the share of initial capital in the basis of the dimension of newly awarded pensions, and (4) the increase in the share of pensions lower than the lowest pension benefit in the structure of newly awarded pensions.

The change in the current pension risk structure and exclusion of pension benefits for persons who have not reached the insurance period of 20 years for women and 25 years for men from the guarantee of the minimum benefit caused a sharp increase in the number of pensions, the amount of which is lower than the minimum pension (in 2021, it is PLN 1250.88). As recently as December 2011, the number of people drawing such a pension was only 23.9 thousand. Over 10 years, it increased almost thirteen times, reaching 310.1 thousand in December 2020, and their share in the total number of pensions paid from the new system increased from 4.2% in December 2011 to 9.6% in December 2020. In this group, due to the possibility of retiring at the age of 60, women predominate by far (83%). Recently, however, a gradual increase in the share of men in this population can be observed (from 1.2% in December 2014 to 17% at the end of 2020), as a consequence of the longer insurance length of service required to obtain at least the lowest pension compared to women. This phenomenon results in increasingly frequent postulates being

39 He draws attention to this: K. Antonów, *Prawo do emerytury*, p. 54.

formulated in our country to redefine pension risk in the new pension system and to supplement its design with elements related to longevity.

The decline in the replacement rate has not been stopped by measures taken in recent years aimed at improving the material situation of Polish pensioners, such as a significant increase in the lowest pension benefits, the introduction of the so-called 13th pension, or supplementing the annual percentage valorisation of pension benefits with a minimum increase amount.[40]

Abstract

Solidarity in social insurance on the example of the Polish pension system

The author examines social solidarity and its role in social insurance, focusing on Poland's reformed pension system. Key aspects analyzed include pension financing methods, risk structure, eligibility conditions, and benefit calculations. The 1999 reform significantly reduced the system's redistributive function, yet traces of this function persist. One example is the guarantee of a minimum pension, financed by the state budget, which reflects societal solidarity rather than solidarity within the insured risk community. The system also redistributes funds between pensioners who exceed or fall short of the average life expectancy at retirement. The author concludes that the reformed pension system retains its insurance character. While social insurance includes an element of benefit equalization, granting relatively higher benefits to low earners, this is applied selectively to alleviate economic disparities. Full equivalence between contributions and benefits does not negate the system's insurance nature.

Keywords: solidarity, social security, pension system, old-age pension

40 M. Zieleniecki, *20 Jahre Rentenreform in Polen*, p. 805.

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