National Report

Etuc SociAll Project

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Summary

The biggest challenge for the Polish fully pay-as-you-go pension system is to ensure its effectiveness amid demographic changes known as the aging of society. The pension reform of 1999 aimed to prepare the Polish pension system to function in unfavourable demographic conditions. It was a paradigm change because, apart from changes in the parameters of the social insurance system, such as the retirement age and the formula for determining the amount of the old-age pension, it changed the way old-age pensions are financed from pay-as-you-go to capital-funded. The change in the paradigm of the pension system ended in a fiasco because the changes introduced on 1 February 2014 restored the pay-as-you-go paradigm to the system. For this reason, possible future changes to prepare the pension system to function in an aging society may be of a parametric nature and concern either the conditions to qualify for pension insurance or the conditions for acquiring the right to an old-age pension.

With regard to the first area, a discussion should be expected on changes in the rules of entitlement to retirement and disability pension insurance for persons with more than one title to insurance. Possible changes could be aimed at covering each concurrent title for pension insurance on the same basis until the maximum annual contribution assessment basis for pension and disability insurance is exceeded, at which point the payer and the insured would be released from their contribution obligations. These proposals are favourable to trade unions as, by removing financial incentives for civil-law contracts[1] and self-employment, they contribute to creating order in the labour market and making employment more stable. At the same time, the renewal of a proposal to eliminate the thirty-fold threshold of the average

[1] A person performing activities under civil law contracts is not an employee. The Labour Code does not apply to her/him under any circumstances, therefore the Civil Code applies. The Ordering Party (in the case of a specific task contract) or the Ordering Party (under the mandate contract) together with the Order Receiver, decide on the content of the contract, in unregulated matters, so the Civil Code shall apply. As a result, the person performing the order (work) does not apply, inter alia, rights related to working time, the obligation to grant leave or other provisions of Labour Code.

monthly salary cannot be ruled out. The issue of supporting this proposal already divided trade unions in Poland years ago.

The economic crisis caused by the COVID-19 pandemic is not conducive to the main demands of trade unions in Poland concerning the conditions for acquiring the right to pensions, i.e. introducing seniority pensions and abandoning the expiring character of bridging pensions. Trade unions should first focus on supporting changes, benefitting employees, in the rules on pension and disability pension insurance entitlement for persons who have more than one pension title, and then, after increasing the revenues of the pension system, demand the implementation, at least in a limited way, of proposals to ease the conditions for retirement for persons with long insurance service and employees working in specific conditions and doing work of a special nature.

I. National context

The broadly defined old-age risk protection system in Poland consists of compulsory state pension insurance and group and individual forms of voluntary saving for old age.

Compulsory state pension security consists of general pension insurance and special schemes covering farmers, professional soldiers and uniformed services officers as well as judges and prosecutors.

At the end of the second quarter of 2020, 15,851,569 persons were covered by universal pension insurance. The vast majority of these (11,389,559 persons) were employees. The largest social groups covered by the obligation to provide pension insurance are persons running non-agricultural businesses (1,617,816), persons performing work on the basis of a civil-law contract (1,085,437), persons receiving maternity benefit (237,933), unemployed persons receiving unemployment benefits (220,233), persons receiving nursing benefits following withdrawal from employment in order to take care of a disabled family member (142,072) and persons on parental leave (106,359).

The contribution for pension insurance is 19.52% and, as a rule, is financed half by the payer of contributions (employer) and half by the insured person. The basis for calculating the contribution is the insured person's income from activities subject to social insurance. There is a maximum annual contribution assessment basis for pension insurance, above which the payer ceases making contributions. It corresponds to thirty times the average monthly remuneration of employees forecast for a given calendar year in the Budget Act. In 2020, it amounted to PLN 156,810.

There are a number of exceptions to the above scheme for the financing of contributions. Persons running non-agricultural businesses and voluntarily insured persons finance their pension contributions in full from their own resources. For persons for whom the insurance title comes from certain social rights, including receipt of certain benefits from the social security system (those who are unemployed, receiving maternity benefit, on parental leave, leaving employment in order to take care of a disabled close-family member), contributions are financed in full from the state budget. This is an expression of solidarity with people at risk and the implementation of the state's specific social objectives through the pension system. The basis for the assessment of contributions for pension insurance of persons running non-agricultural businesses and persons voluntarily subject to that insurance is not the actual income from that activity, but a declared amount which cannot be lower than the statutorily determined minimum amount. This is respectively 60% of the average remuneration forecast for a given calendar year in the Budget Act (for persons running non-agricultural businesses) and the minimum remuneration (for persons voluntarily insured). In the case of persons whose contributions are financed from the state budget, a fixed (rigid) contribution assessment basis is sometimes applied, corresponding to 60% of the average remuneration (in the case of persons on parental leave), minimum remuneration (e.g. soldiers in active non-professional military service), the level of the nursing allowance or special care allowance (persons caring for a disabled family member); or the unemployment allowance (in the case of unemployed persons entitled to benefits).

The pension system applies a number of preferences with respect to the level of pension insurance contributions for persons starting a business or earning a small income from this activity. These include: 1) exemption from the entrepreneur's social insurance obligation for a period of 6 months from the beginning of a business (start-up relief); 2) exemption from the social insurance obligation for people whose monthly revenues from business activity do not exceed half of the minimum remuneration for work (negligible business; 3) reduction of the lowest possible base for the assessment of contributions for pension insurance to 30% of the minimum remuneration in the first 2 years of the insured's business activity; 3) the possibility of paying contributions from the assessment base depending on income (within the limits of

30% of the minimum remuneration to 60% of the average remuneration) for persons whose annual income from business activity does not exceed PLN 120,000.

In the case of persons who have more than one pension insurance title, certain titles of insurance (running a non-agricultural business, performing work on the basis of civil-law contracts) are excluded from the obligation of insurance in concurrence with the employment relationship, provided that the remuneration from the employment is not lower than the minimum remuneration for work. In the case of persons who earn revenues from titles other than employment remaining in concurrence, the obligation of insurance may apply only to the first of them, provided that the basis for the assessment of contributions on that title amounts to at least 60% of the average remuneration (if non-agricultural business activity is among those titles) or the minimum remuneration (if the insured carries out work on the basis of more than one civil-law agreement).

The financing of pensions in the general social insurance system is carried out entirely by the pay-as-you-go method. Pensions are financed entirely from the pension fund, which is part of the State Social Insurance Fund (FUS) managed by the Social Insurance Institution (ZUS). It is worth recalling that one of the assumptions of the pension reform launched on 1 January 1999 was the diversification of methods of financing future pensions. In order to limit the negative impact of population ageing on the capacity of the pension system, it was decided to introduce partial financing of pension benefits using the funded method, traditionally regarded as resistant to demographic risk. This idea was implemented by dividing the uniform pension contribution rate amounting to 19.52% of the assessment basis into two parts: (1) to finance the pension using the pay-as-you-go method to meet 12.22% of the assessment base and (2) to finance the pension using the funded method to meet 7.3% of the assessment base. The contribution of 12.22% was transferred to the Social Insurance Institution (ZUS), while the remaining part of the contribution was directed to open pension funds (OFEs) selected by the insured. The high operating costs of OFEs and the growing deficit of the Social Security Fund (FUS) as a consequence of the diversion of more than one third of its revenue from pension contributions to OFEs resulted in a serious burden on the public finance system of the operating costs of the funded segment of pension insurance.

In December 2013, the rules for the operation of the funded pension insurance segment in Poland were amended. The following changes were introduced: 1) the introduction of the voluntary transfer of a part of the pension insurance contribution to open pension funds; 2) the reduction of the interest rate of the contribution transferred to open pension funds from 7.3% to 2.92% of the contribution assessment basis; 3) compulsory redemption of 51.5% of settlement units recorded in the accounts of open pension fund (OFE) members; 4) transfer to the Social Insurance Fund (FUS) of assets with a value equivalent to the redeemed settlement units and recording the value of these units on individual sub-accounts of insured persons kept by the Social Insurance Institution (ZUS); and 5) liquidation of life-long capital pensions and transfer of funds accumulated in open pension funds to the Social Insurance Fund (FUS) through the mechanism of the so-called safety slide. In order to maintain the current scope of property rights of insured persons resulting from the capitalisation of a part of pension insurance premiums (which consisted in particular of (1) coverage by joint property of spouses, (2) inheritance and (3) the right to benefits from OFE investments), it was decided that these funds would be recorded separately on a special sub-account of the insured person in ZUS. Together with the amount coming from the pay-as-you-go part of pension insurance contributions (12.22%), these funds were to constitute the basis for the assessment of pensions financed from the Social Insurance Fund. The changes in the functioning of this segment introduced in 2013, especially the introduction of the safety slide, mean the *de facto* abandonment of the capital-based method of financing pension benefits. The role of OFEs has been limited to entrusting these entities with tasks related to investing funds coming from a part of the pension insurance contribution in the capital market during the period when an OFE member is subject to pension insurance.

The 1999 pension reform introduced measures to increase the effective retirement age. For this purpose, it was decided to change the existing structure of pension risk and to exclude the possibility of taking early retirement. In the new pension system, which covers persons born after 1948, the condition of service (insurance seniority) was abandoned as a prerequisite for acquiring the right to a pension. The right to a pension was based on the construction of the risk of living to retirement age. In the new pension system, the contributory and non-contributory periods play the sole role in determining whether the insured person is covered by the guarantee of obtaining the lowest benefit. As a result, everybody who reaches any, even the minimum, period of insurance acquires the right to receive a pension upon reaching the age of 60 for women and 65 for men. However, only persons who have achieved a contributory and non-contributory period of at least 20 years for women and 25 years for men have a guarantee that their pension will not be lower than the lowest pension defined by law. The new pension risk structure is consistent with the premises of the defined contribution pension system, in which the amount of pension depends on the value of pension contributions made to the Social Insurance Fund during the period of work, not on the length of the period of contribution, and not on the non-contribution period.

The current regulations do not exclude the possibility of combining the drawing of an old-age pension with work constituting the basis for being subject to pension insurance. Only in the case of insured persons who are employees is a person applying for a pension required to terminate the employment relationship with the employer on the day preceding the acquisition of the right to a pension. However, after the right to a pension has been established, both employees and other categories of persons subject to pension insurance may, without any limitations, combine drawing a pension with earning income from an activity constituting the title of the insurance.

The most durable element of the pension reform should be the introduction of the new mechanism for determining the amount of the pension. The so-called defined contribution formula 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. The pension is the equivalent of the quotient of the sum of contributions deposited into the individual account of the insured person in the Social Insurance Institution (ZUS) and the statistical number of months of the benefit collection period assigned to the age of the insured person at the moment of retirement. The pension assessment basis also takes into account the so-called initial capital determining the hypothetical value of pension insurance contributions paid before the date of entry into force of the pension reform. As of 1 February 2014, the pension assessment base also takes into account funds from the part of the pension insurance contributions originally allocated to finance the pension using the capital funded method. A pension assessment base determined in this way is subject to annual revaluation.

Group forms of accumulating funds for old age organised by employers include occupational pension schemes (PPE) and occupational capital plans (PPK).

PPE is a voluntary, long-term accumulation scheme for supplementary retirement, introduced through a company agreement between an employer and a trade union. The basic contribution of up to 7% of salary is financed entirely by the employer. The employee can declare an additional contribution, which is financed entirely by the employee. Withdrawal of funds may be made at the request of the employee upon reaching the age of 60. It may be made in a single payment or in instalments depending on the employee's request.

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A PPK (in operation from 1 January 2019) can be described as a form of systematic accumulation of savings by employees, organised by employers, for payment upon reaching 60 years of age. It is the employer's responsibility to create such a plan. Employers are obliged to conclude an agreement with financial institutions to manage the PPK on behalf and for the benefit of the persons employed in these entities. However, saving in a PPK is voluntary. An employee may, by means of a declaration of will submitted to the employer, withdraw from making payments into a PPK. An incentive to save in a PPK is the financing of the payments from the employer, the employee and from public resources.

Individual Retirement Accounts (IKE) and Individual Retirement Security Accounts (IKZE) are voluntary forms of saving for old age. An IKE creates an opportunity to accumulate funds intended for use after reaching retirement age by every natural person who has reached 16 years of age. The incentive to transfer funds to an IKE is the exemption of benefits obtained from depositing funds there from capital gains tax and the capital accumulated in the IKE from inheritance and donation tax. However, the amount deposited in an IKE is subject to personal income tax. Withdrawal of funds accumulated in an IKE may take place upon 60 years of age or upon acquiring the right to retirement from the FUS after 55 years of age. It is made as a one-off payment or in instalments.

IKZE contributions (operating since 2011) have been excluded from the personal income tax base. Withdrawal of funds to a saver or his/her heirs only triggers an obligation to pay 10% flat-rate income tax, and full income tax is levied only in the case of returning the funds. The annual limit on IKZE contributions is 120% of the national average monthly salary projected for a given calendar year. Withdrawal of funds accumulated in an IKZE can take place once or in instalments after the saver turns 65.

II. Challenges

The biggest challenge for the Polish fully pay-as-you-go pension system is to ensure its effectiveness in an aging society. This is because the demographic processes taking place in Poland have a strong, direct impact on the financial position of the pension fund. According to the demographic forecast, the population of Poland as a whole, amounting to 38.4 million in 2019, will fall to 33.9 million in 2060 and to 30.3 million in 2080. The structure of Polish society will change unfavourably for the pension system during the analysed period. The number of people in pre-productive age (0-17 years) and productive age (men aged 18-64 and women aged 18-59) will constantly decrease, while the number of people in post-productive age (men aged 65 and over and women aged 60 and over) will increase. The working-age population will decrease by 7 million in 2060 and by 8.2 million in 2080 in comparison with 2019. The post-working-age population will increase until 2056, reaching 12.3 million, 3.9 million more than in 2019 (8.4 million). Thereafter, it will decrease, reaching 10.2 million people in 2080. The share of the post-working-age population in the total population will increase from 22.0% in 2019 to 35.8% in 2059 and 33.5% in 2080. In 2019, there were 366 people of post-working age per 1000 people of working age. In 2059, this will already be 760 people and in 2080 - 686 people. The effect of these demographic changes will be an increase in the deficit of the pension fund from PLN 45.97 trillion in 2020 to PLN 72.55 trillion in 2050. In the years 2020-2060, there will also be an increase in the systemic dependency ratio from 0.40 in 2020 to 0.76 in 2060.

A challenge for the Polish pension system is also to ensure adequate benefits for the insured after they reach retirement age. The defined contribution formula used in the new pension system to determine the value of benefits means that the social functions performed by the pension system have been reduced to a minimum. Pensions in this system have taken on an individual character and the insured now have the burden of responsibility for future pension benefits. The standard of living after reaching retirement age depends on the resourcefulness of the insured themselves, determined not only by the length of time they have been paying contributions and the amount of remuneration received during their professional activity, but also by individual decisions concerning diversification of sources of income after reaching retirement age. The introduction of the defined contribution formula was undoubtedly intended to prepare the pay-as-you-go pension system for an ageing society. For the majority of the insured (people with low qualifications, people unable to work, the unemployed, women, the rural population), its introduction means a deterioration in the standards of social protection against the risk of old age. This is confirmed by statistical data on the evolution of the wage replacement rate by pensions calculated according to the defined contribution formula. As recently as 2012, the average pension paid by the Social Insurance Institution (ZUS) amounted to PLN 1872.32, which was 60.8% of the average salary. In December 2019, the average pension paid by ZUS was PLN 2373.89, which was only 55.27% 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

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the structure of pensions paid out by 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 newly awarded pensions, 4) the increase in the share of pensions lower than the lowest pension benefit in the structure of newly awarded pensions. The decline has not been stopped by measures taken in recent years to improve the material situation of Polish pensioners, such as a significant increase in the lowest pension benefits, payment of the so-called 13th pension in 2019-2020 or supplementing the annual percentage valuation of pension benefits with a minimum increase amount.

Maintaining a lower retirement age for women under the defined contribution pension system leads to significant differences in the value of pensions depending on the gender of the insured person. Due to the lower retirement age, women decide to retire earlier than men, usually having a shorter insurance period and, as a consequence, a lower benefit assessment basis and a longer life expectancy. In December 2019, the average insurance period of a woman drawing a pension was 33.7 years, while the average male pensioner had 37.3 years of insurance coverage. The difference in pension benefits between men and women is currently around 33%. The average pension paid to a man in December 2019 was PLN 2,944.46 and to a woman PLN 1,972.56. Reducing the pension gap is also a challenge for the Polish pension system.

A negative consequence of making the right to a pension dependent only on reaching the retirement age is the rapid increase in the number of pensions that are lower than the lowest pension (in 2020, it was PLN 1200). As recently as December 2011, only 23,900 people were drawing such a pension. In 9 years, this has increased more than eleven-fold, reaching 261,000 in December 2019. In this group, due to the possibility of retiring at the age of 60, women definitely predominate (84.2%). Recently, however, a gradual increase in the share of men in this population can be observed (from 1.2% in December 2014 to 15.8% at the end of 2019), which is a consequence of their requiring longer length of service than women to obtain at least the lowest pension.

A challenge for the Polish system of protection against the risk of old age is the popularisation of voluntary forms of accumulating funds for old age. In the 20 years since the beginning of pension reform in Poland, the building of a multi-tier system of pension security has failed. The burden of ensuring a decent livelihood after retirement still rests on the public, compulsory, pay-as-you-go pension insurance system. The main reason for this appears to be the material situation of Polish society. Although recent years have witnessed a significant increase in the income of Polish families - which is a consequence of the good economic and labour market situations - additional old-age security still takes a back seat in the structure of their expenditure. Other reasons for the lack of interest in additional accumulation of funds for old age include insufficient incentives for saving addressed mainly to people with the highest income, lack of a tradition of using additional instruments for pension security and the high costs of pension insurance in the basic system.

In the 20 years since the reformed pension system has been in force, PPEs have not been very popular in Poland. At the end of 2018, PPEs were in operation for 1,230 employers and had 426,000 employees participating in them. The value of assets accumulated in PPEs, according to data at the end of 2018, amounted to PLN 12.8 billion. This represents approximately 0.6% of GDP. The average annual contribution in the form of the basic premium paid by the employer is PLN 4,070. PPEs receive an annual average of PLN 1,253 from the additional contributions paid by the employee. The degree of dissemination of this form of saving for old age can hardly be considered satisfactory. The introduction of PPEs, which are treated by the legislator as an alternative to mandatory PPKs for employers, contributed to the increased interest of employers in PPEs.

The introduction of voluntary retirement savings plans (PPK) offers hope for increased interest in long-term, voluntary saving for old age. The scope of interest in PPKs will be determined by the level of salaries achieved by employees in our country and the related ability to earmark funds for securing one's livelihood after reaching the age of 60. An important factor stimulating interest in PPKs will also be the trust in the system, which is connected, among other things, to the results of financial institutions managing the funds accumulated in PPKs. It is also worth noting that the Act on PPK does not solve the problem of low security against the risk of reaching retirement age in the basic social insurance system of people conducting agricultural and non-agricultural business activity. However, the assumption adopted by the authors of the Act on PPK, according to which 75% of all eligible employees will join the plans, must be regarded as too ambitious.

Between 2004 and 2007, 915,500 people opened an IKE. In the following years, however, a slight decrease in the number of IKE holders was observed, which was associated with the deterioration in the material situation of Polish citizens as a result of the global economic crisis. The large number of inactive accounts, i.e. with no deposits during the calendar year, was also a problem during that period. In 2010, the ratio of active accounts was only 31.8%. Increasing the limit of annual payments to an IKE to three times the average wage in 2009 did not result in an increase in interest in individual retirement saving or an increase in the ratio of active accounts, but it did contribute to an increase in IKE assets from PLN 1,613,789,000 at the end of 2008 to PLN 2,763,980,000 at the end of 2011.

IKZEs also enjoy moderate interest in our country. In 2012, 496,821 such accounts were opened. Subsequent years saw a slight increase in the number of IKZEs. At the end of 2018, 730,974 such accounts were recorded. Between 2012 and 2018, the value of assets accumulated in IKZEs increased from PLN 52,882,000 to PLN 2,317,138,000. An even bigger problem than in the case of IKEs was the low rate of active IKZEs. In 2012, the rate was 6.6 %, while at the end of 2018 it was 31.5 %.

III. Possible reforms

The pension reform introduced in 1999 was aimed at preparing the pension system to function under adverse demographic conditions. It changed the previous paradigms of the pension system. Of the four most significant elements of the reform, the most durable proved to be the parameters of the pension system, i.e. the conditions for acquiring the right to a pension and the rules for determining its amount. However, the attempt to introduce partial financing of pension benefits using the capital-based method ended in fiasco. In particular, the attempt to create a multi-level system of pension security in our country failed. The proposal contained in the draft law presented in May 2019 to transfer funds accumulated in OFEs outside the public finance system to IKE and to FRD (which is an element of the public finance system) in proportions of 80% and 20%, respectively, means that, although financially strengthening the segment of individual savings for old age, for those who decide to transfer funds to an IKE, the scope of protection against the risk of reaching retirement age in the public, basic social insurance system is also limited. The government has declared that it will continue work on this project in 2021.

The demographic phenomenon of population ageing is already causing a steady deterioration in the smooth functioning of the underlying fully pay-as-you-go pension insurance system in Poland. As a result, it should be expected that in the coming years proposals

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for reforms will be put forward to prepare the Polish pension system to function in unfavourable demographic conditions. It seems that unlike in the 1999 pension reform, they will concern the parameters of the pension system rather than its paradigm. Possible changes may concern both the revenue side of the pension system and its expenditures.

An increase in revenues for the Social Insurance Fund could be brought about by a change in the current conditions for being subject to pension insurance by persons with more than one pension insurance title. As forms of work become increasingly diversified, the principle of priority according to which an employment relationship excludes the obligation of pension insurance based on other titles seems untenable. First, it damages the labour market by encouraging employers and employees to seek other forms of providing work, such as self-employment or work based on civil-law contracts, which are cheaper from the point of view of social insurance costs and often inadequate in terms of the conditions under which work is carried out. Secondly, it places in a privileged market position persons who run non-agricultural businesses or provide work on the basis of civil-law contracts and perform work under an employment relationship, relieving them of the costs of social insurance under titles other than an employment relationship. Thirdly, it understates the revenue from contributions of the Social Security Fund. Fourthly, it leads to a reduction in the amount of future pension benefits through a reduction of contributions that constitute the basis for the calculation of a future pension. Measures to rationalise the rules for social insurance coverage by persons performing work on the basis of more than one civil-law contract were withdrawn in 2015. They consisted in imposing on such persons the obligation of social insurance under subsequent civil-law contracts if the remuneration under the first and each subsequent contract did not reach the amount of the minimum wage. A further step could consist of abandoning the exclusion of certain concurrent titles in favour of the principle of being subject to pension insurance from each title. Regardless of the number and types of insurance titles, exemption from the obligation to pay contributions would take place upon exceeding the maximum annual basis for the assessment of pension and disability insurance contributions equal to thirty times the average monthly remuneration.

The inclusion of civil-law contracts for specific work, which are currently not covered by the obligation of social insurance, could contribute to increasing the revenues of the Social Insurance Fund. The lack of social insurance costs means that these contracts are often used as a basis for providing work in a manner inconsistent with their purpose. The first step towards limiting the practice of concluding fake contracts for specific work is to impose an obligation on the parties to such a contract to report such a contract to the register of contracts for specific work kept by ZUS. The provisions requiring notification of a contract for specific work will take effect from 1 January 2021.

The costs of social insurance in Poland are generally considered to be quite high. Therefore, it is difficult to expect the authorities to decide to increase the pension insurance contribution rate in the future. On the other hand, the abolition of the limitation of the maximum annual assessment basis for pension and disability insurance contributions could contribute to increasing the revenues of the Social Security Fund from contributions. An attempt to introduce such a solution was already made in 2017, but the law passed by the Sejm ultimately did not enter into force due to a violation of the required legislative procedure during work by the Senate. The deteriorating financial situation of the Social Security Fund as a result of unfavourable demographic changes may provide an incentive to renew the discussion on the abolition of the maximum annual contribution assessment basis for pension and disability insurance.

Equalising the retirement age for women and men could contribute to increasing the replacement rate and at the same time reducing the difference in the amount of retirement benefits depending on the insured person's sex. A gradual increase and equalising the retirement age for women and men at 67 years was provided for in the amendment to the Act on Pensions from the Social Security Fund of 11 May 2012. The retirement age was raised for men born in 1948 and later and for women born in 1953 and later. Due to the uniform rate of increase for men and women, the same retirement age of 67 years for men and women was not to be achieved until 1 October 2040. The restoration of the retirement age in force before 1 December 2013 was the main element of the programme in the presidential and parliamentary elections won by the Right in 2015. This demand was realised on 1 October 2017, when the retirement age of 60 years for women and 65 years for men reappeared in Poland. The gender-differentiated retirement age is recognised by the Constitutional Court as complying with the principle of equality formulated in Articles 32 and 33 of the Constitution (ECJ judgment of 15 July 2010, K 63/07, OTK-A 2010/6/60), as, according to the ECJ, the lower retirement age for women compared to men is justified by the different social situation of women and objective differences of biological nature. At the same time, the Court signalled to the public authorities the need to undertake legislative work aimed at the gradual unification of the retirement age for women and men, as social differences between women and men justifying different retirement ages are dynamic in nature and a rapid erosion process can currently be observed. In the current political situation, it is difficult to expect that this demand will be realised in the coming years.

In the context of the conditions for acquiring the right to an old-age pension, in public debate in Poland there is a proposal to introduce into the Polish system a pension, the right to which would depend exclusively on fulfilling the condition of having an appropriately long period of insurance (the so-called seniority pension). This proposal was included in the election programme of the winner of the 2020 presidential election, Andrzej Duda. The introduction of seniority pensions has been demanded for years by the largest trade unions in Poland. In their opinion, seniority pensions could mitigate the social effects of eliminating early retirement under the 1999 pension reform in the case of persons who have a sufficiently long insurance service before reaching retirement age. It is proposed that the right to such a pension be made dependent on reaching a contribution period of 40 years for men and 35 years for women. This proposal, although socially correct, is not conducive to achieving in the contribution system an increase in pension benefits and a reduction of the difference in pension benefits due to women and men.

The rapid increase in the number of pension benefits, the amount of which does not exceed the amount of the minimum pension benefit, undermines the maintenance of the current structure of pension risk, in which the right to a pension is conditional solely on the insured reaching the pensionable age, and does not depend on the length of time they have been insured. The pensions of people who, in the course of their professional career, have paid contributions to pension insurance for a short period of time are very low in the contribution pension system and do not guarantee the insured person a livelihood. In our country, there are an increasing number of proposals to redefine the pension risk and to supplement its structure with elements related to service. Proposals include the introduction of a minimum period of insurance (e.g. 15 years), after which the insured would acquire the right to a pension. Premiums paid by an insured person who fails to meet this condition could be paid to the insured person in instalments after reaching retirement age.

A change in the rules governing the drawing of an old-age pension with income from an activity constituting a title to pension insurance could also contribute to raising the actual age of retirement and increasing the amount of pension benefits. Today in Poland, 82% of insured persons decide to apply for a pension immediately after reaching retirement age. Postponing this moment for a year results in an 8% increase in the pension in the defined contribution system. A change in the behaviour of the insured could be brought about by the introduction of provisions limiting or excluding the drawing of a pension for economically active people. This could be achieved by extending to pensions the instrument used for disability pensions, i.e. thresholds (70% and 130% of the average salary) relating to income from gainful activity, exceeding which results in a reduction or suspension of the right to benefits, respectively. In view of the low level of pension benefits, it would be much more difficult in Poland to completely eliminate the possibility of gainful employment for pension recipients. Such a solution could also infringe the freedom to choose and pursue an occupation and place of work, which is protected in Article 65(1) of the Constitution.

High hopes for the popularisation of IKEs as a form of voluntary saving for old age and increasing the financial potential of this segment of the financial market are found in the proposals contained in the government's bill on amending certain acts in connection with the transfer of funds from OFEs to IKEs of May 2019. It proposes a way to use the funds currently managed by OFEs (their value is currently around PLN 162 billion). The draft provides for the transformation of OFEs into specialised open-ended investment funds (SFIO) operating individual pension accounts (IKE) and PTEs into investment fund companies (TFI). It is proposed to give OFE members the right to choose the destination of funds accumulated in an OFE. The default option is to transfer these funds to an IKE, where they will continue to accumulate, but on a voluntary basis, with a view to using them, in principle, only after reaching the age of 60. An OFE member will be able to choose to transfer all of the funds collected to the Demographic Reserve Fund, currently managed by ZUS, and have the transferred funds recorded in the insured's account with ZUS, which will contribute to an increase in the assessment basis for future pension and in the future will result in a higher benefit. The draft assumes that 80% of the 15,840,000 OFE members will decide to transfer funds accumulated in these funds to an IKE. In this way, the IKE sector will be boosted by approximately PLN 110.16 billion.

IV. Guidelines and recommendations

For many years, the largest central trade unions in Poland have been making demands for the relaxation of retirement conditions for insured persons with a relatively long period of

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pension insurance contributions and insured persons performing work in special conditions or work of a special nature.

As regards the proposal to introduce the seniority pension, to which women would become entitled after 35 years and men after 40 years of contributions, attention should be paid to the financial consequences of this proposal. Retirement before retirement age by a person with a long period of contributions results in a simultaneous decrease in revenue from contributions to the Social Insurance Fund and an increase in the expenditures of that fund on pension benefits. According to ZUS estimates, if all eligible persons decided to take a seniority pension after fulfilling the conditions for eligibility for this benefit, FUS revenues from pension contributions would decrease by around PLN 4 billion (i.e. 0.183% of GDP) annually. According to the same forecast, the highest growth of FUS expenditures on pensions would occur in the second year of the application of seniority pensions and would amount to over PLN 9 billion (i.e. 0.396% of GDP). In subsequent years, the growth in expenditure would decline. After 15 years these expenditures would stop growing. This is due to two reasons: 1) the fact that the persons who would meet the conditions for acquiring the right to a seniority pension belong mainly to the generation that completed most of their working life before 1999, i.e. before the introduction of the pension reform, and the number of such persons will decrease with time, 2) the fact that the seniority pension would constitute an additional burden for the Social Security Fund only in the period between the time when the insured person meets the conditions for acquiring the right to such a benefit and when he or she reaches the retirement age. In the first period of application of seniority pensions, the financial consequences of their introduction would constitute a very serious burden for the public finance system. In the second year of application, the budget subsidy to the Social Insurance Fund would have to increase by over PLN 12 billion. It is therefore difficult to expect the authorities to decide on such a step during the economic crisis caused by the coronavirus pandemic. For this reason, it seems justified to recommend that trade unions soften their stance on the conditions for acquiring the right to a seniority pension. Limiting the circle of persons entitled to a seniority pension to insured persons with 40 years of insurance seniority for women and 45 years for men or 40 years for both genders would be definitely less burdensome for the public finance system. It would also be less costly for the public finance system to gradually reduce the entitlement period for a seniority pension from 40 to 35 years for women and from 45 to 40 years for men. Apart from the high costs of seniority pensions, other arguments against the introduction of this proposal will be used in discussions with social partners and the government. First, that in

Poland, after the changes introduced in 2017, the retirement age is already significantly lower than in other EU countries. Secondly, that in the defined contribution pension system, early retirement contributes to a reduction in the pension benefit as a consequence of the reduction of the benefit assessment basis (contributory contribution) and the extension of the average period of drawing a pension. Thirdly, even in the old pension system, which was generally regarded as favourable to insured persons, seniority pensions were available only to two occupational groups: (1) miners (who retained this possibility also in the new pension system) and (2) teachers (who in the new pension system were given the opportunity to obtain the right to the so-called teachers' compensation benefit before reaching retirement age). It is worth being prepared to deal with these arguments.

Most of the above arguments could also be applied to the proposal, put forward for many years by the largest trade unions in Poland, to give up the so-called ‘bridging pensions’. The bridging pension is a benefit aimed at mitigating the social effects of eliminating in the new pension system the opportunity for employees working in special conditions or performing work of a special nature to retire at a reduced age. It is of an expiring nature in the sense that it is addressed exclusively to those employees covered by the new pension system who began performing work in special conditions or of a special nature prior to the commencement of the pension reform, i.e. before 1 January 1999. Employees who began performing such work after that date are subject to the basic retirement age. The Constitutional Tribunal held that the expiring nature of the bridging pension does not violate the constitutional principle of equality, as it is in line with the aim of the pension reform, which was to eliminate the possibility of retiring before reaching retirement age. The purpose of the bridging pension, however, was to realise pension rights (so-called expectives), the acquisition of which had already begun before the pension reform. It appears that also in the case of bridging pensions, the economic crisis caused by the COVID- 19 pandemic is not conducive to abandoning the phasing out of bridging pensions. Its implementation would require either a significant increase in the amount of the contribution to the Bridging Pensions Fund, currently 1.5% of the basis of assessment, which would constitute a heavy burden for employers of employees working in special conditions or of a special nature, or a significant increase in the budget subsidy to this Fund, which in turn would burden the public finance system.

I believe that, in the current situation, trade unions in Poland should concentrate, first and foremost, on demanding changes to the pension system which aim to broaden the contributory

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base of the pension insurance system. I am referring here to the proposals, recently discussed in Poland, to stop excluding certain titles of insurance from coinciding with others. These proposals have a number of advantages from the point of view of trade unions in Poland. They increase FUS revenues. They contribute to the ordering of the labour market, i.e. to the elimination of incentives to use some of the cheaper, but less stable working arrangements. They implement equality of insured persons with regard to the conditions of being subject to pension insurance. They counteract the abuse of atypical forms of employment. They contribute to increasing the size of pension insurance contributions and, as a consequence, to increasing future pension benefits calculated according to the defined contribution formula. In the defined contribution system, only measures aimed at either increasing the individual contribution of the insured to the system or delaying the moment of their retirement can lead to greater adequacy of pension benefits. The implementation of the proposed changes in the regulation concerning the combination of insurance titles would make it possible to determine the revenue potential of the pension system and assess the financial reserves present in it. This would make it possible to implement, at least in part, the demands of trade unions concerning the easing of conditions for acquiring the right to an old-age pension.

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