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Social solidarity in pension insurance

Principles of solidarity and social solidarism are characterised by separate personal scopes, sources of financing, instruments and the scale of the redistribution and historically shaped degree of social acceptance necessary for their accomplishment. Solidarism promotes mutual assistance and charity. In contemporary times it is reflected in social protection and social assistance systems. It is based not on the fact of work (employment) but on civil and human rights. Solidarity in the pension insurance is not based on charity but on the rationality of the replacement of individual precaution with a group precaution which finds its basis in the actuarial calculations. It is based on the joint responsibility and joint action of persons exposed to the same risks, who form the insurance community of risk. The fundamental paradigm of the system of the insurance solidarity is the redistributory function. The scope and the scale of the redistribution within pension insurance depends on the structure of the contribution, the form of the organisation of the compensation fund and the form of the benefit. The restriction of the redistribution weakens the realisation of the principle of the social solidarity within pension insurance.

Key words: benefit form, compensation fund, contribution structure, pension insurance, solidarism, solidarity

Submitted: 18.3.2019
Accepted: 27.11.2019

DOI: 10.32088/0000_2

Introduction

The fundamental paradigm of universal old-age pension insurance is the principle of social solidarity based on redistribution within the risk community, supplemented with the principle of social solidarism based on nationwide redistribution.

Social solidarity in the pension insurance is a gradable category, measured by the scale and scope of redistribution brought about by the specific method of financing the system. The insurance paradigm of social solidarity is extended or restricted through changes in: the structure of the pension contribution, the structure of the compensation fund or the form of the benefit. These changes may depend on economic, political and demographic factors, which strengthen or weaken the sense of social solidarity and affect the acceptance or lack thereof for this pension insurance paradigm, based on compulsory collective responsibility for the protection of the risk of old age.

The aim of the paper is to show how, through changes in the contribution structure, in the organisation of the insurance fund and in the pension benefit formula in different periods and to a different degree, elements of the social protection and the social assistance system were introduced to the pension insurance system, which changed the scope and scale of redistribution within these communities. These changes, destabilising the pension system, also undermined trust in the state and in social insurance institutions as guarantors of benefits payment.

Solidarity and solidarism in pension insurance

Each type of insurance is organised on the principle of solidarity. In pension insurance, it is supplemented by the principle of social solidarism. They together provide the population exposed to a specific random risk (survival to the retirement age) with social security, which involves the awareness of being guaranteed entitlement to pension benefit.

The principles of solidarity and social solidarism are characterised by separate personal scopes, sources of financing, instruments and the scale of the redistribution and historically shaped degree of social acceptance necessary for their accomplishment. Treating these concepts as synonyms is etymologically unauthorised and erroneous in the area of social security law.

Social solidarism is based on the assumption that the common interest of all people is more important than the individual goal of the individual. This socio-political trend emerged in the nineteenth century in France in opposition to the dominant liberalism, which recognised the primacy of individual interest over that of the community. Social solidarism grew out of Christian teachings and Christian values such as love thy neighbour, help for the weak and the poor. It promoted mutual assistance and charity.

Today, it is reflected in the social protection and social assistance systems and in the promotion of non-administrative activities (non-governmental, charitable and philanthropic organisations).[1]

Social solidarism prevails in countries that have chosen social protection systems. Social welfare institutions originating from earlier periods were expanded there. Social benefits are not based on the fact of work (employment), but are treated as an expression of civil and human rights. They are of a claim or discretionary nature. Their level is necessarily limited, which leaves room for private insurance.[2]

In countries with prevailing insurance systems, the idea of social solidarism is demonstrated primarily in state guarantees for the payment of pension benefits, in the payment of contributions from public resources for specific groups of people (*e.g.*, the unemployed, recipients of maternity allowances, persons caring for a sick family member) and in the systemic share of the state budget in insurance institution expenses.

The principle of social solidarity is the key principle in pension insurance. Due to its compulsory and universal nature and economic impact on the standard of living of a country's inhabitants, it is decisive for the preservation of the social and economic order.

Social solidarity involves the sense of togetherness and the cooperation of a relatively homogeneous community aimed at ensuring the social security of its members exposed to a certain risk. Thus understood, social solidarity in pension insurance is, in principle, based on the compulsory collective precaution, organised by the state in the form of a community of people who bear the risk of survival to the statutory retirement age, which is a random event characterised by the uncertainty of occurrence and the possibility of loss due to loss of income from gainful activity. Obligatory creation of the risk community is a guarantee of the ability of its members to bear insurance burdens. The members of the risk community jointly bear the costs of compensating for the economic effects of these events, *i.e.*, payment of benefits to people who have reached retirement age. The bigger the community and the more people incurring the costs of a particular risk, usually the smaller are the individual efforts of the insured person.[3]

The principle of social solidarity has its source in the rationality of replacing individual precaution with group precaution, which finds its basis in actuarial calculations. Phenomena that are unpredictable in the perspective of an individual are predictable for a given population (group) bearing the risk of specific random events.

Solidarity in the pension insurance is not based on charity, but on the obligation to contribute to the joint fund to qualify for the benefit. Joint responsibility and cooperation of the community consists in sharing, on the part of all its members, the costs of pension benefits paid only to those who reach old age, in accordance with the insurance principle "the majority finances the minority."

1 *Słownik języka polskiego*, Vol. 3, ed. M. Szymczak, Warszawa 1995, p. 255; *Wielki słownik wyrazów obcych*, ed. M. Bańko, Warszawa 2011.

2 See M. Orlicki, *Ubezpieczenia obowiązkowe*, Warszawa 2011, p. 34.

3 J. Jończyk, *Prawo zabezpieczenia społecznego*, Kraków 2006, p. 40.

The principle of social solidarity imposing an obligation to distribute the burden of benefits among the wider group of people covered by the old-age insurance is therefore a justification for its redistributive function.[4]

The scale and scope of redistribution become a "measure" of social solidarity, which is a gradable category. The insurance paradigm of social solidarity is extended or restricted through changes in: the structure of the pension contribution, the structure of the compensation fund or the form of the benefit. These changes may depend on economic, political and demographic factors, which strengthen or weaken the sense of social solidarity and affect the acceptance or lack thereof for the pension insurance paradigm, based on the compulsory collective responsibility for those who have reached old age.

Contributions paid to old-age pension insurance

As is emphasised in the subject literature, the principle of social solidarity refers mainly to the obligations of the beneficiaries of the system, and not to their entitlements. Thus, participation in the risk community and contributing to its financing should be assessed in the light of this principle.[5] The risk community is created based on the assumption that it includes members who are able and ready to bear, although to a different extent, the costs of protection against the effects of a particular risk. For the implementation of the principle of social solidarity, it is important to accumulate insurance capital in the form of contributions, because they are an instrument of internal (and external) redistribution within the pension system. Hence – in the aspect of solidarity – the assessment of the contribution should take place according to a uniform or non-uniform interest rate on a variable amount (with possible restrictions) of the assessment basis.

The uniform contribution rate results from the principle of social solidarity and ensures the adequacy of the insurance contribution to its income (and not to individual risk as in private insurance). On the other hand, the effects of the diversification of the contribution rate depend on the diversification criterion. For example, if it is an occupational criterion (manual workers, clerical workers) or a trade criterion (miners, seamen, railwaymen), then the scale of redistribution is reduced and the equivalence of contributions and benefits within an occupational (trade) community increases, but the level of social solidarity decreases for the entire community of insured persons. If the diversification depends on the legal status of the workplace (state-owned, local government, co-operative, private), the pension system becomes a tool for achieving non-insurance goals, such as weakening the private sector. The diversification may also depend on income, with contributions assessed, for example,

4 See *ibid*, pp. 39–41; M. Rymsza, *Redystrybucja i więziotwórcza funkcja ubezpieczenia społecznego a ewolucja systemu emerytalnego w Polsce* [in:] *Ubezpieczenie społeczne w Polsce. 10 lat reformowania*, ed. J. Hryniewicz, Warszawa 2011, pp. 298–300; ruling of the Constitutional Tribunal of 11 February 1992, K 14/91, OTK 1992, No. 1, item 7.

5 See J. Jończyk, *op. cit.*, p. 39.

according to a progressive scale. The system of progressive contributions involves an increase in the contribution rate in proportion to income increase and results in strengthening the solidarity effects and in income redistribution from high to low income groups.[6]

In Poland, the structure and nature of the insurance (pension) contribution has been frequently "manipulated" for purposes not related to the protection of social risks. For example, in 1949 the diversification of the contribution paid for manual workers (21.18-33%) and clerical workers (23.6-32.7%) was abolished, and the principle of diversifying contributions due to differences in entitlements to the benefits of individual groups of employees was withdrawn. At the same time, the amount of contributions was diversified depending on the sector of the economy in which the enterprise operated. The total amount of social insurance contributions was: 22% of the assessment basis – for state-owned and local government enterprises, 25.75% – for other public enterprises, 30.0% for non-public enterprises and individuals employing others.[7] In 1950, the total social insurance contribution from state-owned and local government enterprises was reduced to 21% and from other public enterprises to 25% of the assessment basis.[8] Hence, the social insurance contribution has become an ideological instrument for the redistribution of income from the private sector to the public sector, creating a higher profitability for the latter.

In 1951, separate contributions for individual social insurance branches were abolished. Instead, a single joint contribution was established, which increased redistribution within the insurance community between various risk groups, and at the same time strengthened the principle of social solidarity in relation to employees in the public sector.[9] At the same time, contributions to additional miners' insurance were eliminated, which triggered a permanent mechanism of redistribution of insurance funds (contributed by other members of the community) and non-insurance funds (mainly tax funds) in favour of persons employed in this industry.

As of 1952, the calculation of the contribution has been simplified, by providing that its assessment should be based not on the individual earnings of employees, but on the total payment of certain wage fund components. This solution was mainly addressed to public enterprises, because the majority of non-public enterprises and all individuals employing others continued to pay contributions in an individualised way, based on their earnings.

In 1955-61 the amount of contributions paid by non-public enterprises was diversified (15.5-30.8%), based on socio-economic criteria.

The actual amount of the pension contribution paid into a joint fund also depends on the amount of the assessment basis and on the determination of its components at

6 Such a system functioned, among others, in the United Kingdom in 1985.

7 The Act of 1 March 1949 on the amendment of certain provisions on social insurance (Journal of Laws No. 18, item 109); Regulation of the Council of Ministers of 8 March 1949 on the amount of the social insurance contributions (Journal of Laws No. 18, item 121).

8 Regulation of the Council of Ministers of 1 April 1950 on the amount of the social insurance contributions (Journal of Laws No. 14, item 132).

9 Regulation of the Council of Ministers of 10 February 1951 on the amount of the social insurance contributions (Journal of Laws No. 9 of 1951, item 70).

a full or limited rate, and then on the calculation of the contribution amount based on the whole or part of the basis defined in this way.[10] If there are no restrictions on the assessment basis and on the level of the benefit, significant disproportions emerge in the system, regarding the amount of pensions paid (minimisation of redistribution). If there are restrictions on the assessment basis and on the level of the benefit, the effect of pensions "flattening" (maximisation of redistribution) arises.[11]

As a result of the 1998 reform, one contribution paid from the wage fund has been replaced with four contributions for four types of insurance, including old-age pension insurance.[12] The pension contribution was later divided into two parts: a pay-as-you-go component, registered in an individual account kept by ZUS (the so-called first pillar) and a funded part transferred to an open pension fund and to a sub-account managed by ZUS (the so-called second pillar).[13]

As a result of these changes, the pension contribution in the new system is of a non-uniform nature, because an indivisible, undivided or divided contribution is paid, depending on the age of the insured person.[14] The indivisible contribution is registered on the individual account of an insured person born before 1 January 1949.

The undivided contribution is registered on the individual account of an insured person born after 31 December 1948 but before 1 January 1969, if such person has not made a declaration as to the division of the contribution.

The contribution divided into the pay-as-you-go and funded part is mandatory for insured persons born after 31 December 1968, and voluntary for insured persons born after 31 December 1948 but before 1 January 1969, if such a person has submitted the relevant declaration on joining an Open Pension Fund.

The divided contribution was initially paid to an individual account in Social Insurance Institution (ZUS) and to the settlement account in the Open Pension Fund. In 2011, the contribution under the funded scheme was divided: one part was registered in the newly created sub-account, another was credited to the settlement account in the Fund.[15] As of 2014, a part of the contribution payable to the Open Pension Fund is voluntary.[16]

10 For example, the Act of 13 October 1998 on the social insurance system (consolidated text: Journal of Laws of 2017, item 1777, as amended) introduced the maximum annual basis for calculating the disability and old-age pension contribution, which could not be higher than thirty amounts of the projected average monthly earnings in the national economy for a given calendar year.

11 The effect of benefits flattening occurs, among others, when the following are introduced: remuneration thresholds being the basis for the benefit assessment; interest rates differentiated according to thresholds, the maximum basis for the benefit assessment, the maximum limit of earnings included in the basis for the benefit assessment.

12 Act of 13 October 1998 on the social insurance system.

13 The sub-accounts have been created on the basis of the Act of 25 March 2011 on the amendment of some laws connected with the social insurance system operation (Journal of Laws No. 75, item 398).

14 This accurate terminology was introduced by J. Jędrasik-Jankowska in: *Pojęcia i konstrukcje prawne ubezpieczenia społecznego*, Warszawa 2018, pp. 58–60.

15 Act of 25 March 2011 on the amendment of some laws connected with the social insurance system operation.

16 Act of 6 December 2013 on the amendment of certain laws in connection with the establishment of rules of pension payment from funds accumulated in Open Pension Funds (Journal of Laws item 1717, as amended).

Such a division of the pension contribution has not only organisational and financial, but also insurance effects. This is due to the fact that the insured persons are divided into three groups, one of which accumulates pension rights only in an individual account, the second – in an individual account and sub-account, while the third – in an individual account, in a sub-account and settlement account (until the end of the so-called “security slide” action).

Contribution amounts registered in the individual account and in the sub-account of the insured person are then subject to indexation according to non-uniform methods. Contributions indexation (annual, quarterly) in an individual account in ZUS is based on an index of changes in consumer goods and services. On the other hand, indexation of contributions in the sub-account in ZUS is based on the average annual dynamics of the value of gross domestic product. The first index is used to alleviate the effects of inflationary price increases and to counteract the fall in the purchasing power of the “input” of the insured person. The second index is used to provide the insured person with a share in the economic growth.

The fact that contributions are registered in different accounts, has a different effect on the assessment of the pension calculated in the defined-benefit formula (indivisible contribution) or defined-contribution formula (divided and undivided contribution). The pension calculated on the basis of the indivisible contribution depends on the employment period and earned income of the insured person, while the pension calculated on the basis of the divided and undivided contribution depends on the total amount contributed and the average life expectancy.

As a consequence, pension benefits paid by ZUS vary in the scale of redistribution and social solidarity, which – in terms of old age protection– is implemented to the fullest extent in the indivisible contribution system.

Old-age pension insurance fund and the principle of social solidarity

Financing of pension benefits may be of an insurance, social protection or mixed nature, because its structure is based on the principles of social solidarity or social solidarism. These choices are also reflected in an extra-budgetary pension fund or pension fund merged with the state budget, separated or not from the insurance finances.

If the risk of old age is financed from a separate pension fund, the social solidarity covers as a rule only the community of this risk. In formal terms, such a situation took place in 1945-1949, when the following funds existed: manual workers' pension fund, clerical workers’ pension funds, clerical workers’ material protection fund, material protection fund for employees of enterprises with organisational and financial autonomy. In practice, these funds were net linked to the state budget, and the shortages of the manual workers‘ pension fund were covered by the financial surplus of the clerical workers' pension fund and of the surplus in insurance against accidents at work and occupational diseases.[17] In this way, through the mechanisms of redistribution, the principle of social solidarity covered communities of other risks, and through guaranteed subsidies from the state budget, the pension system was also based on the idea of social solidarism.[18]

Due to systemic factors, in certain periods the social solidarism prevailed over the principle of solidarity in pension insurance. This was reflected, among others, in organisational and financial solutions in social insurance in the years 1951-1967.[19] Insurance funds were incorporated into the state budget (totally or partially), but social insurance contributions retained their tax nature, which meant that the pension system had both insurance and social protection elements. At the financial level, it was possible that contribution income exceeded expenditure on benefits or that this expenditure exceeded contribution income. In the first case, the financial surplus was used in budgetary policy for general social (economic) purposes. One could call it the external redistribution, from the pension risk community to the whole society, when "the minority financed the majority". In a situation of a shortage of funds in pension finances, budget revenues (mainly tax) were redistributed to the risk-of-old-age community and "the majority (taxpayers) financed the minority (beneficiaries)". In both situations, the scale of redistribution based on the principle of social solidarity was growing as it went beyond the pension risk community.

Separated funds, from which pension benefits were financed, also functioned in the years 1965-1986. In 1965, the Social Insurance Fund for Craftsmen was established, in 1966 – the Social Insurance Fund for Certain Population Groups, and in 1968 – the extra-budgetary Pension Fund.[20] In 1972, the voluntary pension insurance fund of clergy – members of the Catholics' Association "Caritas" was incorporated into the Pension Fund. In 1977, the Craftsmen Fund and the Fund for Certain Population Groups were also incorporated into the Pension Fund, which at the same time repaid to the state budget a loan previously taken out by the Craftsmen Fund. In 1987, the Pension Fund was liquidated and its assets and liabilities were taken over by the newly created Social Insurance Fund.[21] It was a special-purpose, extra-budgetary fund in which the social insurance finances, previously included in the Pension Fund and the state budget, were merged. Its establishment deepened the processes of redistribution within the social insurance, including the old-age pension insurance, with the simultaneous extension of the scope of solidarity to the old age risk groups of different socio-economic nature. This fund has been liquidated

17 *Wybrane źródła i literatura do obowiązującego prawa finansowego*, ed. L. Kurowski, Toruń 1949, p. 608.

18 The State Treasury has been subsidising the pension system to a certain extent, and at the same time could use its deposits.

19 The Act of 2 January 1950 on the Social Insurance Institution (Journal of Laws No. 36, item 333).

20 Regulation of the Council of Ministers of 19 June 1965 on the establishment of the social insurance fund for craftsmen (Journal of Laws No. 26, item 173); Regulation of the Council of Ministers of 28 December 1966 on establishment of the social insurance fund for certain population groups (Journal of Laws of 1967, No. 1, item 2), the Act of 23 January 1968 on the Pension Fund (Journal of Laws No. 3, item 7).

21 The Act of 25 November 1986 on the organisation and financing of social insurance (Journal of Laws No. 42, item 202).

as of 1 January 1999, and its monetary resources, claims and liabilities were taken over by the pension fund separated from the Social Insurance Fund.[22]

This separation serves the purposes of internal settlement and financial documentation in the pension system.[23] According to Art. 55 of the Act of 13 October 1998, the Pension Fund is used to finance old-age pensions, expenditure to cover the shortage of funds necessary to ensure payment of pensions under the funded scheme, pensions under the funded scheme, guaranteed funds and lump-sum payments determined based on contributions recorded on the sub-account.

Pension contributions recorded on individual accounts and sub-accounts are the source of financing payments from the Pension Fund (in fact, ZUS is required to guarantee and pay the benefit, not the Pension Fund). They have the form of an electronic record that reflects the share of the insured person in creating the pension risk fund. The right to the resources of this fund is in principle acquired only when the risk materialises and the statutory conditions are met. At the same time, the beneficiaries of this fund may include divorced spouses, heirs or beneficiaries indicated by the insured person (in the event of death), *i.e.* persons from outside the risk community. Payments to these persons are contrary to the paradigms of social pension insurance, and they change the content and function of the pension fund. Therefore, the individualisation of accounts and its socio-economic effects undermine advantages of creating the joint fund to cover the risk of old age. Payments made to third parties (outside the risk community) obviously violate the principle of social solidarity of insured persons.

The old-age pension formula and the principle of social solidarity

The old-age pension formula is the principle of creating pension receivables, which determines the connection of the benefit with the previous input to the compensation fund (contribution, employment period). In the model approach to income protection in old age, the defined-benefit formula and the defined-contribution formula is distinguished.

The defined-benefit formula (DB) is based on the collective and not individual nature of pension system equivalence, because there is no symmetry between the contribution of a member of the risk community and the benefit obtained. The sense of social solidarity is expressed in asymmetry, because "everyone contributes to the creation of the pension fund, often to an unequal degree and for longer or shorter periods, but compensation is paid only to those who have suffered damage."[24] Contributing to a joint fund is not

22 Art. 116 of the Act of 13 October 1998.

23 No separate bank accounts are kept for any fund separated from the Social Insurance Fund.

24 J. Jończyk, *op. cit.*, p. 40.

a process of individual "saving for old age," but a compulsory obligation to accumulate entitlements to secure income after cessation of gainful activity through the payment of resources from this fund in the form of a benefit defined by law.

This formula, supplemented in practice with elements of social solidarism, has been a lasting and dominant solution in the pension system for several decades. The structure of the benefit has been modified many times, often in violation of the principle of social solidarity within the risk community or between communities, *e.g.*, by introducing excessive disproportions between contribution and benefit for specific occupational, age, trade groups, which resulted in the discrimination of one group or in the abuse of benefits by another. Manipulating the defined-benefit formula (especially for non-insurance purposes) infringed the interests of members of the risk community, weakened acceptance of the scale of redistribution and the implementation of the social solidarity principle in financing pensions and resulted in the willingness to escape from "compulsory insurance."

The formula of the defined-contribution benefit is based on compulsory investment (in the case of the defined contribution [DC]) or compulsory saving (in the case of the notional defined contribution [NDC]). In the first case, the benefit depends on the current market value (price) of assets accumulated on individual accounts. In the second case, the benefit depends on the total amount of contributions paid to an individual account after indexation.

Pension benefit based on the DC and NDC formulas is the quotient of the total amount of funds accumulated on specific individualised accounts and the average life expectancy of the person at the time of retirement.

The defined-contribution formula started to apply from 1 January 2009. It is used to calculate, for those insured persons born after 31 December 1948, the amount of the old-age pension at the statutory retirement age.[25] The legislator allowed the possibility of calculating the pension according to the defined contribution formula also for insured persons born before 1 January 1949, if despite acquiring the pension rights (according to the defined-benefit formula) they have not claimed the benefit before 1 January 2009. The use of the defined-contribution formula in fact eliminates the principle of social solidarity in pension security, because the system is based on the domination of compulsory individual precaution (based on coercion of saving and investing) over the collective precaution (based on the creation of a common compensation fund).

Distribution processes consist in the use of uniform tables of average life expectancy for women and men, which increases the benefits for women by about 15%, and reduces men's pensions by about 13%. At the same time, the scope of the social solidarity principle has been reduced as a result of the narrowing state guarantee (*inter alia* in respect of minimum pensions).

25 In addition, pensions acquired pursuant to Art. 184 of the Act of 17 December 1998 on pensions from the Social Insurance Fund (Journal of Laws of 2017, item 1383, as amended).

Conclusion

Limiting the principle of social solidarity in pension insurance through the specific structure of the contribution, of the fund and the benefits gives rise to reasonable doubts regarding the implementation of the constitutional right to social security after reaching retirement age, based by the legislator on the pension insurance system and not on social protection and social assistance itself.

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Solidarność społeczna w ubezpieczeniu emerytalnym

Zasady solidarności i solidaryzmu społecznego charakteryzują się odrębnymi zakresami podmiotowymi, źródłami finansowania, narzędziami i skalą redystrybucji oraz historycznie ukształtowanym stopniem akceptacji społecznej dla ich realizacji. Solidaryzm promuje wzajemną pomoc i dobroczynność. Współcześnie znajduje odzwierciedlenie w systemach zaopatrzenia społecznego i pomocy społecznej. Opiera się nie na fakcie pracy czy zatrudnienia, a na prawach obywatelskich i prawach człowieka. Solidarność w ubezpieczeniu emerytalnym nie bazuje na dobroczynności, ale na racjonalności zastąpienia przezorności indywidualnej przezornością grupową, co ma podstawy w matematyce aktuarialnej. Opiera się na współodpowiedzialności i współdziałaniu osób narażonych na takie same ryzyka, które tworzą ubezpieczeniową wspólnotę ryzyka. Podstawowym paradygmatem systemu solidarności ubezpieczeniowej jest funkcja redystrybucyjna. Zakres i skala redystrybucji w ubezpieczeniu emerytalnym zależy wówczas od konstrukcji składki, formy zorganizowania funduszu kompensacji oraz formuły świadczenia. Ograniczenie redystrybucji w obrębie wspólnoty ryzyka osłabia realizację zasady solidarności społecznej w ubezpieczeniu emerytalnym.

Słowa kluczowe: formuła świadczenia, fundusz kompensacji, konstrukcja składki, ubezpieczenie emerytalne, solidaryzm, solidarność