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Tomasz Sowiński*

DEREGULATION AS A METHOD TO SOLVE THE PENSION INSURANCE FUNDING PROBLEM

Abstract

The author attempts to answer the question: can deregulation be a method to solve the problem of pension insurance financing?

Pension insurance models and systems in EU member states since the 1970s, have shown increasing financial inefficiency, increasingly threatening the sustainability of public finances.

At the same time, it is worth emphasizing that it is the financial sector and public finances that play a key role in solving socio-economic problems, and therefore social policy issues, including pension security.

So, can deregulation be a method to solve the problem of pension insurance financing?

* PhD, assistant professor at the Department of Financial Law at the Faculty of Law and Administration of the University of Gdańsk. An academic teacher since 1991. Author of 2 books, co-author or co-editor of more than 20 books and of over 170 publications in the field of financial law, insurance, pension security, local government system and finance, EU's regional policy, environmental protection and water management. Member of Information and Organization Centre for the Research on the Public Finances and Tax Law in the Countries of Central and Eastern Europe, Polish Social Insurance Association and Vistula Institute.
Contact email: tomasz.sowinski@prawo.ug.edu.pl; ORCID: 0000-0002-4137-1209.

Due to the limited size of the publication, the author will briefly characterize selected models of pension security financing. The problem of pension security in the European Union will also be presented, followed by the basic problem of pension finance, which is its structural debt. It is due in part to the exhaustion of the possibilities of the pay-as-you-go model, and in part to the demographic problem, which has been demonized beyond measure. Above all, however, it is due to a three-generation conceptual stagnation and reliance on 19th-century solutions, which, like other items from that period, are relics to be rightly admired, as part of the development of human thought, rather than applied almost 140 years later, in the third century since their inception.

Finally, an outline will be given of the concept of deregulation of the pension system and, at the same time, the empowerment of citizens of countries that would adopt such a solution.

Deregulation in itself is not a solution, but rather an element of the broader concept of healing the pension security of citizens[1], the application of which could solve the existing problems of pension insurance finances. In the author's opinion, it is worth devoting a moment of scientific reflection to this issue.

Keywords: Public finance, deregulation, social security, pension insurance, repartition (pay-as-you-go), European Union.

JEL Classification: H 55, H 60, J 88

1. Introduction

Social insurance is the most widespread form of state care for citizens. They signify a form of financial involvement of citizens, who, in return for the insurance premiums paid during their working life, are to receive a benefit upon reaching retirement age, based on the type, nature, size of the premium and the period of its payment. Over time, this form has lost its original character, swelling with a huge number of additions, especially on the benefit side. Also the accumulation of funds, their management and savings processes, which have often gone to the point of absurdity, are not free from numerous interferences.

Social insurance is compulsory and public in nature. The state, and on its behalf specialized institutions, most often public, dispose of the funds of the insured.

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1 Deregulation is one of the methods of implementing the concept of social security empowerment, and the solutions provided in it apply to it, so the author presents it based on and on the basis of this concept, which the study is in: [Sowinski 2019].

Coerciveness is one of their main features. It manifests itself through a feature often accentuated in the literature, which is automatism, by some authors equated with the institution of the emergence of the insurance relationship ex lege [Liszcz 1997: 23,24], or independence from the will of the parties, the insurance relationship [Warkallo 1974: 173]. This feature arises from the compulsory nature of pension insurance, and therefore is a consequence of the principles that construct this system [Kosikowski 1986: 188].

Modern social insurance as the beginning of which should be considered sozialversicherung – universal pension insurance, introduced by Otto Eduard Leopold von Bismarck-Schönhausen in 1889, is now nearly 140 years old. The concept has dominated most of the solutions in this area, and it is still, in its original or modified form, the basic or at least one of the basic elements of current social security "systems" [Sowinski 2019: 9].

Since at least the mid-1970s, the ways and effects of carrying out the task of social security have created many problems, especially in terms of public finances. This can lead to the insolvency of states and cause financial crises. It therefore becomes legitimate to ask what is the point of using this concept if it raises so many problems. On the other hand, the question arises as to why another more effective and conducive to the sustainability of public finances, pension system has not been proposed? Answering these questions, however, is beyond the scope of this paper.

Thus, what is left is the necessity to face the 19th century solution to the problems, the duration of which already runs into the end of the 21st century.

2. Selected models of pension security financing

2.1. Pension insurance – beginning

The assumptions underlying the construction of the first social security models stemmed from three premises:

1) a high level of employment, allowing anyone qualified and able to find work;
2) the possibility of permanent, full-time, long-term employment for every able-bodied laborer (preferably with a single employer); and
3) to obtain wages sufficient to ensure an adequate standard of living for the worker and his family members[Schulte 1999: 207–292].

These premises were already in the 1970s, undermined not only by demographic and economic conditions, but also by social, cultural and international conditions [Kaufmann 1997].

In the classical approach, three methods of implementing social security can be distinguished: welfare (assistance), provision and insurance [Piotrowski 1966: 163; Muszalski 1999: 84; Ofiarski 2023: 696]. Techniques growing out of the three different principles: welfare, insurance and provisioning, are generally presented in their idealistic form, as guiding principles, in their pure form, in which they are not encountered in reality [Piotrowski 1966: 164].

The third collateral method is the insurance method. It is the most widely used, although it has many forms and detailed solutions that differ from each other.

The process of creating modern social security systems in Europe was dominated by two concepts, often referred to as Bismarck's and Beveridge's.

It should be said that the vast majority of these forms derive, or at least allude to, one of these two concepts of pension insurance.

2.2. Bismarck model – insurance, pay-as-you-go

One is the concept of so-called Bismarck's insurance, based on the connection between insurance and employment, with proportional determination of contributions, and later pension benefits, in relation to the salary received. It is open to non-state institutions, especially in maintaining income levels and securing an adequate standard.

The Bismarck's concept shaped the pension system categorically (employee insurance) and was basically aimed only at those in an employment relationship.

In the Bismarck's concept, in terms of guaranteeing an adequate income to ensure an assumed standard of living, the role of the state is less than that of non-state institutions.

The primary source of funding for pension benefits is income from contributions derived from the wages of insured workers.

2.3. The Beveridge model – insurance, pay-as-you-go

The second is Beveridge's concept characterized by the universality of insurance categories. According to this concept, the state seeks to construct an insurance model designed to provide the widest possible part of the population, when they reach retirement age, with a subsistence calculated at the level of minimum needs. The source of funding is taxes or tax-like contributions. The state leaves the remaining, above the minimum, possibility of obtaining a benefit to individual social foresight. However, it often creates a legal framework for such arrangements. The most common is so-called employee insurance. A characteristic and inherent element of this model is "unemployment" insurance, the cost of which is borne by the state. As a consequence of the famous report: The Beveridge Report November 1942, Social Insurance and Allied Services [Beveridge 1942], insurance was introduced to cover those who are temporarily unemployed, resulting in the payment of social security contributions during this period. This makes it possible, in effect, for the insured from unemployment, to receive a retirement benefit, after reaching an appropriate age, which, especially in the case of long-term unemployment, he could not receive at all or would be insignificant.

According to the Beveridge concept, universal solutions (state insurance) were built, providing a minimum subsistence for the elderly, financed by taxes or tax-like contributions.

In the Beveridge concept, the state dominates universal pension solutions designed to protect against destitution by providing a minimum income. In contrast, the role of non-state institutions is to act to raise the size of benefits. This is to ensure a higher standard of living [Sowiński 2009: 273].

In the basic part of the sources, the financing of pension benefits in Beveridge's concept is based on income from contributions, although they are somewhat similar in nature to a tax.

It is also necessary to distinguish "unemployment insurance", which, because of state funding, is similar in nature to the provision model, although it can also be considered that we are dealing with insurance, for the benefit of a third party, so nevertheless with insurance. However, this is an important element but complementary to the pension system.

2.4. The Danish model – social security

In contrast, the financing of the social security concept (rarely occurring) is based on the resources of the state budget.

An example of such a solution can be found in Denmark where solutions of the nature of universal pension social security supplemented by occupational pension plans are used. They are based on the affiliation of national residents to the universal pension provision and the mandatory participation of employees in company pension plans. In order to receive a full pension, one must be a resident of Denmark for a minimum of 40 years (between the ages of 15 and 67), while in order to receive a supplementary pension in the system of occupational pension plans, payment of all contributions due is needed [Szumlicz 2002: 262–371], the benefit is supplemented for the payment of pension benefits by 50% from budget funds.

The pension benefit is definitely social security in nature and does not depend on previous salaries. Only the period of residence (residency) in Denmark is important. The pension benefit, to a basic extent, is financed from budget funds under the defined benefit formula. This is undoubtedly the most social approach to the problem of pension financing among all EU member states.

It should also be noted that this is one of the more stable and strongly socially accepted pension systems in Europe.

2.5. The capital model

The so-called capital model, on the other hand, is based directly on the application of the principles of private insurance (business insurance), whose method of operation and calculation of costs, margins and proposed effects (future pension benefit), is derived from the application of the insurance method in commercial terms. The state only imposes certain restrictions, intended to protect the interest of the insured. This is the model preferred by many economists because of its relative simplicity, independence from the state apparatus, whose role is limited to defining insurance rules (laws) and supervision.

A good example of the application of this model are the countries of South America [Sowiński 2016 No. 1 (4): 1-14; [Sowiński 2016 No. 1 (4): 15–26]. The reduction of state interference, as an institution, also reduces the interference and generally destructive influence on pension insurance models, from the political sphere. This position of the model also results in a much smaller link between the pension insurance fund(s) and the state budget. Unfortunately, this is only an idealistic vision, as in countries where such a model has been introduced, such as in many South American countries, this independence is not at all greater than in those countries with pay-as-you-go models, and the influence of the political sphere can hardly be considered less.

2.6. The concept of the pillar system

Another concept – the pillar system – is a compilation of different methods of financing and managing funds held in insurance funds, which is intended to result in diversification of insurance risks and how and where the funds are managed.

The country in which this concept has been introduced, and which has described it as an "ideal account", is Sweden. although it should also be noted that the abandonment of this system is currently being considered, possibly in favor of the Danish concept. However, for the time being, Sweden has successfully implemented such a system, and it has been in force in the country for many years.

It should also be noted that a systemic solution to the problem of pension insurance was also recommended by the World Bank, especially after the development and publication of the famous report: "the old age crisis" [World Bank Report 1994]. The crisis, as defined by World Bank experts, turned out to be a real and rapidly growing one. It affected all countries regardless of the state of their wealth and degree of economic development, as well as the level of sophistication and the current pension insurance system, especially since even in the new solutions, at least the first – the basic pillar of pension insurance was pay-as-you-go [Sowinski 2008: 126–150].

It is possible to present the assumptions of this system as an attempt to diversify the insurance risk on the one hand, and the risk associated with the capacity of the sources of raising funds and securing them effectively, on the other. Under the assumptions of this system, from the first pillar, of a pay-as-you-go nature, the insured obtains funds that give them a chance to live on in retirement in the basic range of needs. The second pillar, of a capital nature, is designed to accumulate and manage funds that, “added” to the funds obtained from the first pillar, will enable a higher standard of living for the retiree than the state-guaranteed benefit from the first pillar. On the other hand, the funds obtained from the third pillar, voluntary and commercial, although also containing some incentives for the insured to engage also in the third pillar, which is supposed to ensure a life in retirement, almost “prosperous” not to say at a high above average standard.

However, this is only a verbal idea, which may not necessarily be the case in reality. A good example of this is Sweden and Poland, i.e. a wealthy country that has fully applied the idea of how the various pillars work. Poland, which implemented the three-pillar system when it was struggling with the financial crisis and where the society was at least three times less affluent, corrected the principles of operation of the individual pillars, for example, covering the state guarantee not the first pillar as in Sweden, but the sum of the benefits from two pillars, which basically ruled out for the majority of the population obtaining a benefit not only above average, but even average, taking into account the state finances and the degree of affluence of the society. Above that, the less affluent society was far less involved in the third pillar, with the result that most of the insured remained at a level close to the minimum pension.

This is an important lesson to the creators of pension models and systems, that they cannot be over -theorized and detached from the reality of the country and society to which they are dedicated.

3. Pension security in the European Union

3.1. System without system

It can be argued that there are no solutions typical of the European Union [Żukowski 1997: 169]. There is also no uniform standard for pension systems [Szczepański 2003: 92]. Since there are no typical solutions, one should look for typical directions of change.

They can be seen in the pursuit of a certain common goal, including the unification of the European Union’s pension insurance law, although this goal will be pursued by individual countries from completely different positions.

It seems that at this stage it is possible to speak not so much about the existence, but rather about the process of creating an EU concept (vision) of pension security [Czepilis-Rutkowska 2005: 376]. Such typical directions of change can in fact be observed in the European Union [Szumlicz 2002: 374].

There have been calls for the unification of pension systems in the countries of the European Union, and even earlier in the EEC, however, quite long discussions on this subject led to the conclusion that this is not necessary within the framework of economic integration. The author has, it seems to him, reasonable doubts about this.

Due to the great diversity of conditions and solutions in the various countries of the European Union, the unification of pension insurance was even considered unfeasible. However, this does not mean that absolutely nothing has been done. European social law is, for the time being, an undefined vision, and social Europe needs a semantic compromise primarily between the national interests and ideologies of the member states [Stahlberg 1997: 5], but the European Union's acquis has influenced the shaping and reshaping of many areas in individual countries, including pension security solutions [Sowinski 2009: 274].

In any case, social security systems in Europe, including (except in Denmark) pension insurance, have been shaped over different periods of time, under different social and economic conditions, as well as in societies with different traditions, cultures and views. The current pension security solutions in place in the various member states of the European Union, differ greatly from each other, as to the specific standards and legal solutions operating in different cultures and legal systems, and are often anchored differently in the legal and social space of these countries. This results in the fact that proposing a unified model, or even a whole system of pension security, would require many years of implementation burdened with great costs and a significant scope of transformations, not only of pension law.

3.2. Coordination principles

The basic problem worth considering is whether the European Union has, and should have, any pension system at all, since it is not a state, but only an international organization grouping states.

Another issue is the ever-increasing unification of the EU's legal status, which, in the case of pension security, is served primarily by coordination directives. However, they do not so much unify the legal state as build bridges and spaces of cohesion between the pension systems of individual EU member states.

The best desirable shape of pension security in the EU is presented by the objectives of open coordination, and so far the regulations on coordination of social security benefits and operation of occupational systems can be treated as a kind of implementing regulations in relation to open coordination, which may change, especially in the context of the decision to deepen integration within the European Union[Czepilis-Rutkowska 2005: 376].

The coordination principles include:

1. the principle of unity of applicable legislation,
2. the principle of equal treatment,
3. aggregation of periods of insurance, employment and residence,
4. transfer [export] of benefits [Regulation 883/2004]

The aforementioned principles on which the regulation is based cannot quite be equated with the provisions constituting prerequisites for the acquisition of specific benefits of EU citizens. They seem to be outside the scope of standardization by EU law, being, in fact, conflict rules that allow to determine the appropriate national legal system for determining the prerequisites for the acquisition of the right to benefits and the criteria for calculating its amount [Tomaszewska 2011: 129].

Having the principles of coordination of pension systems of EU countries, as well as relying on common values and the dominant role of individual countries in solving the problem of social security of citizens, is precisely the peculiar distinctive feature of the approach of the European Union to the problem described [Golinowska No. 11/12: 3–14].

4. The basic problem of pension finance – structural debt

4.1. Exhaustion of the possibilities of the pay-as-you-go model

The pay-as-you-go model (and its success) is based, on four premises, namely: high and long-term employment, high replacement rate, high contribution income and "moderate" pension spending [Sowinski 2019: 81–95].

All of these factors were present in 1889, while at most the last one remains in the current period.

This means that the pay-as-you-go model has lost the basis, let me use the word – foundations, of its proper functioning. Given the degree of changes that have affected the said foundations, the pay-as-you-go model has lost any raison d'être for its continued existence [Sowinski 2023: 422–435]. From being an economic perpetual motion machine in 1889, it became an economic catastrophe in 1989 [World Bank Report 1994], and since then the condition has steadily deteriorated, and financial forecasts illustrate a veritable Armageddon. The author took the liberty of a little "poetry" in presenting the condition of the pay-as-you-go model in order to emphasize the importance of the current state of affairs, especially taking into account the fact that the pay-as-you-go model is still the basis for the functioning of most pension systems of the European Union member states and not only theirs.

4.2. The demographic problem, truth or excuse

For years, or rather decades, the growing demographic problem has been widely emphasized, which, affecting the reduction of the so-called "replacement", is causing the increasing insolvency of the pay-as-you-go model. Many, often quite controversial, measures are being taken to address this problem and reverse the downward trend in population growth. However, the counterbalance, which acts not to stabilize, and even exacerbates the divergence in the demographic system, is the ever-increasing length of human life [Sowiński 2024: 49–67].

Table 1. Population in Poland by economic age groups (in thousands); state at the end of the year – definitions of economic age groups in 2015–2060

Economic age group	Year						Notes
	2015	2020	2030	2040	2050	2060	
Total population	38 490	38 346	37 403	36 108	34 696	33 126	–
Pre-working age	6 959	6 954	6 233	5 561	5 499	5 230	–
Working age	24 020	22 818	21 569	19 976	17 427	16 029	–7 991
Post-working age	7 511	8 573	9 610	10 570	11 769	11 867	+4 356
Notes	–	–	–	–	–	Difference in millions	12 347

Source: Demographic forecast EUROPOP 2013(main scenario), notes – Calculations attached by the author

Conclusions from the contents of Table 1 can be indicated as follows:

1. the "total population" data shows that the population in 2060 will be 5,364,000 fewer than in 2015.
2. the number of people of working age will decrease by 7,991,000 during the period under review.
3. the number of people in the post-working age period will increase by 4,356,000.
4. in the context of the aggregate difference in population between these groups (points 2 and 3) indicating changes in the proportion affecting the replacement rate, the difference will be 12,347,000 people. Therefore, it can be indicated that the relationship will worsen dramatically changing the financial situation of the Pension Fund.
5. the number of people of pre-pension age will decrease in a significant way, which means the tendency to deepen the pattern indicated earlier [Sowiński 2024: 49–67].

Projections describing the aforementioned trends are unequivocally negative, and this with the issue of drastically decreasing the degree (ratio) of replacement, and thus also the gap between the sum of revenues of pension funds in pay-as-you-go models and the sum of the necessary projected expenditures from these funds to meet the needs of the pension benefits paid [Sowinski 2023: 422–435].

Thus, demography is a significant problem for pension systems, but those based on a pay-as-you-go insurance model!

It provides a kind of "excuse" for the ruling elite responsible for the operation of pension models and systems, for proposing further changes in their current operation, which are disadvantageous to the insured.

On the other hand, it is not true that this is an impossible problem to repair! However, this repair is to be based on proposing a completely new solution for pension security, resistant to demographic problems, and not on constantly improving the functioning pay-as-you-go models. This correcting has long since reached the end of reasonable solutions and is increasingly like trying to stir in an empty cup in which there is not only sugar, but also tea, water and even the bottom.

5. Deregulation and citizen empowerment

Citizens-insured-beneficiaries of the pension system have no influence on the manner and form, as well as the effects of its successive changes, which generally, arouse a high degree of dissatisfaction, from the size of this benefit to state coercion. In this system, the citizen is treated as an object and not as a beneficiary.

In the author's opinion, first of all, an attempt should be made to identify possible, with the characteristic of reality, directions of development, actions aimed at creating and implementing a pension system: self-sustainable, resistant to the fluctuations of demographics,

In the author's opinion, first of all, an attempt should be made to identify possible, with the characteristic of reality, directions of development, actions aimed at the creation and implementation of a pension system: self-sustainable, resistant to the fluctuations of demography, providing beneficiaries with an adequate level of benefits, budget-friendly and protected from the destructive actions of the so-called political sphere [Sowinski 2019: 12].

To date, the actions of various countries have tended to increase regulation and the influence of the state apparatus on modernized social security models and systems. They have been happening in the mistaken belief, according to the author, that the more the state, the more it "controls" the system and the fewer opportunities for its malfunction. Of course, this was also related to the decreasing influence of citizens on the system and its rules. The citizen, who was formally the beneficiary of the introduced solutions, had no influence on them, and numerous demonstrations and political upheavals proved that he generally disagreed with these changes.

The opposite solution of giving back at least to a greater extent, if not completely, to the citizen himself the right to decide, or at least to choose from among the various proposals, how he will secure his future, has not been proposed so far.

Such a solution was considered completely unrealistic, but it must be made clear that this assessment was largely due to the fact that it left those in power with the problem of raising funds to pay the benefits already due during the so-called "transition period," and solving this problem exceeded their perceptive capabilities and required unconventional solutions for which they were unwilling, or rather afraid (and are still afraid) to take responsibility.

5.1. Deregulation precisely planned

Given that the state is obliged to provide pension security for its citizens, and that it will do so either directly or indirectly, with money raised from them, it is first necessary to solve the problem of doing so in a way that interferes as little as possible with the sphere of their rights and freedoms.

It would also be desirable that the construction of the pension security model be as simple as possible, with clearly formulated rights and obligations of the parties and corresponding financing rules. Consequently, also the responsibility for the performance of certain tasks, or their non-performance or improper performance.

For the sake of social and even existential security, although only in its material aspect, consisting in the provision of adequate means of subsistence, after reaching retirement age and the cessation of citizens' professional activity, the new legal solutions proposed to them should be introduced. It will define the standards of such pension security and its legal and financial framework, the fulfillment of which will satisfy the constitutional right to pension security.

There should also be a procedure for reporting the achievement of the legally required state of security, which can be defined as having – or indicating – a "pension deposit."

A pension deposit should be considered a legally defined (resulting from an actuarial calculation), amount of money (or its equivalent) equivalent to the minimum pension capital. The minimum pension capital is a certain amount of cash, or its equivalent, that allows the payment of the minimum pension provided by law. I will only add the minimum, because for any other, the state authority has no right to force its citizens, as is currently the case. The obligation imposed by a state institution should be limited to the necessary minimum, especially if it concerns the restriction of a citizen's right to his property, and this is what a public tribute such as pension insurance premiums is – a diminution of the financial resources of citizens compulsorily insured by the state.

The pension capital, defined as the equivalent of funds, allowing the payment of the minimum pension prescribed by law, can also be any legal form of security, implemented, in a legally permissible manner, meeting the minimum criteria set for it. It should be considered a sufficient form that satisfies the obligation of pension security.

The size of the pension deposit should be set at the level of the amount of the necessary pension capital, traditionally collected from insurance premiums paid during working life, plus the capital income generated during the period of financial accumulation of pension capital, in a size appropriate to the minimum salary, ensuring, as a consequence, the receipt of the minimum pension, as provided by law.

Among other forms of pension deposit, one can point to a contract [policy] of pension insurance, with any legal entity operating in the market, which has the right to conclude it. Also, for example: amount deposit, or in cash, in reliable securities, such as revolving bonds [Sowinski 2019: 363–364], investmentcurrencies, bullion, antique, property, real estate, farm, reverse mortgage, etc.…

In cases arising from the peculiarities of a pension deposit proposed by a citizen, the periodic valorization of the value of the deposit should also be taken into account, since the creation of a deposit does not imply the impossibility of managing the deposited funds by certain (authorized) entities (including the state) that provide certain minimum guarantees of return and certain increments in the value of the deposit, or even the depository itself.

Thus, for some this deposit will be, as mentioned above, an insurance policy, for others an appropriately sized and quality deposit, a package of securities, real estate, but also such institutions as, for example, a reverse mortgage, a purchased place in a "golden autumn" home, a segregated sub-account with an appropriate amount secured on it and a commitment to its inviolability until retirement age, an annuity contract. These are just some of the many possible ways of retirement security.

The minimum standard, taking care of the state of one's future retirement benefits, should be to demonstrate a form of security ("pension deposit") that provides a so-called "dignified pension." If the state does not formulate a legal definition of the concept of "decent pension", which is undoubtedly desirable, the size of such a benefit should be set at the level of the minimum pension, not less than 50% of the minimum wage. However, these proportions should take into account the peculiarities and value and price relationships in each country that would use the pension model in question. Also unconditionally, it should be further stipulated that this amount cannot be less than the amount of the permanent social [benefit]. If, after deducting tax and any other charges on the pension benefit, the amount of funds remaining available to a citizen who has acquired the right to a pension benefit will be less than the amount of the social benefit, the amount of taxation must be adjusted so that it at least equals it.

Once the above framework conditions have been determined, the state will set by law the obligation of each citizen, to provide for his future pension benefit, meeting certain minimum standards thereof.

The citizen may carry out the obligation imposed on him in any legally permissible form, using legally permissible solutions and making use of financial, property, guarantee and other institutions approved and permitted in the market of the state in question, And in the case of unification of the pension market in the European Union – admitted to the Community pension insurance market, unquestionably meeting the criteria set by the pension law.

For the sake of ensuring an adequate level of security for the aforementioned undertakings, the state may limit the number of permitted institutions and forms that meet the criteria for ensuring a certain level of future pension benefit. This is all the more justified, since it is the state, in the spirit of solidarity of the community living there, that should absolutely guarantee the payment of a certain minimum pension benefit, from budgetary funds, and therefore from all members of the given social and state community. Such a situation should take place under the condition that the citizen meets the obligations stipulated by law, in the event that, nevertheless, for various fortuitous, health and other reasons stipulated by law, the size of this benefit does not reach the level of the minimum guaranteed pension.

In summary, this leads to the conclusion that: **within the framework of the imposed obligation of pension security, each citizen, in accordance with his views, the specifics of his profession, employment, activities that provide him with the means to live, and even his character, philosophy of life and other beliefs, both economic and worldview, or simply his needs,**

<u>has the right to freely choose any legally available form of pension deposit</u>

that will, in effect, provide him with a future, at least minimum (defined by law) pension benefit.

It is the state's task to watch over and supervise all institutions carrying out even one of the forms of pension security permitted by law, as well as the correctness of their operation. The state should also introduce additional legal, economic safeguards, in the form of, for example: assurance, reinsurance, individual and mutual reserves, etc., concerning the scope of activities of entities, implementing any of the forms of pension security [Sowinski 2019: 303].

There is no question that the organizer, legislator, supervisor and, importantly, guarantor, of the deconcentrated pension model after its deregulation, is and should be the state. However, this is to be done in a spirit of concern for the citizen, with respect for his rights and freedom of decision, but also with a clear legal obligation to choose one of the forms of pension security permitted by law.

5.2. Putting the decision back in the hands of those concerned – empowering citizens

It is possible to base the implementation of pension security on the individual foresight of citizens. However, this does not mean their arbitrariness or leaving them without the necessary support of the state. The state, as was mentioned, remains the organizer, supervisor and guarantor of the proper implementation of the pension security obligation. The state, however, need not, and should not, be its implementer. This is one of the main reasons for the instability of pension models and systems, since the realization of pension security by the state apparatus also gives it the pretext and opportunity to interfere in the legal and financial construction of the pension system. Too frequent and excessive interference can cause its destabilization and even destruction [Sowinski 2019: 18].

So deregulation should be strictly regulated! In order not to accept bogus proposals, as well as to protect citizens from dishonest "entrepreneurs" proposing them unrealistic solutions from which only they will benefit at the expense of the protected person. Also to protect the state and the rest of society, from those citizens who will try to use the pension system for their own benefit, failing to realize its projected objectives and, consequently, failing to achieve their goals.

Deregulation does not mean the absence of regulation, but the abandonment of strict one-size-fits-all and "only right" regulation imposed by the state apparatus. Deregulation is even a plurality of regulations, or the admission of many possible solutions, but also indicated by law as to the manner and type, as well as the rules of admission of proposals on the part of the citizen, or actors in the market, so that they have the value of certainty as to the realization of the basic parameters of security, which are precisely regulated by law by the state, and of which the author gave possible examples earlier. It should also be added that the state should determine (regulate) by law how to deal with citizens who fail to meet this obligation at the appropriate scheduled time. For example, include them in the compulsory insurance by a designated one from among those on the market, or a public institution established, operating on market principles, such as the State Pension Insurance Company. That's where all the wayward, reckless, or inconsiderate, or those who simply choose this form of pension security, would find themselves.

The state should also determine the rules for changing the method of pension security, or simply the rules for changing the pension deposit. Since the period of designation of the pension deposit often lasts for the greater part of a person's life, it is necessary to allow for situations in which the possibilities and preferences of individuals will change dramatically and they will want, at least in their view, to pursue a different form of security than they have done so far. Other more attractive, more effective, types of retirement deposits will emerge. This, among other things, is the priceless value of deregulation. It should also be added that another priceless value of such a solution, is the almost complete independence of the pension system from the state budget and more broadly from public finances. Leaving aside the fact of the transition period, but this is a topic for a separate study.

Pension security should therefore be restored to its primary task, and at the same time the meaning of its existence, namely the social protection of citizens in case they reach retirement age. This is to happen in legal, financial, organizational and factual reality, giving the right to accept the proposed changes to the citizen, as a party and subject of the pension security institution.

Conceptually, it is just that and so much more – ***a pension-secured citizen with inherent rights and freedoms that the state institution respects and protects.***

6. Conclusion

The author has had the opportunity more than once at various conferences and seminars to observe the reaction to the proposal to deregulate the pension system. These were presented by various speakers from different fields of law and economics and to different extents. Bewilderment, doubt, whether the citizen can cope with such a complicated issue as pension security, when the 'greatest' professionals can't cope? How can such an important issue be left in the hands of laymen? Deregulation will bring chaos and cause the collapse of the pension system. You can't leave such an issue "on its own", read – unregulated, because, after all, deregulation is the absence of regulation... Many similar absurd views are the cause of the current pension crisis. One of the few "hit-and-miss" issues that some have raised is the doubt about what will happen to the state's current obligations to insured people already collecting benefits. Indeed, this doubt prompted the author to take a closer look at the problem of the so-called transition period. One can only conclude that it is a solvable problem. It will not be simple, of course, but it is also not impossible[2].

However, and this should be strongly emphasized, deregulation does not mean the absence of regulation, but, as was mentioned, a departure from the omnipotence of the state, dictating and imposing all solutions in the minutest detail, to a guardian state. A benevolent but also demanding guardian. A state that gives a legal framework, supervises, supports and guarantees, but does not impose the "only right", and the only solution for all citizens.

Without diminishing the need for security and the obligation to provide a future retirement benefit that allows people to survive after their working life, reducing this institution de facto to the institution of insurance compulsion, is firstly too categorical form, and secondly, it determines in advance that the only permitted form of retirement security for citizens, accepted by the state, is – insurance. The state leaves the citizen no room for maneuver, no opportunity to take care of his social security in retirement in a different way, except for the model (system) that it imposes on him top-down. It also does not allow deregulation, recognizing a priori that it will lose control of the system, which has no justification, because the role of the state, as an organizing supervisor and guarantor of the existing pension security

2 More about it: [Sowinski 2019]. The author intends to elaborate more on the issue of the transition period in the near future.

solutions, is not questioned by anyone, and is even emphasized, if only to preserve its effectiveness, also by the author and several times in this study.

There are successfully operating solutions that can be considered the first step towards deregulation, such as in the United States, where one can observe the opening of the state to the possibilities of individual foresight of citizens and sinks not only within the framework of supplementary insurance, but also in the pillar of basic pension insurance, a significant group of society, especially a certain part of the so-called middle class, to which is left the possibility of individual pension security outside the state system [Sowiński 2017: 199–214].

As a consequence of such a state, all actions and behavior of the state towards its citizen, their scope and size, with the fundamental issue boiling down to the answer to the question “whether certain issues should be regulated at all, and if so, how much categorically?”, become clear, with a clear hierarchy of values, at the head of which is the person of man and citizen with his rights and freedoms, but also his obligations to the state and the community, the society in which he lives.

In the author’s opinion, the thesis on the permissibility of deregulation in the pension security system as a form, or one of the forms, for solving the problems with the pay-as-you-go model of pension insurance that has prevailed for 3 centuries has been confirmed. What’s more, such a way of solving the problem of pension security for the population, fits in and is conducive to the sustainability of pension finances, as well as public finances as a whole.

At most, one problem remains to be solved. The problem of the so-called transition period and finding funds to finance the state’s obligations to citizens who have already acquired rights to pension benefits, and these are undeniably their vested rights, which states and societies are obliged to fulfill. A smaller but equally important part of this problem is the fact of supporting and compensating citizens whose funds from insurance premiums the states using the pay-as-you-go method of pension insurance have already spent on the current needs of the system.

These funds, regardless of the rhetoric of individual “defenders” of pay-as-you-go, directly, or indirectly, are also the property of the people who paid them into the insurance system.

At the very least, they are the basis (part of this basis) of the future pension benefit of those people, forcibly insured and burdened with compulsory social security contributions, which, in derivation from the size of the contributions, also constitute vested rights to an adequate size of pension benefit, to which this right will begin when these insured people reach retirement age, and currently constitute the so-called hidden state debt.

Solving the problem of financing, finding sources of financing, the transition period, is perhaps from a legal, economic and logistical point of view, a more difficult problem than deregulation, or proposing any new solution for the pension model and system.

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