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Withdrawal of funds accumulated on the account of Employee Capital Plans participants

The paper contains a detailed analysis of the statutory forms of funds withdrawal from an Employee Capital Plans (ECP) [pracownicze plany kapitałowe, PPK] participant's account. The first objective of the paper is to distinguish legal forms of withdrawal of funds accumulated on an ECP participant's account. The second objective is to determine to what extent individual forms of funds withdrawal from ECP protect the participant against any individual risk of longevity and negative financial effects.

The ECP Act provides for several ways of withdrawing funds from an account in the Employee Capital Plan. The basic prerequisite for the withdrawal is that the participant must have reached the age of 60. He/she may then withdraw funds: in instalments, as a lump sum, in the form of lifetime annuity, a matrimonial benefit, a transfer to a savings or term deposit. The second prerequisite for withdrawal is serious illness. In this case, it is not necessary to be 60 years old. The third prerequisite for withdrawal is the taking out of a mortgage. The withdrawn funds are to be used to cover one's own contribution. Only participants under the age of 45 have the right to make such withdrawal.

To establish the degree of protection against the individual risk of longevity and its financial consequences offered by individual forms of funds withdrawals from ECP, the method of economic analysis of law should be applied at the micro level.

Key words: ECP, employee capital plan, individual pensions, occupational pensions, pension

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Introduction

The construction of a new system of Employee Capital Plans (ECP) [pracownicze plany kapitałowe, PPK] in Poland is accompanied by a media campaign promoting them as a new form of supplementary pensions.[1] Meanwhile, the statutory objective of the ECP system, as well as its construction, indicate that participation in the system guarantees limited security for old age. The manner of funds accumulation on the PSC account and the way in which the participant may use them are of key importance here.[2] Thus, the first objective of the paper is to distinguish the legal forms of fund withdrawal from an ECP participant's account. The second objective is to establish the degree of protection against the individual risk of longevity and its financial consequences offered by individual forms of fund withdrawals from ECP. Due to its limited nature, the study leaves aside the question as to whether the adequacy of pension benefits is improved through participation in ECP. This problem is being explored by the author and will be presented in detail in a monograph.

Individual longevity risk is defined here as the risk of living longer than the ECP participant has expected. This risk is associated with the premature exhaustion of funds accumulated on the account. However, the individual longevity risk, which – if materialised – may have negative consequences for individual participants, does not pose a threat to the stability of the ECP system.[3]

The achievement of objectives selected in this way imposes the main research hypothesis. It reads as follows: all forms of fund withdrawal from ECP provided for by law protect the participant against the individual longevity risk and its financial consequences. At the same time, the outlined research area forces an additional research hypothesis, which reads as follows: the objective of the ECP system is to systematically accumulate long-term savings.

The ECP Act provides for several ways of withdrawing funds from an account in the Employee Capital Plan. The target form of using the funds accumulated in ECP is their withdrawal in instalments after the participant reaches the age of 60. By default, this benefit will be divided into a part to be withdrawn in a one-off payment (25% of the funds accumulated in ECP) and the balance payable for a minimum of 10 years in 120 monthly instalments (75% of the funds accumulated in ECP). Pursuant to the Act, it will also be possible to make a one-off withdrawal of all funds accumulated on the account in the Employee Capital Plan. The Act also introduces an option of buying a lifetime benefit, but only with an insurance company. New and unique forms of fund withdrawal are the following: matrimonial benefit from ECP, withdrawal in the case of

1 P. Skwirowski, *Borys: Oto lek na kurczące się emerytury*, 2019, https://serwisemerytalny.rp.pl/borys-oto-lek-na-kurczace-sie-emerytury/ (online access: 25.7.2019).

2 M. Zieliński, *Pracownicze plany kapitałowe – nowa forma zabezpieczenia społecznego? Wybrane kontrowersje na tle podstawowych założeń ustawy o PPK*, “Praca i Zabezpieczenie Społeczne” 2018, No. 11.

3 M. Szczepański, *Zarządzanie ryzykiem długowieczności w polskim systemie emerytalnym*, “Zeszyty Naukowe Uniwersytetu Szczecińskiego – Finanse, Rynki Finansowe, Ubezpieczenia” 2014, No. 65.

serious illness and withdrawal for housing purposes (to cover one's own contribution in connection with taking out a mortgage).

In the case of the death of an ECP participant, the funds remaining on their account are subject to inheritance. This means that the accumulated pension capital also constitutes additional financial security for the family or other persons indicated by the ECP participant.

The achievement of the research objectives requires a detailed analysis of the applicable legal provisions, in particular the ECP Act. To verify the research hypotheses, it was necessary to use the method of economic analysis of law. At the same time, the perspective of an individual participant was adopted (a microeconomic approach).

Objective of the ECP system

In accordance with Art. 3 of the ECP Act, this system has been launched to systematically accumulate the savings to be withdrawn by the ECP participant:

- when the participant reaches the age of 60,
- in connection with serious illness,
- to cover one's own contribution in connection with taking out a mortgage.[4]

Both the objective of the ECP system and the statutory provision establishing this objective are misconstructed. The statutory provision should not describe why the ECP system has been launched. Art. 3 of the ECP Act should set an objective for the ECP system. The correct place to present the reasons behind the ECP system is the explanatory memorandum to the Act. According to the explanatory memorandum, the establishment of a supplementary system of universal long-term savings, which is the ECP system, aims to solve the problem of the lack of supplementary and universal savings for retirement purposes in Poland.[5] This declaration is not entirely consistent with the way in which funds are accumulated and multiplied under the ECP system.

Accumulation of funds under the ECP system involves the payment of cash to acquire units in a defined-date fund.[6] This means that the activity of the defined-date funds

4 A. Prusik, *Art. 2* [in:] *Ustawa o pracowniczych planach kapitałowych. Komentarz*, ed. S. Jakubowski, A. Prusik, Warszawa 2019.

5 *Rządowy projekt ustawy o pracowniczych planach kapitałowych. Uzasadnienie* [Government draft Act on Employee Capital Plans. Explanatory memorandum], Sejm Paper No. 2811, Warsaw 2018, pp. 2-3. It can only be noted that the demand for increasing domestic long-term savings has been repeated since the beginning of the system transformation. See: M. Żukowski, *Rozwój bazy ekonomicznej ubezpieczeń społecznych* [in:] *Baza ekonomiczna ubezpieczenia społecznego*, ed. R. Pacud, Warszawa 2019.

6 According to Art. 38 in conjunction with Art. 2(1)(6) to (7) and Art. 32 of the ECP Act, the defined-date funds are investment funds (specialised open-ended investment funds and unit-linked life insurance funds) or pension funds (voluntary pension funds and occupational pension funds). Investment funds issue and sell share units, while pension funds issue and sell accounting units. For more on the role of investment fund companies on the domestic pension market, see K. Stańczak-Strumiłło, *Towarzystwa funduszy inwestycyjnych w rozwoju pracowniczych programów emerytalnych w Polsce*, "Annales Universitatis Mariae Curie-Skłodowska, sectio H – Oeconomia" 2017, No. 6 (51).

consists in cash collection and its investing for the purpose of withdrawal by ECP participants after they meet the statutory conditions. And this means that the ECP system is investment rather than savings-oriented.[7]

Hence, from the incorrectly worded provision of Art. 3 of the ECP Act, it can be inferred that the objective of the ECP system is to systematically accumulate funds and invest them for withdrawal once the statutory conditions are met by the ECP participant.

On the one hand, this involves an investment risk for ECP participants. This is part of the ongoing process of the individualisation of supplementary old age security that is under way all over the world.[8] On the other hand, it allows the accumulation of capital for old age which is more suited to participant's preferences (risk aversion). The amount of the funds accumulated and the way they may be used is crucial for the ECP participant.[9]

Withdrawal in instalments

A ECP participant is deprived of the right to freely dispose of funds accumulated on the ECP account. He/she has the right to dispose of funds accumulated on the ECP account only in the situations and forms specified in the Act.[10]

The withdrawal of funds accumulated on the ECP participant's account is possible only in three situations: when the participant reaches the age of 60 (Art. 99 and Art. 100 of the ECP Act), to cover his/her own contribution in the event of the conclusion of a contract with a selected financial institution (Art. 98 of the ECP Act) and a serious illness befalling the participant, his/her child or spouse (Art. 101 of the ECP Act).[11]

The target form of using the funds accumulated in ECP is their withdrawal after the participant reaches the age of 60. By default, this withdrawal will be divided into a part to be paid out once (25% of the funds accumulated in ECP) and the balance payable for 10 years in 120 monthly instalments (75% of the funds accumulated in ECP; Art. 99 of the ECP Act). Such a form of default withdrawal of the funds accumulated in ECP has nothing to do with the process of extending average life expectancy. The average life expectancy in Poland is already approaching 80 years. Meanwhile, the default withdrawal assumes that the funds accumulated will be exhausted at the moment when the ECP participant reaches the age of 70.

7 Similar doubts were raised in relation to Open Pension Funds, see S. Jakubowski, *Prawno-ekonomiczne aspekty gromadzenia i lokowania środków przez otwarty fundusz emerytalny*, Wrocław 2013, p. 73 *et seq.*

8 Y. Stevens, *The Silent Pension Pillar Implosion*, "European Journal of Social Security" 2017, No. 2 (19).

9 M. Góra, J. Rutecka, *Elastyczny system emerytalny a potrzeby jego uczestników*, "Ekonomista" 2013, No. 6.

10 M. Wojewódka, A. Kolek, O. Sobolewski, *Pracownicze Plany Kapitałowe – praktyczny poradnik dla podmiotów zatrudniających*, Gdańsk 2019.

11 Due to the limited nature of this study, the analysis ignores the issue of all types of transfer withdrawals (Art. 2[1][42] of the ECP Act).

The amount of monthly instalments will depend on the value of the share units accumulated on the ECP account.[12] The longer and the more the participant and the employing entity pay into the ECP account, the greater the number of share units purchased under the ECP.[13] And the value of share units will depend on the effects of the investment policy of the defined-date fund that will manage the ECP account.[14]

To illustrate these differences, it is necessary to build a simple model for accumulating and multiplying funds on an ECP participant's account. Funds accumulated on an ECP participant's account come from payments made by the participant, by the employing entity (Art. 25 of the ECP Act) as well as the welcome payment (Art. 31 of the ECP Act) and annual surcharge (Art. 32 of the ECP Act). A participant's payments to ECP take the form of basic and additional payments. The amount of the basic payment financed by the ECP participant was set by the legislator at a fixed level of 2% of remuneration (Art. 27 of the ECP Act).[15] An employed person may also declare additional payments. The amount of any additional payment financed by the ECP participant may be up to 2% of remuneration (Art. 27[3] of the ECP Act). This means that the most foresighted participants may make monthly payments to ECP in a total amount of 4% of remuneration.

The amount of basic payments financed by the employing entity was set by the legislator at a fixed level of 1.5% of remuneration (Art. 26 of the ECP Act). The employing entity may also declare additional payments. It should be noted that this is a right and not an employer's obligation. The amount of additional payment financed by the employing entity may be up to 2.5% of the remuneration (Art. 26[2] of the ECP Act).

The first form of public support available to ECP participants will be a welcome payment. This was set by the legislator at PLN 250 (Art. 31 of the ECP Act). Its amount is fixed and is not subject to indexation, and its increase is only possible by means of an amendment to the ECP Act. The basic conditions that must be met to receive the welcome payment are: conclusion of the ECP management agreement and the making of basic participant financed payments for three full months. It should be noted that these do not have to be consecutive months. The welcome payment is transferred to the ECP participant's account by the Minister of Family, Labour and Social Policy within 30 days after the end of the quarter in which both conditions were met.

The second form of public support available to ECP participants is an annual surcharge. Its amount was set at PLN 240 (Art. 32 of the ECP Act). The basic condition that must be met to receive the annual surcharge is to make payments of a minimum value in the previous calendar year. This value was deliberately set at a very low level. It is

12 E. Leśna-Wierszołowicz, *IKE i IKZE jako dobrowolne formy gromadzenia oszczędności emerytalnych*, "Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu. Finanse Publiczne" 2016, No. 451.

13 M. Szczepański, *Managing Longevity Risk in Pension System: The Case Study of Poland* [in:] *Country Experiences in Economic Development, Management and Entrepreneurship*, ed. M.H. Bilgin, H. Danis *et al.*, 2017.

14 T. Jedynak, *Automatic Balance Mechanisms as Instruments of Maintaining Pension Scheme Financial Sustainability*, "Rozprawy Ubezpieczeniowe. Konsument na rynku usług finansowych" 2018, No. 3 (29).

15 In general, the employing entity is obliged to calculate and remit ECP payments on each employee's remuneration from which pension insurance contributions are paid.

equal to the aggregated basic payments (of the employing entity and the ECP participant) calculated on the basis of remuneration which is six times the minimum remuneration for work applicable in a given calendar year. In 2019 this will be only PLN 472.50. This means that it is sufficient to receive an average remuneration to accumulate in the ECP account, already in the first quarter of the year, payments to the amount entitling one to the annual surcharge in the next year.

It should be emphasised that ECP participants are entitled to direct financial support from the state for the first time in the history of the domestic pension market. The welcome payment and the annual surcharge are financed from the Labour Fund. The payment and the surcharge are exempt from personal income tax and social insurance contributions. This means that the welcome payment and the annual surcharge are fully credited to the account of the ECP participant.

The basic assumptions of the model are as follows:

- no inflationary processes,
- the rate of return on investment of accumulated funds is 2% per year.

The costs of participation in ECP are as follows:

- the cost of remuneration for managing the defined-date fund set at the maximum level permitted by law equal to 0.5% of the fund's net assets value per year (Art. 49[1] of the ECP Act),
- the cost of remuneration for the achieved result set at the maximum level permitted by law equal to 0.1% of the fund's net asset value per year (Art. 49[2] of the ECP Act),
- other costs covered by the fund's assets equal to 0.5% of the fund's net assets value per year (Art. 50 of the ECP Act).

A comparison of funds accumulated by three participants: a participant with a maximum remuneration, a participant with an average remuneration and a participant with a minimum remuneration reveals significant differences. We assume that the wages of all the three participants are constant throughout the entire period of participation. The monthly remuneration of the first participant is equal to the average monthly remuneration in the enterprise sector in July 2019 – PLN 5,182.43 (hereinafter: the average remuneration).[16] The monthly remuneration of the second participant is the remuneration allowing maximum payments to be made to the ECP account. Pursuant to Art. 25a of the ECP Act, the maximum annual amount that may be paid into the ECP participant's account is an equivalent of USD 50,000. Assuming a fixed USD exchange rate of 4 PLN for 1 USD, the second participant's monthly remuneration is PLN 473,800 (hereinafter: the maximum remuneration). The third participant's remuneration is equal to the minimum monthly remuneration for work in 2019 and equals PLN 2,250 (hereinafter: the minimum remuneration).[17] Only basic payments in total amount of 3.5% of the remuneration are made to the accounts of all three participants every month (2% of the remuneration as the basic payment financed by

16 Announcement of the President of the Central Statistical Office of 20 August 2019 on the average monthly remuneration in the enterprise sector in July 2019.

17 Regulation of the Council of Ministers of 11 September 2018 on the amount of minimum remuneration for work and the amount of the minimum hourly rate in 2019 (Journal of Laws item 1794).

the participant and 1.5% of the remuneration as the basic payment financed by the employing entity). In the first year of participation, a welcome payment of PLN 250 is credited to the accounts of all three participants. In subsequent years, annual surcharges of PLN 240 are credited to their accounts.

In the baseline scenario, all three participants start building pension capital at the age of 20 and continue to do so until the age of 60.

After reaching 60 years of age and after 40 years of participation, a person with an average monthly remuneration (PLN 5,182.43) will have on his/her ECP account the amount of PLN 116,454.21. In his/her situation, a one-off withdrawal of 25% of the accumulated funds will amount to PLN 29,113.55. If the remaining 75% of accumulated funds will be paid out for the next 120 months, the amount of the first monthly instalment will be PLN 727.84.

After reaching 60 years of age and after 40 years of participation, a person with a maximum monthly remuneration (PLN 473,800.00) will have on his/her ECP account the amount of PLN 9,599,664.58. In his/her situation, a one-off withdrawal of 25% of the accumulated funds will amount to PLN 2,399,916.15. If the remaining 75% of accumulated funds will be paid out for the next 120 months, the amount of the first monthly instalment will be PLN 59,997.90.

After reaching 60 years of age and after 40 years of participation, a person with a minimum monthly remuneration (PLN 2,250.00) will have on his/her ECP account the amount of PLN 57,111.89. In his/her situation, a one-off withdrawal of 25% of the accumulated funds will amount to PLN 14,277.97. If the remaining 75% of accumulated funds will be paid out for the next 120 months, the amount of the first monthly instalment will be PLN 356.95.

For comparison, it is worth analysing the situation of the same three participants who start accumulating funds in ECP at the age of 40 and continue to do so until the age of 60. This reduces the accumulation and multiplication period to only 20 years.

After reaching 60 years of age and after 20 years of participation, a person with an average monthly remuneration (PLN 5,182.43) will have on his/her ECP account the amount of PLN 53,117.68. In his/her situation, a one-off withdrawal of 25% of the accumulated funds will amount to PLN 13,279.42. If the remaining 75% of accumulated funds will be paid out for the next 120 months, the amount of the first monthly instalment will be PLN 331.99.

After reaching 60 years of age and after 20 years of participation, a person with a maximum monthly remuneration (PLN 473,800.00) will have on his/her ECP account the amount of PLN 4,379,092.96. In his/her situation, a one-off withdrawal of 25% of the accumulated funds will amount to PLN 1,094,773.24. If the remaining 75% of accumulated funds will be paid out for the next 120 months, the amount of the first monthly instalment will be PLN 27,369.33.

After reaching 60 years of age and after 20 years of participation, a person with a minimum monthly remuneration (PLN 2,250.00) will have on his/her ECP account the amount of PLN 26,047.38. In his/her situation, a one-off withdrawal of 25% of the accumulated funds will amount to PLN 6,511.84. If the remaining 75% of accumulated funds will be paid out for the next 120 months, the amount of the first monthly instalment will be PLN 162.80.

The second element which determines the amount of the monthly benefit will be the number of instalments into which the funds accumulated in ECP will be divided.[18] The legislator grants the participant fairly wide possibilities of determining the withdrawal of his/her ECP funds after reaching the age of 60.[19]

The number of monthly instalments need not be 120. It will be possible and desirable to increase the number of instalments, even if it means lower monthly benefits.[20] The more instalments, the lower the monthly benefit, but at the same time the total amount of all the funds withdrawn from ECP will be higher.[21] This will be possible because the slower payment of funds from ECP will extend the period of interest on the accumulated capital.[22] Starting the process of benefits payment from ECP does not mean that all share units will be redeemed.[23]

At the participant's request, the first part of the withdrawal (25% of the funds accumulated in ECP) may also be divided into instalments (Art. 99[1][1] of the ECP Act). This will allow one to increase the monthly instalments withdrawn from ECP.

The ECP participant will also be able to reduce the number of instalments. This will mean an increase in the monthly ECP benefit, but at the cost of losing capital gains resulting from longer capital growth within ECP. To discourage participants from this short-sighted solution, the ECP Act provides the necessity to pay a flat-rate tax on capital income[24] on 75% of the funds accumulated in ECP and withdrawn in fewer than 120 instalments (Art. 99[1][2] of the ECP Act).[25]

The monthly instalments will be recalculated each month based on the number and value of the share units remaining on the ECP account (Art. 99[3] of the ECP Act). Therefore, the monthly ECP benefit will not be of a fixed amount and may slightly differ in each subsequent month.

It should be emphasised that the later the monthly instalments start to be withdrawn from ECP, the higher will be the protection against the individual risk of longevity.[26]

18 P. Kowalczyk-Rólczyńska, *Increasing Life Expectancy – the Impact on Old-age Pension Benefits*, "Rozprawy Ubezpieczeniowe" 2018, No. 2 (28).

19 A. Kolek, M. Wojewódka, *Pracownicze Plany Kapitałowe – szansa czy miraż?*, Warszawa 2017.

20 M. Góra, *Redesigning Pension Systems*, "IZA World of Labour" 2014, No. 51.

21 S. Buchholtz, J. Gąska, M. Góra, *Pension Strategies of Workers in a Country Getting Old before Getting Rich*, "IZA Discussion Papers" 2018, No. 11830.

22 M. Dybał, *Pracownicze programy emerytalne w Polsce*, "Ekonomia – Wroclaw Economic Review" 2017, No. 3 (23).

23 M. Borda, P. Kowalczyk-Rólczyńska, *Special Issue on Longevity Risk and Insurance*, "Journal of Finance and Economics" 2018, No. 4 (6).

24 J. Rutecka, *Realokacja czy nowe oszczędności? O efektach zachęt podatkowych w dodatkowym oszczędzaniu na starość w Polsce*, "Rozprawy Ubezpieczeniowe" 2015, No. 18.

25 M. Szczepański, *Badanie możliwości wykorzystania ekonomii behawioralnej w reformowaniu systemów emerytalnych*, "Finanse, Rynki Finansowe, Ubezpieczenia" 2017, No. 5 (89), p. 1.

26 T. Brzęczek, M. Szczepański, *The Impact of Demography, Institutional Solutions and Fiscal Incentives on the Level of Participation and Investment Efficiency of Occupational Pension Schemes in Central and Eastern Europe*, "Journal of International Scientific Publications" 2017, No. 11.

Therefore, the ECP participant will be able to start withdrawing funds from the ECP even after reaching the age of *e.g.*, 75 years.

Again, for comparison, it is worth analysing the situation of the same three participants who start accumulating funds in ECP at the age of 20 and continue to do so until the age of 75. This extends the accumulation and multiplication period to 55 years.

After reaching 75 years of age and after 55 years of participation, a person with an average monthly remuneration (PLN 5,182.43) will have on his/her ECP account the amount of PLN 172,005.45. In his/her situation, a one-off withdrawal of 25% of the accumulated funds will amount to PLN 43,001.36. If the remaining 75% of the accumulated funds will be paid out for the next 120 months, the amount of the first monthly instalment will be PLN 1,075.03.

Table 1. Funds accumulated on the ECP account by the participant with average remuneration depending on the period of accumulating and multiplying funds [in PLN]

Accumulating period	Accumulated funds	One-off withdrawal of 25% of funds	First monthly instalment of the remaining 75% of funds
20 years	53,117.68	13,279.42	331.99
40 years	116,454.21	29,113.55	727.84
55 years	172,005.45	43,001.36	1,075.03

Source: own calculations

After reaching 75 years of age and after 55 years of participation, a person with a maximum monthly remuneration (PLN 473,800.00) will have on his/her ECP account the amount of PLN 14,179,123.53. In his/her situation, a one-off withdrawal of 25% of the accumulated funds will amount to PLN 3,544,780.88. If the remaining 75% of the accumulated funds will be paid out for the next 120 months, the amount of the first monthly instalment will be PLN 88,619.52.

Table 2. Funds accumulated on the ECP account by the participant with maximum remuneration depending on the period of accumulating and multiplying funds [in PLN]

Accumulating period	Accumulated funds	One-off withdrawal of 25% of funds	First monthly instalment of the remaining 75% of funds
20 years	4,379,092.96	1,094,773.24	27,369.33
40 years	9,599,664.58	2,399,916.15	59,997.90
55 years	14,179,123.53	3,544,780.88	88,619.52

Source: own calculations

After reaching 75 years of age and after 55 years of participation, a person with a minimum monthly remuneration (PLN 2,250.00) will have on his/her ECP account the amount of PLN 84,357.98. In his/her situation, a one-off withdrawal of 25% of the accumulated funds will amount to PLN 21,089.50. If the remaining 75% of the accumulated funds will be paid out for the next 120 months, the amount of the first monthly instalment will be PLN 527.24.

Table 3. Funds accumulated on the ECP account by the participant with minimum remuneration depending on the period of accumulating and multiplying funds [in PLN]

Accumulating period	Accumulated funds	One-off withdrawal of 25% of funds	First monthly instalment of the remaining 75% of funds
20 years	26,047.38	4,286.43	107.16
40 years	57,111.89	9,399.52	234.99
55 years	84,357.98	15,965.35	399.13

Source: own calculations

Setting a minimum age for starting funds withdrawal at just 60 years is undoubtedly beneficial for participants planning to end their professional careers early, and to quickly consume the accumulated pension capital.[27] Unfortunately, it is definitely unfavourable for the level of protection against individual longevity risk. The period of withdrawal of 75% of the accumulated funds set for just 10 years (120 instalments) will translate into a higher level of monthly instalments, but it will be also detrimental to the level of protection against individual longevity risk. With the average life expectancy in Poland approaching 80 years, exhaustion of resources accumulated within the ECP at the age of 70 deprives ECP participants of supplementary monthly income at the very moment when their financial needs are increasing rapidly.[28] A deteriorating health condition and increasing infirmity expose ECP participants to higher outgoings for medicines and medical care.[29] This means that the default withdrawal of funds in instalments which starts shortly after reaching the age of 60 does not protect the participant against the negative effects of the individual longevity risk. In this situation, the supplementary pension security resulting from participation in the ECP is temporary and thus limited.[30]

27 E. Cichowicz, J. Rutecka-Góra, *Świadomość Polaków dotycząca dodatkowego oszczędzania na starość – próba oceny oraz identyfikacji niezbędnych działań*, "Problemy Polityki Społecznej" 2017, No. 3.

28 R. Marczak, *Polityka społeczna wobec starzenia się i starości w Polsce w latach 2015–2035*, "Ubezpieczenia Społeczne. Teoria i praktyka" 2016, No. 1.

29 A. Werpachowska, *Forecasting the Impact of State Pension Reforms in Post-Brexit England & Wales Using Microsimulation and Deep Learning* [in:] *Contemporary Problems of Intergenerational Relations and Pension Systems: a Theoretical and Empirical Perspective*, ed. F. Chybalski, E. Marcinkiewicz, Łódź 2017.

30 At the same time, it should be emphasised that any default withdrawal of funds in instalments started shortly after the age of 60 will increase the participant's income for a decade. This will certainly have a positive impact on income adequacy in Poland. For more, see F. Chybalski, *Adekwatność dochodowa, efektywność i redystrybucja w systemach emerytalnych. Ujęcie teoretyczne, metodyczne i empiryczne*, Warszawa 2016.

One-off withdrawal of all funds from ECP

The ECP Act also allows for the possibility of a one-off withdrawal of all accumulated funds.[31] Pursuant to Art. 99(1)(2) of the ECP Act, the participant has the right to request the withdrawal of the remaining 75% of funds accumulated in ECP in a smaller number of instalments. At the same time, in the current legal status there are no reservations as to the reduction in the number of instalments even to a single one.[32] This is possible provided that the participant reads the information about the necessity to pay a flat-rate tax on capital income and pays this tax.

In the event of a one-off withdrawal of all accumulated funds, it is hard to speak about any protection against the individual risk of longevity. The accumulated share units are redeemed and their equivalent is paid out to the ECP participant. It will be up to the person concerned to decide when and how the withdrawn funds will be consumed. This means that they will become part of the assets of a former ECP participant and will remain at his/her full disposal.

It will not always be the case that persons who withdraw all funds accumulated in ECP in a lump sum will spend them on consumption.[33] Such funds will often be allocated to projects that guarantee ECP participants a peaceful "autumn of life" (*e.g.*, their own restaurant, guest house, house close to the family, securities or even an investment in a family business).[34]

Lifetime annuity purchased for funds accumulated on the ECP account

The ECP Act provides for the possibility to use the funds accumulated on the ECP participant's account to buy a lifetime annuity, but it may be done only through a life insurance company. Pursuant to Art. 99(7) of the ECP Act, the participant will be able to conclude a term or lifetime annuity contract with such a company. This will require the transfer of funds accumulated in the ECP to the selected life insurance company (Art. 102 of the ECP Act).

Based on the funds paid, the company will calculate and pay the fixed-term or lifetime benefit. According to Art. 21(1)(58)(c) of the Personal Income Tax Act, the transfer withdrawal of the accumulated funds will be exempt from income tax.

31 S. Jakubowski, *Art. 98* [in:] *Ustawa o pracowniczych planach kapitałowych. Komentarz*, ed. S. Jakubowski, A. Prusik, Warszawa 2019.

32 Differently M. Wojewódka, *Ustawa o pracowniczych planach kapitałowych. Komentarz*, Warszawa 2019, p. 332.

33 E. Leśna-Wierszołowicz, *Skłonność Polaków do oszczędzania a rozwój dobrowolnych form gromadzenia oszczędności emerytalnych*, "Folia Pomeranae Universitatis Technologiae Stetinensis. Oeconomica" 2017, No. 88.

34 K. Bielawska, *Retirement Decisions of Seniors in Poland in the Light of the Qualitative Research* [in:] *European Financial Systems 2018. Proceedings of the 15th International Scientific Conference*, Brno 2018.

The basic advantage of buying an annuity in a life insurance company will be the guarantee of receiving additional income until death, and not only until the funds accumulated in ECP have been exhausted.[35] This will effectively protect the ECP participant against the negative effects of individual longevity risk. The disadvantage of this solution will undoubtedly be the higher cost of buying the benefit at the life insurance company.[36] The amount of funds accumulated and multiplied on the account of the average ECP participant will be too low to purchase a monthly lifetime annuity of any significant value.[37] Only participants with very high earnings (and large funds accumulated on the ECP account) and ending their professional careers after reaching the age of 70 will be able to purchase a monthly lifetime annuity of any significant value.[38]

What is more, such an annuity will not be, in principle, indexed for inflation. This means a significant decrease in its value over a period of about 20 years. It should be noted that at the present stage of the reform, no insurance company has prepared such an offer. Unfortunately, it can be expected that most offers will include fixed-amount life annuities. This problem should be the subject of research in the near future.

Nevertheless, the lifetime annuity acquired for the funds accumulated in the ECP provides the participant with protection against the individual risk of longevity. This benefit will be paid to the participant until his/her death, and this period can last up to several decades. The level of this security is the problem. Only those participants who have accumulated large pension capital and started to collect their annuity late, will receive the benefit in any significant amount.

Funds transfer to a term deposit (so-called transfer withdrawal)

The ECP Act also entitles the participant to transfer funds to a term deposit account in a bank or in a cooperative savings and credit union (Art. 102[1] and [3] of the ECP Act).

The ECP participant themselves must be the holder of such a term deposit account. This means that it is not possible to deposit the accumulated funds on an account belonging to someone else (*e.g.*, a close relative, a partner, *etc.*). The funds accumulated on the ECP account are to be used primarily by the participant themselves after they conclude

35 M. Szczepański, *Metoda annuitetowa w zarządzaniu ryzykiem długowieczności w systemach emerytalnych*, "Studia Oeconomica Posnaniensia" 2017, No. 10 (5).

36 K. Antonów, *Prawo ubezpieczeń społecznych a prawo ubezpieczeń gospodarczych (osobowych)*, "Opolskie Studia Administracyjno-Prawne" 2018, No. 3 (16).

37 T. Jedynak, *The Directions of the Development of Supplementary Pension Scheme in Poland*, "Journal of Insurance, Financial Markets and Consumer Protection" 2016, Vol. 22, No. 3.

38 T. Jedynak, *Wpływ wprowadzenia pracowniczych planów kapitałowych na wysokość przyszłych świadczeń emerytalnych w Polsce*, "Ubezpieczenia Społeczne. Teoria i praktyka" 2018, No. 2.

their professional career (at the earliest when they reach the age of 60) and makes the decision to withdraw or transfer the funds accumulated in the ECP system.

The term deposit account to which, according to the ECP participant's instruction, a transfer withdrawal is to be made, must have limited possibilities of disposing of the funds transferred from the ECP. These funds must be used in the same way as in the case of a standard withdrawal of ECP funds after reaching the age of 60. This means that a one-off withdrawal from a term deposit may only cover 25% of the funds. The remaining 75% of the funds are to be paid out for at least 10 years (minimum 120 instalments). If an ECP participant decides to withdraw the remaining 75% of the funds in a shorter period (less than 120 instalments), he/she will be obliged to pay capital income tax.

Such a transfer withdrawal of accumulated funds to a deposit makes it possible for the participant to terminate the collaboration with the financial institution managing their ECP account.[39] But this is not a fundamental change in the way ECP funds are withdrawn.[40] As in the case of a default withdrawal in 120 instalments, this additional benefit is temporary. This involves the limited level of participant's protection against individual longevity risk.

Matrimonial benefit from ECP

The most controversial form of accumulated funds withdrawal from ECP is that of matrimonial benefit. Pursuant to Art. 100 of the ECP Act, after reaching the age of 60, a participant may request the withdrawal of funds accumulated in an ECP in the form of matrimonial benefit. The benefit will be paid in instalments for 10 years or longer (until the funds accumulated on the joint matrimonial account are exhausted).

To take advantage of the matrimonial benefit from an ECP the following conditions must be met:

- reaching the age of 60 by both spouses,
- holding ECP accounts by the spouses in the same financial institution,
- submitting a joint statement on the choice of the matrimonial benefit as a form of ECP funds withdrawal.

Upon the request of the spouses, the selected financial institution opens the so-called "matrimonial account." All funds accumulated by the spouses in ECP will be

39 A. Kolek, M. Wojewódka, O. Sobolewski, *PPK w firmie. Tworzenie, obowiązki informacyjne, rozliczanie wpłat*, Warszawa 2019.

40 This solution is aimed to enable ECP participants to change the financial institution that will pay out the accumulated funds after the participant reaches the age of 60 years. ECP participants have limited freedom in choosing which financial institutions to manage their ECP account. It is the employing entity that is primarily responsible for the choice of the financial institution managing the ECP. The transfer withdrawal to a term deposit will enable ECP participants to eliminate the costs associated with multiplying the accumulated capital or, more broadly, the costs of further participation in an ECP.

accumulated on this account. There will be no legal possibility to make a one-off payment of 25% of the funds accumulated in ECP. This option will be reserved only for individual payments (Art. 99[1] of the ECP Act).

The amount of the matrimonial benefit will depend on the amount of the funds paid into the matrimonial account. The value of these funds will be divided on a monthly basis by the number of months remaining to pay the last planned instalment. The amount calculated in this way will constitute the amount of the matrimonial benefit, one for both spouses.

Importantly, the funds accumulated on the matrimonial account will be subject to inheritance in the event of the death of both spouses.[41] And if one spouse survives, the matrimonial benefit will be paid to them in full until the funds accumulated on the matrimonial account are exhausted.

Problems with the legal regulation of the matrimonial benefit have already appeared in the course of work on the draft ECP Act. The regulations governing the institution of matrimonial benefit were criticised, among others for basic errors and a marked lack of precision.

First of all, serious doubts are raised due to the limitation of the possibility of taking advantage of the matrimonial benefit only to spouses whose ECP is run by the same financial institution. To ensure that the matrimonial benefit becomes a viable alternative to other forms of funds withdrawal from ECP, it should be possible for spouses whose ECP will be run by different financial institutions to take advantage of this solution.

Secondly, there are no rules on how to proceed in the event of divorce or cessation of common property when receiving a matrimonial benefit. This legal gap will cause serious problems in the proper functioning of ECP, all the more given that the average life expectancy and the activity of Polish seniors is increasing.[42]

To summarise the objections raised against the matrimonial benefit from ECP, it should be noted that this institution is an interesting and good idea, but unfortunately it is difficult to properly implement, and even more to operate it. Therefore, it is advisable to continue work on this form of accumulated funds withdrawal in order to eliminate the above shortcomings.

Participants' protection against the longevity risk when they choose a matrimonial benefit is also temporary and limited. Again, the amount of accumulated pension capital and the moment of starting matrimonial benefit collection are of key importance. If the accumulated capital is significant and the spouses decide to start funds withdrawal late (*e.g.*, after reaching the age of 75), they will be largely protected against the risk of longevity. Besides, the level of this protection will be higher thanks to combining the funds accumulated by both spouses and avoiding the one-off withdrawal of 25% of

41 R. Marczak, *Świadczenia z ubezpieczenia społecznego na rzecz rodziny: ochrona interesów rodziny po stracie żywiciela w prawie ubezpieczeń społecznych*, "Ubezpieczenia Społeczne. Teoria i praktyka" 2015, No. 4 (127).

42 A. Chłoń-Domińczak, *Pension System in Poland in the Gender Context* [in:] *Women's Work and Pensions: What is Good, What is Best? Designing Gender-Sensitive Arrangements*, ed. B. Marin, E. Zolyomi, London 2010.

the accumulated capital. This mechanism for the mutual protection of spouses in old age should be welcomed.[43]

Early withdrawal of ECP funds in the event of a serious illness

The ECP Act also provides for the possibility of withdrawing accumulated funds before reaching the age of 60. The first such exception is an earlier withdrawal in the event of a serious illness befalling the participant, their spouse or child, as provided for in Art. 101 of the Act. This is not directly related to the main purpose of ECP, which is to accumulate and invest funds to be withdrawn after the end of professional activity.

Early withdrawal in the event of serious illness will be limited only to 25% of the funds accumulated on the account.

The question arises about the definition of the term "serious illness." The answer can be found in Art. 2(23) of the ECP Act. The term "serious illness" is quite broadly defined there. In addition to permanent incapacity for work entitling one to a disability pension (governed by the Act on pensions from the Social Insurance Fund), there are also mentioned diseases whose occurrence will entitle one to an early withdrawal of funds from ECP.

What is important, early withdrawal of ECP funds in the event of a serious illness will not hinder the award of the disability pension or other social insurance benefits.

To make an early withdrawal in the event of a serious illness, the participant will need to provide a medical certificate and file a request to the institution holding their ECP account.

It will be up to the ECP participant to decide whether the early withdrawal will be one-off or split into instalments, and how many instalments these will be. This information will have to be included in the request.

Early withdrawal of ECP funds in the event of a serious illness will not be subject to income tax or social insurance contributions. Thanks to this, it will be a better solution than the termination of the ECP contract and withdrawal of all the funds before reaching the age of 60 (Art. 105 in conjunction with Art. 2[47] of the ECP Act).

Contrary to the early withdrawal of ECP funds for housing purposes, in the event of a serious illness there will be no obligation to pay back the withdrawn funds to the ECP.

The remaining funds accumulated on the ECP account will be paid to the participant only after they have reached the age of 60. Therefore, the early withdrawal in the event of a serious illness will reduce the amount of pension capital accumulated under the ECP, but will not eliminate it.

43 W. Koczur, T. Szumlicz, *Social Insurance: Confrontation of Solidarity and Individualism*, "Polityka Społeczna" 2018, No. 1.

Again, for comparison, it is worth analysing the situation of three participants who start accumulating funds in an ECP at the age of 20. This time they become seriously ill when they reach the age of 50. This forces them to make a one-off withdrawal of 25% of the accumulated funds.

A participant with an average monthly remuneration (PLN 5,182.43) after reaching the age of 50 and 30 years of participation in an ECP will have an amount of PLN 83,365.32 on their ECP account. In their situation, the withdrawal of 25% of the accumulated funds due to serious illness will bring them an amount of PLN 20,841.33.

A participant with a maximum monthly remuneration (PLN 473,980.00) after reaching the age of 50 and 30 years of participation in an ECP will have an amount of PLN 6,872,282.90 on their ECP account. In their situation, the withdrawal of 25% of the accumulated funds due to serious illness will bring them an amount of PLN 1,718,070.72.

And a participant with a minimum monthly remuneration (PLN 2,250.00) after reaching the age of 50 and 30 years of participation in an ECP will have an amount of PLN 40,882.87 on their ECP account. In their situation, the withdrawal of 25% of the accumulated funds due to serious illness will bring them an amount of PLN 10,220.72.

The incidence of serious health problems increases with age. This can lead to a situation in which the largest number of withdrawals from ECP due to serious illness will be made by the oldest ECP participants who have accumulated relatively the largest funds. But elimination of the possibility of early withdrawal of funds from ECP in the event of serious illness will place ECP participants before a difficult choice. The lack of the possibility for early withdrawal in the event of a serious illness would force ECP participants to terminate ECP contracts and withdraw all the funds accumulated there, even though they would have to pay a flat-rate capital income tax and overdue social insurance contributions (Art. 105 in conjunction with Art. 2[47] of the ECP Act). Therefore, the possibility of the early withdrawal of ECP funds in the event of a serious illness will allow participants to mitigate the negative consequences of serious illnesses in the ECP participant's family.

It should be noted that in accordance with the current wording of Art. 101(1) of the ECP Act, it will be possible to make multiple early withdrawals due to the occurrence of further serious illnesses to the participant, their spouse or child. This will allow the withdrawal of even the majority of funds accumulated in ECP before reaching the age of 60 without having to pay a flat-rate capital income tax and overdue social insurance contributions.

Withdrawal of funds in the event of a serious illness is not a form of additional pension security. The legislator has not envisaged here the condition of reaching 60 years of age. The loss of health is of fundamental importance here. In such a case, however, mention should be made of the higher financial security of an ECP participant who has access to additional financial resources for the purchase of medical services under private healthcare. The use of the ECP system to improve the health protection of ECP participants and their families should be assessed most positively.[44]

Early withdrawal of ECP funds for housing purposes

The ECP Act provides for the possibility of early withdrawal of up to 100% of the value of funds accumulated in ECP for housing purposes – to cover one's own contribution in connection with taking out a mortgage.

This is a result of stricter mechanisms implemented to banks' credit policies in the post-crisis era. These changes were reflected in Poland in the change of recommendation S by the Polish Financial Supervision (PFSA) [Komisja Nadzoru Finansowego, KNF] and the introduction of the requirement to have a minimum contribution when taking out a mortgage loan. According to the PFSA recommendation, the minimum own contribution has been raised annually by 5% since 2014.[45] These increases finally ended on 1 January 2017, when the minimum own contribution reached 20% of the mortgage loan value.

In this way, the requirement to have one's own contribution has become a barrier for many families when buying their own apartment. To solve this problem and support the housing policy of subsequent governments, the ECP Act provides for the possibility of an earlier withdrawal of accumulated funds from the ECP for housing purposes.

Pursuant to Art. 98 of the ECP Act, a participant may make a one-off withdrawal of up to 100% of the value of funds accumulated in ECP to cover one's own contribution in connection with taking out a mortgage loan for: the construction or reconstruction of a residential building, payment of a part of the purchase price of the ownership right to a residential building, a residential unit constituting a separate property or a cooperative ownership right to a residential unit, the acquisition of ownership right to a land property or part thereof, acquisition of a share in the joint ownership of a residential building or a residential unit constituting a separate property, or a share in a land property which the applicant declares to cover from their own funds in order to be granted a mortgage loan (Art. 3[1] of the Mortgage Loan Act and on the supervision of mortgage brokers and agents).[46]

It should be emphasised that the funds withdrawn from the ECP will have to be returned. The contract will specify the investment to be financed from the mortgage

44 For more details on the role of health and access to health care services see J. Jończyk, *Prawo zabezpieczenia społecznego. Ubezpieczenia społeczne i zdrowotne, bezrobocie i pomoc społeczna*, Zakamycze 2003, p. 300 *et seq.*

45 Resolution No. 148/2013 of the Polish Financial Supervision Authority of 18 June 2013 on Recommendation S concerning good practices in the management of mortgage-backed loan exposures (Official Journal of the Polish Financial Supervision Authority of 13.8.2013).

46 M. Wielebska, *Wybrane zagadnienia ustawy o kredycie hipotecznym*, "Monitor Prawa Bankowego" 2017, No. 11, pp. 92–102; T. Czech, *Pojęcie umowy o kredyt hipoteczny*, "Monitor Prawa Bankowego" 2018, No. 7, pp. 29–39.

loan, the rules and deadlines for the withdrawal of ECP funds as well as the rules and deadlines for paying back funds to the ECP. An early withdrawal of funds from an ECP for housing purposes will be possible only once.

Most importantly, any early withdrawal of ECP funds for housing purposes will not be taxed or interest-bearing. This means that participants will have access to considerable funds to buy their own apartment or build a house. In an era of low inflation, the lack of interest on this capital will not be felt too much by the ECP participant. However, when inflation processes return, the early withdrawal of ECP funds for housing purposes can noticeably reduce the financial burden resulting from the purchase (construction) of real estate and the repayment of financial liabilities.

Only participants who are under 45 years of age will be entitled to an early withdrawal of ECP funds for housing purposes. This is due to the fact that funds early withdrawal from an ECP for housing purposes will have to be paid back. The time limit for paying back funds may not start earlier than 5 years after their premature withdrawal from the ECP for housing purposes. The only sanction envisaged by the ECP Act if early withdrawn funds are not paid back, is the need to pay a flat-rate capital income tax on any non-returned amounts.

Again, for comparison, it is worth analysing the situation of the same three participants who start accumulating funds in ECP at the age of 20. This time they decide to make an early withdrawal of 100% of the accumulated funds for housing purposes.

A participant with an average monthly remuneration (PLN 5,182.43) after reaching the age of 30 and only 10 years of participation in ECP will have an amount of PLN 25,467.31 on their ECP account. This will be the amount for early withdrawal for housing purposes. If the same participant decided to make an early withdrawal of funds for housing purposes shortly before reaching the age of 45, after almost 15 years of accumulating funds in ECP, the withdrawn amount would already be equal to PLN 67,670.24.

A participant with a maximum monthly remuneration (PLN 473,980.00) after reaching the age of 30 and only 10 years of participation in an ECP will have an amount of PLN 2,099,985.44 on their ECP account. This will be the amount for early withdrawal for housing purposes. If the same participant decided to make an early of funds for housing purposes shortly before reaching the age of 45, after almost 15 years of accumulating funds in ECP, the withdrawn amount would already be equal to PLN 5,576,971.27.

And a participant with a minimum monthly remuneration (PLN 2,250.00) after reaching the age of 30 and only 10 years of participation in an ECP will have an amount of PLN 12,485.77 funds on their ECP account. This will be the amount for early withdrawal for housing purposes. If the same participant decided to make an early withdrawal of funds for housing purposes shortly before reaching the age of 45, after almost 15 years of accumulating funds in ECP, the withdrawn amount would already be equal to PLN 33,195.14.

To sum up, it should be noted that the early withdrawal of ECP funds for housing purposes will serve as an interest-free loan. The use of the ECP system to support housing policy should be assessed positively. For young families, the problem of the lack of their own apartment or house is more pronounced than capital accumulation for retirement. Besides, equipping ECP with a function similar to that of housing associations can increase the attractiveness of collecting funds in ECP.

Withdrawal of funds for housing purposes does not constitute an additional pension security. The withdrawn funds must be returned. In addition, these funds may not be used to buy another property for rent. Therefore, there is no element providing additional capital for the retirement period.

Conclusions

Already at the ECP introduction stage, a dispute arose as to whether this new form of "saving" funds for retirement was in fact a form of additional pension security. First of all, it should be noted that the real objective of the ECP system is not to systematically accumulate long-term savings. The ECP system is of an investment and not a saving nature. For payments and surcharges to the account of the ECP participant, share units or accounting units of the defined date funds are purchased. The ECP account does not have the features of a bank account and is not used for the safekeeping of funds. The real objective of the ECP system is to systematically accumulate funds and invest them for the purpose of withdrawal by the ECP participant after the fulfilment of the statutory conditions. This conclusion verifies the additional research hypothesis.

Further analysis of the rules governing the operation of Employee Capital Plans, and in particular the permissible forms of accumulated funds withdrawal, leads one to the conclusion that participation in an ECP protects one against the individual risk of longevity, but only to a limited extent. This verifies the main research hypothesis. Not all forms of funds withdrawal from an ECP as provided for by law protect the participant against the individual longevity risk and its financial consequences.

The choice of the default withdrawal in 120 instalments does not protect the participant against the negative effects of the individual longevity risk if they start withdrawal shortly after reaching the age of 60. And the postponing of the start of receiving benefits in this form by the participant to their 70th or 75th birthday significantly increases the level of protection for old age. With the average life expectancy in Poland approaching 80 years, the exhaustion of funds accumulated in an ECP as late as at the age of 80 or 85, means that the average ECP participant has the chance to receive benefits from an ECP until their death. A similar effect can be achieved by increasing the number of instalments to 240 or even 300, although this will affect the amount of the monthly instalments themselves. The necessity to make similar choices will be faced by participants who will choose the form of transfer withdrawal for the deposit. This is another example of how real socio-economic processes motivate individuals to extend their professional activity and delay the deaccumulation of any collected pension capital.

In the event of a one-off withdrawal of all accumulated funds, it is hard to speak about any protection against the individual risk of longevity. The accumulated share units are redeemed and their equivalent is paid out to the ECP participant. It will be up to the person concerned to decide when and how the withdrawn funds will be consumed.

The widest protection of an ECP participant against the individual risk of longevity is guaranteed by the use of accumulated funds for the acquisition of a lifetime annuity in an insurance company. This benefit is paid to the participant until their death, regardless of the duration of this period. The level of this additional security may be a problem. Only participants who have accumulated a large pension capital and started receiving a lifetime annuity much later than immediately after reaching the age of 60 will receive a benefit of a significant amount as compared to the minimum pension from Social Insurance Institution [Zakład Ubezpieczeń Społecznych, ZUS].

Participant's protection against the individual longevity risk when they choose a matrimonial benefit is also temporary and limited. Again, the amount of the accumulated pension capital and the moment of starting matrimonial benefit collection are of key importance. When choosing this form of benefit, the level of protection will be a bit higher thanks to combining the funds accumulated by both spouses and eliminating a one-off withdrawal of 25% of any accumulated capital. An attempt to apply the mechanism of mutual protection of spouses for old age should be welcomed.

At the same time, the legislator's efforts to introduce into the ECP system mechanisms enabling participants to use the accumulated funds before reaching the age of 60 in key situations for their lives (the acquisition of their own apartment/house, serious illness) should be welcomed. These mechanisms will undoubtedly contribute to greater stability of participation in the ECP and will limit the number of terminated accounts. The participant has the right to terminate the contract and withdraw funds accumulated on their account. It is true that this is connected with the necessity to return the welcome payment and incurred annual surcharges, as well as to transfer to ZUS 30% of the funds from payments made by the employing entity and with the obligation to pay income tax on capital gains. But in the case of serious life problems not foreseen by the ECP Act, the participant has the right to use the accumulated capital also in this way.

The final argument in favour of the ECP system is the right to inherit the accumulated funds. In the event of the death of an ECP participant, the family or other designated persons take advantage of financial security in the form of the capital accumulated on the account of the deceased ECP participant. This means that the accumulation of funds in ECP increases the financial security not only for the participant but also for their closest relatives.

Ultimately, this system is to be almost universal. And this means that a large number of employees who currently have no significant savings and are practically excluded from using the financial markets, will have the chance to accumulate some capital for retirement. This will undoubtedly contribute to the level of their financial security.

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SOURCES

- Antonów K., *Prawo ubezpieczeń społecznych a prawo ubezpieczeń gospodarczych (osobowych)*, "Opolskie Studia Administracyjno-Prawne" 2018, No. 3 (16).
- Bielawska K., *Retirement Decisions of Seniors in Poland in the Light of the Qualitative Research* [in:] *European Financial Systems 2018. Proceedings of the 15th International Scientific Conference*, Brno 2018.
- Borda M., Kowalczyk-Rólczyńska P., *Special Issue on Longevity Risk and Insurance*, "Journal of Finance and Economics" 2018, No. 4 (6).
- Brzęczek T., Szczepański M., *The Impact of Demography, Institutional Solutions and Fiscal Incentives on the Level of Participation and Investment Efficiency of Occupational Pension Schemes in Central and Eastern Europe*, "Journal of International Scientific Publications" 2017, No. 11.
- Buchholtz S., Gąska J., Góra M., *Pension Strategies of Workers in a Country Getting Old before Getting Rich*, "IZA Discussion Papers" 2018, No. 11830.
- Chłoń-Domińczak A., *Pension System in Poland in the Gender Context* [in:] *Women's Work and Pensions: What is Good, What is Best? Designing Gender-Sensitive Arrangements*, ed. B. Marin, E. Zolyomi, London 2010.
- Chybalski F., *Adekwatność dochodowa, efektywność i redystrybucja w systemach emerytalnych. Ujęcie teoretyczne, metodyczne i empiryczne*, Warszawa 2016.
- Cichowicz E., Rutecka-Góra J., *Świadomość Polaków dotycząca dodatkowego oszczędzania na starość – próba oceny oraz identyfikacji niezbędnych działań*, "Problemy Polityki Społecznej" 2017, No. 3.
- Czech T., *Pojęcie umowy o kredyt hipoteczny*, "Monitor Prawa Bankowego" 2018, No. 7.
- Dybał M., *Pracownicze programy emerytalne w Polsce*, "Ekonomia – Wroclaw Economic Review" 2017, No. 3 (23).
- Góra M., *Redesigning Pension Systems*, "IZA World of Labour" 2014, No. 51.
- Góra M., Rutecka J., *Elastyczny system emerytalny a potrzeby jego uczestników*, "Ekonomista" 2013, No. 6.
- Jakubowski S., *Art. 98* [in:] *Ustawa o pracowniczych planach kapitałowych. Komentarz*, ed. S. Jakubowski, A. Prusik, Warszawa 2019.

- Jakubowski S., *Prawno-ekonomiczne aspekty gromadzenia i lokowania środków przez otwarty fundusz emerytalny*, Wrocław 2013.
- Jedynak T., *Automatic Balance Mechanisms as Instruments of Maintaining Pension Scheme Financial Sustainability*, "Rozprawy Ubezpieczeniowe. Konsument na rynku usług finansowych" 2018, No. 3 (29).
- Jedynak T., *The Directions of the Development of Supplementary Pension Scheme in Poland*, "Journal of Insurance, Financial Markets and Consumer Protection" 2016, Vol. 22, No. 3.
- Jedynak T., *Wpływ wprowadzenia pracowniczych planów kapitałowych na wysokość przyszłych świadczeń emerytalnych w Polsce*, "Ubezpieczenia Społeczne. Teoria i praktyka" 2018, No. 2.
- Jończyk J., *Prawo zabezpieczenia społecznego. Ubezpieczenia społeczne i zdrowotne, bezrobocie i pomoc społeczna*, Zakamycze 2003.
- Koczur W., Szumlicz T., *Social Insurance: Confrontation of Solidarity and Individualism*, "Polityka Społeczna" 2018, No. 1.
- Kolek A., Wojewódka M., *Pracownicze Plany Kapitałowe – szansa czy miraż?*, Warszawa 2017.
- Kolek A., Wojewódka M., Sobolewski O., *PPK w firmie. Tworzenie, obowiązki informacyjne, rozliczanie wpłat*, Warszawa 2019.
- Kowalczyk-Rólczyńska P., *Increasing Life Expectancy – the Impact on Old-age Pension Benefits*, "Rozprawy Ubezpieczeniowe" 2018, No. 2 (28).
- Leśna-Wierszołowicz E., *IKE i IKZE jako dobrowolne formy gromadzenia oszczędności emerytalnych*, "Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu. Finanse Publiczne" 2016, No. 451.
- Leśna-Wierszołowicz E., *Skłonność Polaków do oszczędzania a rozwój dobrowolnych form gromadzenia oszczędności emerytalnych*, "Folia Pomeranae Universitatis Technologiae Stetinensis. Oeconomica" 2017, No. 88.
- Marczak R., *Polityka społeczna wobec starzenia się i starości w Polsce w latach 2015–2035*, "Ubezpieczenia Społeczne. Teoria i praktyka" 2016, No. 1.
- Marczak R., *Świadczenia z ubezpieczenia społecznego na rzecz rodziny: ochrona interesów rodziny po stracie żywiciela w prawie ubezpieczeń społecznych*, "Ubezpieczenia Społeczne. Teoria i praktyka" 2015, No. 4.
- Prusik A., *Art. 2* [in:] *Ustawa o pracowniczych planach kapitałowych. Komentarz*, ed. S. Jakubowski, A. Prusik, Warszawa 2019.
- Rutecka J., *Realokacja czy nowe oszczędności? O efektach zachęt podatkowych w dodatkowym oszczędzaniu na starość w Polsce*, "Rozprawy Ubezpieczeniowe" 2015, No. 18.
- Skwirowski P., *Borys: Oto lek na kurczące się emerytury*, 2019, https://serwisemerytalny.rp.pl/borys-oto-lek-na-kurczace-sie-emerytury/ (online access: 25.7.2019).
- Stańczak-Strumiłło K., *Towarzystwa funduszy inwestycyjnych w rozwoju pracowniczych programów emerytalnych w Polsce*, "Annales Universitatis Mariae Curie-Skłodowska, sectio H – Oeconomia" 2017, No. 6 (51).

- Stevens Y., *The Silent Pension Pillar Implosion*, "European Journal of Social Security" 2017, No. 2 (19).
- Szczepański M., *Badanie możliwości wykorzystania ekonomii behawioralnej w reformowaniu systemów emerytalnych*, "Finanse, Rynki Finansowe, Ubezpieczenia" 2017, No. 5 (89).
- Szczepański M., *Managing Longevity Risk in Pension System: The Case Study of Poland* [in:] *Country Experiences in Economic Development, Management and Entrepreneurship*, ed. M.H. Bilgin, H. Danis, E. Demir, U. Can, 2017.
- Szczepański M., *Metoda annuitetowa w zarządzaniu ryzykiem długowieczności w systemach emerytalnych*, "Studia Oeconomica Posnaniensia" 2017, No. 10 (5).
- Szczepański M., *Zarządzanie ryzykiem długowieczności w polskim systemie emerytalnym*, "Zeszyty Naukowe Uniwersytetu Szczecińskiego – Finanse, Rynki Finansowe, Ubezpieczenia" 2014, No. 65.
- Werpachowska A., *Forecasting the Impact of State Pension Reforms in Post-Brexit England & Wales Using Microsimulation and Deep Learning* [in:] *Contemporary Problems of Intergenerational Relations and Pension Systems: a Theoretical and Empirical Perspective*, ed. F. Chybalski, E. Marcinkiewicz, Łódź 2017.
- Wielebska M., *Wybrane zagadnienia ustawy o kredycie hipotecznym*, "Monitor Prawa Bankowego" 2017, No. 11.
- Wojewódka M., *Ustawa o pracowniczych planach kapitałowych. Komentarz*, Warszawa 2019.
- Wojewódka M., Kolek A., Sobolewski O., *Pracownicze Plany Kapitałowe – praktyczny poradnik dla podmiotów zatrudniających*, Gdańsk 2019.
- Zieliński M., *Pracownicze plany kapitałowe – nowa forma zabezpieczenia społecznego? Wybrane kontrowersje na tle podstawowych założeń ustawy o PPK*, "Praca i Zabezpieczenie Społeczne" 2018, No. 11.
- Żukowski M., *Rozwój bazy ekonomicznej ubezpieczeń społecznych* [in:] *Baza ekonomiczna ubezpieczenia społecznego*, ed. R. Pacud, Warszawa 2019.

Wypłata środków zgromadzonych na rachunku uczestnika pracowniczych planów kapitałowych

Artykuł zawiera szczegółową analizę ustawowych form wypłat środków z rachunku uczestnika pracowniczych planów kapitałowych (PPK). Pierwszym celem artykułu jest wyodrębnienie dopuszczalnych przez prawo form wypłat środków zgromadzonych na rachunku uczestnika PPK. Drugim celem jest ustalenie, na ile poszczególne formy wypłat z PPK chronią uczestnika przed indywidualnym ryzykiem długowieczności i jego negatywnymi finansowymi skutkami.

Ustawa o PPK przewiduje kilka sposobów wypłaty środków z rachunku w pracowniczym planie kapitałowym. Podstawową przesłanką dokonania wypłaty przez uczestnika jest osiągnięcie przez niego 60 roku życia. Może on wówczas dokonać wypłaty: w ratach, jednorazowo, w formie renty dożywotniej, świadczenia małżeńskiego, transferu na lokatę oszczędnościową lub terminową. Drugą przesłanką dokonania wypłaty jest poważne zachorowanie. Wówczas nie jest konieczne ukończenie 60 roku życia. Trzecią przesłanką dokonania wypłaty jest zaciągnięcie kredytu hipotecznego. Wypłata ta dokonywana jest na poczet pokrycia wkładu własnego. Prawo do dokonania tej wypłaty mają tylko uczestnicy, którzy nie ukończyli 45 roku życia.

Aby określić, na ile poszczególne formy wypłat z PPK chronią uczestnika przed indywidualnym ryzykiem długowieczności i jego finansowymi konsekwencjami, należy zastosować metodę ekonomicznej analizy prawa na poziomie mikro.

Słowa kluczowe: PPK, pracownicze programy emerytalne, emerytury pracownicze, dodatkowe zabezpieczenie emerytalne, emerytura