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Solidarism without solidarity – the impact of the Solidarity Fund performance on the public sector debt

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Abstract:. The article presents a critical analysis of the successive stages of the legislative process and the gradual expansion of the Solidarity Fund's tasks and the impact of these changes on its financial management. The aim of the study is to present the consequences of the implementation of (politically-driven) ad-hoc measures both for the financial management of the Solidarity Fund itself and its impact on the debt of the entire sector. Although the Fund's primary goal was to provide additional support for people with disabilities, its ultimate function is to primarily finance one-off benefits, paid on annual basis, for old-age and disability pensioners beyond all the principles of the social policy, which, as a result, weakens the existing system of labour market protection.

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Introduction

In the pre-pandemic budget policy of the Polish government, the Solidarity Fund for Support of Disabled Persons (now the Solidarity Fund), established in October 2018, became a source of financing for the so-called 13th retirement pension and one of the tools to mask the problem of the public finance sector deficit. Although the Fund's main goal was to provide additional support for people with disabilities, its ultimate function is to primarily finance one-off benefits, paid on annual basis, for old-age and disability pensioners beyond all the principles of the social policy, which, as a result, weakens the existing system of labour market protection. The article presents a critical analysis of the successive stages of the legislative process and the gradual expansion of the Fund's tasks and the impact of these changes on its financial management. The aim of the study is to present the consequences of the implementation of (politically-driven) ad-hoc measures both for the financial management of the Solidarity Fund itself and its impact on the debt of the entire sector. The material used for the analysis presented in this article consisted of legal acts, Sejm papers, explanatory memoranda, opinions of institutions and experts presented in the course of legislative work. The article employs the methodology of document analysis, desk research, and a critical case study, with the chronology of the creation of documents up to September 2020.

1. Development of the Solidarity Fund's tasks

The Solidarity Fund for Support of Disabled Persons (SFWON) was established by the act of October 23, 2018 . The explanatory memorandum to the act (Sejm paper 2848, 2018) defined that the SFWON[1] would be a state special-purpose fund without legal personality, which would be aimed at providing additional social, professional or health support for people with disabilities. The document indicated, that the currently available support for vocational and social activation (including the resources from the State Fund for Rehabilitation of Disabled Persons - PFRON) was insufficient and it was necessary to "find additional financial resources enabling the implementation of their [disabled] rights". To some extent, the support

1 The original name of the fund, Solidarity Fund for Support of Disabled Persons (SFWON), was changed to the Solidarity Fund by the November 2019 amendment. It applies to the same fund and is sometimes used interchangeably, although in this article, for the sake of clarity, the name of the Solidarity Fund (SF) is mainly used.

area was defined in detail: "information and communication, devices and technology", but also very broadly: "various types of services". Objections to such wording were raised already during the legislative process by the Bureau of Research (BAS) of the Chancellery of the Sejm (Assessment of the Impact of the Act, Sejm paper 2848, 2018), indicating that the creation of a new fund performing tasks convergent with the PFRON's tasks "may prove to be ineffective" and that "the weakness of the submitted draft is the ambiguous statutory scope of tasks of the newly established Fund ", potentially leading to limited availability of funds for selected groups of people with disabilities, while the proposed provisions were defined as "blank rights [...] to determine what the funds will be spent on". "Supporting the support system for people with disabilities" was considered imprecise. In the assessment of the act's impact it was even proposed to "consider abandoning the creation of a new special-purpose fund while maintaining the solidarity levy supporting the already existing PFRON and extending its tasks". Despite these comments, Art. 6 of the ultimately adopted act states: "The resources of the Fund shall be allocated to the implementation of: 1) government and departmental programs, [...], including those covering the implementation of own tasks of local government units in the field of supporting disabled people; 2) tasks related to the promotion and support of the support system for the disabled; 3) tasks in the field of innovative solutions for the support of disabled people". In turn, Art. 9 of the act, left the door open for changes, authorizing the minister responsible for social security to finance new tasks, not provided for in the financial plan, if they were introduced by an act.

The first extension of the Solidarity Fund's tasks took place in July 2019, under the *Act on Ensuring Accessibility for Persons with Special Need*s (Journal of Laws of 2019, item 1696). This act established another fund - the Accessibility Fund. The resources of the fund are allocated to the implementation of tasks supporting the activities aimed at ensuring accessibility for people with special needs or its improvement, in particular in public buildings and multi-family housing. Apart from EU funds and subsidies, the fund is supported from the State budget, mainly through the revenues from the Solidarity Fund and distributed by Bank Gospodarstwa Krajowego as loans (with the possibility of partial redemption or subsidies for partial repayment of liabilities from other sources.). Considering the previously mentioned arguments against the establishment of the SF, the creation of another separate fund leads to further dispersion of tasks and public funds and weakens the importance of the Solidarity Fund in the implementation of the tasks assigned to it.

Another extension of the Solidarity Fund task catalogue took place through the adoption of the *Act on Supplementary Benefit for Persons Incapable of Living Independently* (Journal of Laws of 2019, item 1622). Providing this benefit was the fundamental obligation of the government following the protest of parents of disabled persons and, referring to the 2018 press enunciation, the fundamental premise for the establishment of the Solidarity Fund. The act provides a benefit of PLN 500 for persons with total incapacity for work and independent existence.

In November 2019, the Sejm received a parliamentary bill amending the *Act on the Solidarity Fund for Support of Disabled Persons and Other Acts* (Sejm paper 13, 2019). Without referring to the actual (political) premises, it should be noted that the main changes proposed in the presented draft were: changing the name to a simpler one, the Solidarity Fund, and "introducing the possibility of granting financial support to other social groups – old-age and disability pensioners". Thus, the scope of tasks was extended for the third time: the Fund was expected to finance a one-off cash benefit, paid on annual basis, for old-age and disability pensioners together with handling costs, as well as (instead of direct financing from the state budget) a social pension and a funeral allowance. Taking into account that contributions to the Solidarity Fund are collected by the Social Insurance Institution (ZUS) and spent by ZUS, the National Health Fund (NFZ) and the Agency for Restructuring and Modernization of Agriculture (ARMiR), the separation of another entity cannot be considered conducive to effective implementation of tasks, especially in the context of unclear financial management, which will be discussed later in the article. The act entered into force on January 1, 2020, but at the same time it contained provisions in the field of financial management applicable retroactively from May 1, 2019.

By the government decision taken on February 25, 2020 (Sejm paper 280, 2020) the 14th “pensions" will also be paid in 2021[2]. However, they will be different from the so-called 13th month payments (universal benefit in the amount of PLN 1,200 gross), because in their case the income criterion will apply. The full 14th “pension” will be given to people whose benefit does not exceed PLN 2,900 gross, and for those with a higher benefit, the " 1PLN for 1 PLN" rule will apply. The cost of the payment of the additional annual cash benefit in 2021 was estimated at approximately PLN 10.6 billion.

Table 1: Financial plan of Solidarity Fund for 2019-2021

No.	Contents	Plan for 2019	Plan for 2020	Plan for 2021
		in thous. PLN	in thous. PLN	in thous. PLN
I	**Tasks resulting from the act establishing the special-purpose fund**	**490 285**	**20 441 300**	**33 393 800**
1.	Social, professional and health support	482 000	5 115 000	5 626 000
1.1.	Government and departmental programs	480 000	530 000	530 000
1.1.1	Government programs	400 000	260 000	110 000
1.1.2	Departmental programs	80 000	270 000	420 000
1.2.	Complementary benefit	-	4 543 000	5 054 000
1.3.	Promoting and supporting the support system for people with disabilities	1 000	1 000	1 000
1.4.	Tasks in the field of innovative solutions	1 000	1 000	1 000
1.5.	Transfers to the Accessibility Fund	-	40 000	40 000
2.	Social pension and derivatives	-	4 000 000	4 739 000
3.	Additional annual cash benefit	-	11 300 000	22 974 000
4.	Other tasks	8 285	26 300	54 800

Source: own study based on the Budget Act for 2019 of January 16, 2019 (Journal of Laws 2019, item 198), and the Budget Act for 2020 of February 14, 2020 (Journal of Laws of 2020, item 571)

Pursuant to Art. 11(1) of the *Act on the Solidarity Fund*, the minister responsible for social policy prepares an annual action plan for a given calendar year to support people with disabilities, hereinafter referred to as the "support plan". The first support plan was announced on January 31, 2019, and the plan for 2020 was announced on November 29, 2019. The vast majority of programs covered by the action plans had already been implemented before[3] both under the "For Life " program , PFRON tasks, tasks and programs of individual ministries or operational programs, although the scale of implementation had been small. Transferring these tasks to the Solidarity Fund may therefore be associated with the actual reduction of funds for their implementation, taking into account that the entities that transfer obligations to the Solidarity Fund do not transfer the funds spent so far. The new solutions really affecting the quality of life of people with disabilities include (partially) the operation of the Accessibility Fund and the supplementary benefit for those unable to live independently. The increase in the (still insufficient) pool of funds for special medical services provided by the National Health Fund should also be regarded positively. However, the factor having the most devastating impact on the public awareness is the introduction of the concept of the 13th month pension, which is neither a pension (not a contributory benefit) nor the13th payment. However, as a "retirement pension", this benefit will be or has already been recognized as “rightful” because

2 At the time of writing this article, the Act has not been passed yet, but the expenses have been included in the financial plan of the SF for 2021 and confirmed in the public space by the statements by the Prime Minister (including the Prime Minister's letter to retirees printed in Super Express on August 31, 2020).

3 Due to the limited scope of the study, there is no possibility of a broader analysis of the presented programs, however, the author of this article has many years of experience in the analysis of the public policies implemented for people with disabilities in Poland.

it is "earned and deserved" like a standard retirement pension[4]. Assuming that, at least until the next parliamentary elections in 2023, it will be disbursed, regardless of the budgetary consequences, it will most likely become a permanent element of the Polish system, failing to meet its guiding principle, which is work dependency.

2. Financial management of the Solidarity Fund

The establishment of the Solidarity Fund was accompanied by the creation of a completely new type of fiscal burden, i.e. the solidarity levy[5]. While the government has tried hard not to call it a tax, it bears all the features of that burden . The solidarity levy of 4 percent of the basis for calculating this levy is paid by natural persons. The basis for the calculation is the surplus of more than PLN 1 million of the income sum taxable on the terms specified in the relevant articles of the PIT Act, less the deductible social security contributions and other amounts. The persons obliged to pay the solidarity levy are supposed to calculate its amount on their own. Local government units do not participate in the solidarity levy - the solidarity levy is not a basis for donating 1% to a public benefit organization. Concerns were raised towards this financing structure. The National Council of Tax Advisors raised (Sejm paper 2848, 2018) the problem of the violation of the taxation fairness principle as the provisions of the solidarity levy concern people whose income is not necessarily high, but with income from certain sources, and for the benefit of only some contractors. In turn, the above-quoted BAS opinion (Ciura, 2018) clearly indicated a double burden resulting from the payment of the PFRON contribution and the new levy.

Pursuant to the provisions of the Act on the SFWON, the fund was also to be financed as part of the existing contribution to the Labour Fund (FP). It was originally assumed that the contribution payer would jointly pay the contributions to the FP and the SFWON in the current amount of 2.45% from which the contribution to the SFWON would be separated in the amount of 0.15%, and, consequently, the contribution to the Labour Fund would be at only 2.30 percent. Collected contributions are settled proportionally by ZUS and transferred to the accounts of the Labour Fund and the Solidarity Fund after the deduction of collection costs.

The Budget Act for 2020 introduced a change in the proportion of the contribution split between the funds: the Labour Fund receives 2.0% of the contribution assessment basis and the Solidarity Fund receives 0.45% and, although the nominal contribution revenue is expected to increase fourfold (see Table 2), its impact on the reduction in the fund balance is insignificant.

However, a fundamental change was introduced by the draft Budget Act for 2021 (Sejm paper 640, 2020). Article 26 of this act established a compulsory contribution to the Labour Fund at 1% of the basis while Article 27 introduced an obligatory contribution to the Solidarity Fund in the amount of 1.45% of the same basis. This means a ninefold increase in the contribution burden related to the SF compared to the 2019 contribution and, in nominal values, over a twelvefold increase in the revenues from this source.

Adopting the approach to transfer the funds from the Labour Fund to the newly-established SFWON should be considered a significant change having a negative impact on the rationality and transparency of public finance management. This change, however, was consistent with other measures taken by the government during this period with regard to the Labour Fund and, in part, the Guaranteed Employee Benefit Fund. Due to the favourable situation on the labour market, these funds had a good financial condition and therefore were treated as a reservoir for financing activities that often did not result directly from the purposes for which these funds had been established. Examples of these include the Labour Fund financing the expenses for the Employee Capital Plans (PPK) program from 2019 and financing the

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4 The first research of a similar scope is conducted by the team of prof. Piotr Michoń at Adam Mickiewicz University in Poznań, https://ue.poznan.pl/pl/badania-naukowe-uep,c458/projekty,c12397/solidarnosc-spoleczna-postawy-wobec-panstwa-opiekunczego,a91982.html

5 The introduction of the act also forced the extension of the notion of "tax". The solidarity levy was defined in chapter 6a, added in the Act of July, 26 1991 on Personal Income Tax (Journal of Laws of 2018, item 1509, as amended).

costs of specialization and postgraduate internships in medical professions in 2018. The burden of the latter was transferred to the Guaranteed Employee Benefit Fund in 2019, which (according to the plan) resulted in the depletion of its resources by over 60 %. This extensive economic model comes to its difficult end now when it is necessary to implement support programs in connection with the pandemic lockdown of the Polish economy. Maintaining the total burden related to the FP and the SF at 2.5% of the basis means a decrease in the Labour Fund revenues, not compensated by the basis increase resulting from economic development. Forecasts indicate that the need to reduce economic activity to a greater or lesser extent will prevail even until 2022. This is why the increase in unemployment, although sluggish, is inevitable. Introducing such measures clearly means that the priority is given to ad-hoc benefits instead of a long-term social security strategy for employees.

Table 2. Financial plan of Solidarity Fund on accrual basis for 2019-2021 (in PLN thousands)

No.	Contents	Plan for 2019	Plan for 2020	2020 amendment	Plan for 2021
1	**Fund balance at the beginning of the year**	**0**	**-9 192 900**	**- 9 192 900**	**1 313 688**
1.1.	Cash	0	3 807 100	3 807 100	29 555 147
1.2.	Liability	0	13 000 000	13 000 000	28 241 459
2	Revenue	651 600	3 759 200	30 259 200	20 256 459
2.1 .	Contributions 0.15% (2019) 0.45% (2020) 1.45% (2021)	647 000	2 600 000	2 600 000	8 300 000
2.2 .	Solidarity levy	0	1 150 000	1 150 000	1 757 000
2.3.	In the 2020 novel: Contributions from entities to the state special-purpose fund,	-	-	26 500 000	1 458 000
	In the 2020 draft: Subsidies from the state budget				
2.4.	Other revenue	4 600	9 200	9 200	5,000
3.	Task implementation costs	490 285	20 441 300	20 441 300	33 393 800
4.	**Fund balance at the end of the year**	**161 315**	**-25 875 000**	**625 000**	**-11 823 653**
4.1.	Cash	161 315	2 425 000	28 925 000	7 681 347
4.2.	Liability	0	28 300 000	28 300 000	19 505 000

Source: own study based on the Budget Act for 2019 of January 16, 2019 (Journal of Laws 2019, item 198), and the Budget Act for 2020 of February 14, 2020 (Journal of Laws of 2020, item 571), Governmental Draft Budget Act for 2021, Sejm paper 640

As discussed earlier, further tasks were assigned to the Solidarity Fund in the subsequent acts passed in the course of 2019. However, the biggest change in the Fund's economic model was introduced through the Amendment to the Act of November 2019 extending the scope of tasks with the obligation to finance the so-called 13th pension and, from 2021, both the 13th and the 14th pension. The list of the Fund's tasks and the related costs is presented in Table 1. The obligation to finance the one-off cash benefit was added to the Solidarity Fund's tasks with the assumption that that the Fund was responsible for the benefits already paid in the first half of 2019. The transitional provisions stated that the Solidarity Fund would reimburse ZUS for the costs of the one-off benefit paid and it would receive an interest-free loan of up to PLN 9 billion from the Demographic Reserve Fund. The BAS opinion for Sejm paper 13-A stated that "the above solution will not have an impact on the balance of the Demographic Reserve Fund as the loan-related loss of funds will be compensated by the payment of funds from the state budget, reserved in section 73 - Social Insurance Institution" (Sejm paper 13-A, 2019). The documents did not specify the loan repayment date, and, because the Amendment was not accompanied by an Assessment of Act’s Impact, there was no basis to evaluate the stability of the planned solutions and, above all, the future financial sources for the so-called 13th pension.

Due to the pandemic and related economic phenomena, it turned out that it was necessary to abandon the idea of a balanced budget plan for 2020 and to make the State budget more realistic . The Amendment to the Budget Act for 2020 (Sejm paper 572,2020) assumed a deficit of PLN 109.347 billion as a result of the economic crisis. The analysis of changes in specific parts of the budget shows, however, that the largest individual item, PLN 25.5 billion, (approx. 24% of the entire deficit) is funding an item unrelated to COVID-19. According to the explanatory memorandum of the Amendment, "the change in the level of expenditure [in section 44 - Social security - ed. author] results from the payment from the state budget, transferred by the minister responsible for social security, to the Solidarity Fund implementing very important social tasks". There is no broader justification in the act. Taking into account the Prime Minister's promise to pay the 13th and 14th pensions in 2021, it can be concluded that the government used the "pandemic" argument to secure the financing of benefits in the following year. To compare, the ZUS subsidy (section 73) for all the purposes related to the pandemic and the delayed reform of the Open Pension Funds (OFE) amounted to PLN 12.5 billion. Thanks to this Amendment, the Solidarity Fund should end 2020 with a positive balance (Table 2).

The draft Budget Act for 2021 also resolves the problem of the loan from the Demographic Reserve Fund (Sejm paper 640, 2020). In the explanatory memorandum to the act, it was stated that "the revenue includes the remission of the loan granted to the Fund from the Demographic Reserve Fund in 2019 to refund the one-off cash benefit for pensioners paid from the Social Insurance Fund [...]" . Interestingly, these revenues are not directly visible in the Fund's financial plan (Table 2). Consequently, the ability to disburse non-systemic benefits with a symbolic impact on the wellbeing of the elderly was again ensured through the reserves for future pensions and public debt.

As shown in Table 2, the changes introduced by the November 2019 amendment led to a dramatic change in the financial condition of the Fund - its draining and, most of all, entering almost a 28-billion debt on its account. Since the Solidarity Fund is not subject to the expenditure rule, more debt may be incurred in subsequent years, as the Fund's administrator has the option of taking interest-free loans, including those from the state budget, to pay the complementary benefits, additional one-off cash benefits for pensioners, paid on annual basis, and the social pension. From January 1, 2021, the Fund will receive a special-purpose subsidy from the state budget, but it will only apply to financing the complementary benefit and its handling costs. A critical assessment of the financial plan of the Solidarity Fund was presented in the opinion on the Budget Act by W. Misiąg (Misiąg, 2020) who concluded that "the financial plan of the Solidarity Fund is perhaps the most spectacular example of quasi-fiscal operations aimed at formal reduction of the state budget expenditure" . It was the debt of the Solidarity Fund that caused the imbalance of revenues and expenditures of the public finance sector in the adopted budget. So far, the deficit had resulted from the imbalance of the most important fund, i.e. the state budget, but the primary plan for 2020 assumed that the problem would be pushed beyond the foreground. The situation is returning to normal " as a result of the 2020 budget amendment. By taking advantage of the "covid" concerns about the economy and the short-term stability of the Demographic Reserve Fund, the decision-makers secured (politically important) funds for the one-off cash benefits, financing them mainly through public debt. The remaining tasks, although socially important, remain beyond the real interest of the government and the related expenses are not growing at the rate of the Fund's revenues growth. The entitlement for a complementary benefit for people unable to live independently is going to be limited by introducing the income criterion, although the budgetary act guarantees its financing directly from the state budget. Despite the takeover of the contribution income from the Labour Fund, debt remission and generous financing from the state budget, the Fund's balance at the end of 2021 will be highly negative again.

Summary

The last two decades of the Polish public policy are marked with limiting both the activation and independence of people with disabilities and, through inappropriately low benefits and limited support, the common human rights. Two years of transformation of the Solidarity Fund, created by the determined individuals and turned into an instrument of achieving political goals, is an emanation of the inefficiency of the public policy implementation. Not only do the Polish authorities use anachronistic language in the social sphere, but still have not reached the domain of a modern and pragmatic welfare state. The process of aging of the Polish society, which is rapidly gaining momentum, is not addressed by any strategy, neither in terms of adapting the healthcare system, social security nor social assistance. The few hybrid benefits from the Solidarity Fund do not complement the coherent initiatives of the state. Financing ad-hoc benefits, with no impact on the quality of life, dominates strategic planning and long-term goals. Political solidarism, which allows for the adoption of such solutions, remains beyond the solidarity defined as responsibility for fellow citizens (Jędrzejczak, 2019) and the common good or supporting social stability (Goodini,1999).

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