

**THE PENSION PROVISION SCHEME
FOR PROFESSIONAL SOLDIERS IN POLAND:
THE BACKGROUND, EFFICIENCY AND PROSPECTS**

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A b s t r a c t

Our objective has been to review, analyze and evaluate the pension scheme for professional soldiers and their family members in Poland, including the current legal regulations governing this area.

The unique legal status of the armed forces in Poland has always been associated with the commonly held belief that professional soldiers and their families enjoy a special, privileged position in terms of social security compared with other occupational groups.

However, the unique and more advantageous conditions for the acquisition of health or old-age pension rights drawn up specifically for the armed forces can be seen as compensation for the high psychophysical and intellectual expectations that professional soldiers must satisfy. These expectations include requirements such as constant work availability, willingness to risk one's life and health and, in general, a higher degree of work stress among professional servicemen than among other groups of employees.

**SYSTEM ZAOPATRZENIA EMERYTALNEGO ŻOŁNIERZY ZAWODOWYCH –
GENEZA, FUNKCJONOWANIE, PERSPEKTYWY**

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A b s t r a k t

Przedmiotem artykułu jest próba prezentacji, analizy i oceny funkcjonowania zaopatrzeniowego systemu emerytalnego żołnierzy zawodowych i członków ich rodzin w Polsce, z uwzględnieniem aktualnie obowiązujących uwarunkowań prawnych w tym zakresie. Zróżnicowaniu statusu prawnego

wojskowych w naszym kraju zawsze towarzyszyło dość powszechne przeświadczenie społeczeństwa, że w materii praw socjalnych pozycja tej grupy względem innych grup zatrudnionych była szczególnie uprzywilejowana. Odrębne jednak, a zarazem korzystniejsze, zasady nabywania uprawnień emerytalno-rentowych dla tej grupy osób są traktowane jako swego rodzaju rekompensata za wysokie wymagania psychofizyczne i intelektualne: stałą dyspozycyjność, gotowość do narażania życia i zdrowia oraz ogólnie dużą uciążliwość służby wojskowej w porównaniu z warunkami pracy i obowiązków innych grup zatrudnionej ludności.

Introduction

Parallel to two other pension systems – one for farmers and the other for the general population in which future beneficiaries are obliged to participate and in which the capital for pension payments is accumulated from the contributions paid by prospective pensioners during their entire active professional careers – there is another pension scheme providing pensions for the so-called „uniformed forces” (BIS 2011, p. 4).

A distinguishing feature of the latter system is that pensions are paid by the state organs directly from the state budget (WANTOCH-REKOWSKI 2014, p. 60), because no pension contributions are deducted from remunerations received by uniformed servicemen. Professional soldiers and functionaries of other uniformed services, including police or paramilitary forces, are not employees in the light of the Employment Law, but have entered into a service relationship with the state (which is then their work provider and the employing subject)¹.

Each group of the uniformed forces is guaranteed conditions, adjusted to the specific nature of their performed duties that specify the acquisition of pension rights and pension payments. A noteworthy point is that no other group of people with an occupation in Poland has such rights (or privileges) except the uniformed services².

However, as A. WIKTOROW (2011, p. 147) rightly observes, the distinctly different character of the scheme of pensions and other social benefits designed for the uniformed forces is maintained in most countries worldwide, and

¹ Pursuant to the judgment of the Constitutional Tribunal of 14 December 1999 (ref. no SK 14/98), the service relationships of professional soldiers are not labor relationships but possess the nature of administrative and legal relationships that are created by appointment, when a person volunteers to enroll in the army. P. SZUSTAKIEWICZ (2012, p. 21) points to three elements that distinguish this type of service relation from the ones typical of the labor law. These are: the duty to sacrifice oneself, unique availability and subordination, and certain unique rights granted to soldiers for their service.

² The pension provision scheme for professional soldiers does not encompass civilians employed by the army. In turn, eligible family members of a deceased, disabled or retired soldier are entitled to a family pension – in compliance with the regulations and in the amount determined by the Act on Disability and Old-Age Pensions, payable from the Social Insurance Fund.

therefore the solution is not broadly contested. Controversies and reservations are raised among the general pension scheme participants since they perceive the system as particularly advantageous for servicemen; particularly the preferential rights to benefits, the pensions granted to armed forces, and frequently, the high pensions received by retired soldiers³.

Nevertheless, the distinctly different and more favorable conditions to acquire rights to invalidity and old-age pensions, as well as the way in which these pensions and their amounts compare to pensions collected from the universal pension scheme, are most often justified by the specific circumstances and characteristics of being on duty in the armed forces.

Thus far, the jurisprudence of the Constitutional Tribunal, and especially the judgment of 24 February 2010 on the rules for calculating the amount of old-age pensions (Ref. no K 6/09, OTK ZU no 2/A/2010, item 15), clarify that „the existence of a separate pension scheme for professional soldiers and functionaries of other uniformed forces which is much more advantageous than the general old-age social security system encompassing all other citizens (except judges and public prosecutors) does not infringe on the principle of equality (Article 32 of the Constitution) or the principle of justice (Article 2 of the Constitution)”. The Constitutional Tribunal treats separate pension schemes for professional soldiers and other uniformed functionaries as a permissible differentiation in entitlements, objectively and rationally justified by the particular character of the service performed by these persons for the protection of the state’s security, sovereignty and territorial integrity as well as the rights and freedoms of citizens. This is due to the fact that the service involves increased (burdensome) service availability and often the risk of losing one’s life or health’.

Considering the statements above, our objective has been to make a closer analysis of the background, efficiency and consequences of having a separate pension provision system for professional soldiers and their family members in Poland. Another purpose has been to assess the economic aspects of the above scheme, including the currently binding legal solutions that are relevant.

³ A report on the survey conducted by the Public Opinion Research centre in Poland (CBOS) (*Opinie o zmianach w systemie emerytalnym* 2012, p. 3) revealed that most of the respondents (80%) are in favor of the tightening of rights to retire by members of the uniformed forces.

The pension system for professional soldiers and its performance

The background as well as the underlying conditions and developments in the pension provision system for professional soldiers

One of the most numerous – as will be later specified – professional groups benefiting from the old-age pension scheme for uniformed services is composed of professional soldiers who have acquired the right to pension (either because of their years in service or due to the complete loss of ability to serve in the army) and members of their families (in the event of the death of a soldier).

The unique pension rights of professional soldiers in Poland have origins that are historically grounded⁴. In recognition of the role they have played for the state and their exposure to uncommon risks, this social and vocational group has been traditionally granted unique pension provision opportunities, even in pre-war Poland (MUSZALSKI 2004, p. 173).

For instance, the provisions of the Act of 5 August 1922 on the pension system for soldiers and their families, or the Act of 11 December 1923 on the pension system of state functionaries and professional soldiers⁵ prove unequivocally that there were separate regulations in the 1920s governing the acquisition of pension rights by soldiers, distinctly different from the rules underlying the universal pension scheme, which relied on the principle of social insurance.

The right to old-age pensions for retired professional soldiers was granted exclusively by the legislator and – instead of being dependent on previously paid contributions⁶ – was financed from budgetary means. Thus, the state guaranteed that pensions were paid to the state's soldiers, in the amounts and on the conditions stipulated by the act.

According to M. SZCZUR (2014, p. 6), this is the so-called principle (method) of social security provision, i.e. the rights to certain benefits are granted by the power of law, and not having fulfilled the conditions defined by the regulations;

⁴ Systems for providing retired soldiers with financial security already existed in antiquity, for example in Rome veteran soldiers received parcels of land, from which they could derive a profit in their old age.

⁵ The original title of the act.

⁶ The duty to pay contributions to the so-called pension fund occurred in all systems, but in the universal system the costs of creating and paying contributions were shared by employees and employers, whereas in the provision system, contributions to the pension provision fund for soldiers was paid from the state budget. As underlined by T. ŻYLIŃSKI (1984, p. 132), the amount of a pension paid from the universal system depended on the time period over which contributions were paid, whereas in the pension scheme for soldiers, the period of paying contributions was irrelevant because the amount of a pension depended on the years of service.

allowances are financed from taxation (general); the rules determining the types of allowances and their amounts are specified in the provisions of the relevant legal act.

As noted by R. BABIŃSKA (2008, p. 261), in interwar Poland a special legal status was granted to certain professional groups, counted as the state's servicemen, essentially in an attempt to create a professional military corps which would enable the state to perform its functions. To accomplish the aim of ensuring the military security of the independent state, it was necessary to build and maintain a loyal and, above all, disciplined army that would be ready to defend it. Having imposed special tasks, duties and disciplinary measures on the army, the state was obliged to provide soldiers with unique rights and privileges.

After World War Two, the pension scheme for professional soldiers and their families was, and continues to be, separate from the pension systems established for other social groups in Poland. It has also maintained its character as a pension provision system.

M. GRODZICKI (2012, p. 356) points out that some attempts undertaken prior to 2012 to reform the pension schemes for uniformed forces (including professional soldiers), and especially to extend the period of obligatory military service, failed to lead to any considerable changes.

Actually, it was not until 2012 that Donald Tusk's government managed, for the first time, to raise the pension age limit for uniformed services (including professional soldiers)⁷.

However, the higher age limit was mostly obligatory for soldiers (drafted to the army) and functionaries (appointed to services) who entered into service for the first time after 31 December 2012⁸.

⁷ Pursuant to the Draft Act on Amending the Act on the Pension System for Uniformed Services, the currently binding pension system for uniformed services is perceived as one of the causes of the excessive public debt growth. Consequently, on 1 January 2013 the minimum service period to be entitled to retirement was extended from 15 to 25 years and the minimum retirement age was raised to 55 years, <https://bip.ms.gov.pl/pl/projekty-aktow.../download,1614,1.html> (accessed on 02.07.2015). According to the Polish Supreme Audit Office (2014, p. 22), the state's expenditure planned in 2013 to finance the state's defense was 28,026,355.6 thousand PLN – which corresponded to less than 2% GNP. In turn, the Ministry of Defense (in the same year) allocated the amount of 6,514,273.9 thousand PLN, i.e. 23.2% of the expenditures from the ministry budget, to the delivery of payable pensions.

⁸ The Act of 11 May 2012, on the Amendment of the Act on the Pension Provision for Professional Soldiers and Their Families, Act on the Pension Provision of Officers of the Police, Internal Security Agency, Intelligence Agency, Military Counterintelligence Service, Military Intelligence Service, Central Anti-Corruption Bureau, Border Patrol, Government Protection Bureau, State Fire Brigades and Prison Services and Their Families, and certain other acts.

Types and scope of pension scheme allowances

The range of allowances and the rules defining their acquisition by professional soldiers and their families are regulated by Article 2, items 1–2, of the Act of 10 December 1993 on retirement pension provision for professional soldiers and their families (DzU z 2015 r., poz. 330).

Under the pension provision system, eligible persons are entitled to the following benefits:

- Pecuniary benefits, such as:
 - military pension;
 - military invalidity pension;
 - military family pension;
 - extra allowances in addition to a disability or old-age pension;
 - funeral payments.
- Other benefits and entitlements, such as:
 - social benefits;
 - health benefits;
 - the right to a residence in a home for retired soldiers.

In principle, the basis for calculating a soldier's pension is the remuneration paid to the professional soldier in the last month of performing professional military service, at a 40% replacement rate, and the minimum time period required to be entitled to claim a pension is 15 years of service in the Polish Army⁹. It should be added that the right to a military pension does not depend on the soldier's age. The algorithm for calculating a pension is specified in Article 15 of the aforementioned act (more in SIKORA 2009, p. 44–46). It is noteworthy that the rule mentioned above ensures that soldiers receive relatively high replacement rates¹⁰ for a short period of „employment” and are therefore not motivated to stay in military service longer.

On 1 January 2013, new provisions entered into force amending earlier regulations that governed the acquisition of the right to pensions by soldiers. Now, soldiers are entitled to a pension after 25 years of service in the army and having reached 55 years of age. This means that soldiers will „work” ten years longer than previously before they can retire.

However, the new regulations are binding only for persons who have enrolled in the army following their enforcement, i.e. after 1 January 2015.

⁹ Time periods equivalent to military service in the Polish Army are regulated by Article 13 of the Act of 10 December 1993 on Pension Provision of Professional Soldiers and Their Families.

¹⁰ The replacement rate is the relation of the average amount of a received pension to the average salary received during the occupational career. This is a relative measure (most often expressed as a percentage). The replacement rate should not be equated to the amount of a pension received, which is expressed in a currency, for example in Polish zloty, and which – as K. Bis (2011, p. 5) put it – „decides about the actual ability of retired persons to finance consumption”.

All other professional soldiers have the right to choose between two options: they can retire in compliance with the previous regulations or according to the new rules. However, the new legal regulations stipulate that in order to be eligible to receive a military pension, a person must simultaneously satisfy two conditions: prove to have been in military service for at least 25 years and finished at least 55 years of age.

In brief, the change in the pension provision system for professional soldiers has extended the time period of active professional life that entitles one to claim a pension. It is thereby an example of an attempt made to significantly reduce pension privileges in the analyzed system.

The fundamental regulations defining the required years in service and the calculation of the basis for an assessment of pensions are summarized in Table 1.

Table 1

Years in service versus amount of pension

Years in service	Amount of pension [%]		Years in service	Amount of pension [%]	
	„old pension”	„new pension”		„old pension”	„new pension”
15	40.0	–	24	63.4	–
16	42.6	–	25	66.0	60.0
17	45.2	–	26	68.6	63.0
18	47.8	–	27	71.2	66.0
19	50.4	–	28	73.8	69.0
20	53.0	–	28.5	75.0	70.5
21	55.6	–	29	75.0	72.0
22	58.2	–	30	75.0	75.0
23	60.8	–	31	75.0	75.0

Source: the authors, based on the Act of 10 December 1993, on Pension Provision of Professional Soldiers and their Families.

The data contained in table 1 explicitly demonstrate that the maximum allowance in „the old system” is obtained by a „uniformed old-age pensioner” having served 28 years and 6 months in the army, whereas in the amended system he will have to serve for 30 years to be entitled to the same, highest pension.

Number and structure of payable pensions from the military

The data gathered in table 2 show that at the end of 2013, the Ministry of National Defense paid 166,455 invalidity and old-age pensions, i.e. almost 4% more than in 2010, when the number of pensions paid was 160,413.

The number of pensioners increased steadily over the analyzed time period, from 105,427 persons in 2010 to 111,756 in 2013 (a 6% increase).

However, in December 2010, there were 17,040 persons registered as collecting military invalidity pensions, while in the subsequent years (2011–2013) the number of such beneficiaries tended to decrease. In 2013, there were just 15,436 ex-servicemen who could confirm that the Army pension office paid them military allowances for disabled soldiers.

It is also worth noticing that the number of beneficiaries collecting military family allowances was on the increase. The data collected in table 2 show a regular increase in the share of such pensions relative to the total number of military pensions paid over the four analyzed years. Hence, in 2010 there were 37,946 persons claiming such benefits, whereas in 2013 the number of persons receiving family pensions rose to 39,263 (an increase of 1,317 „new beneficiaries”). Such a considerable rise in the number of people entitled to military family pensions should be attributed exclusively to the growing number of deaths among persons collecting military old-age and invalidity pensions.

It also needs to be borne in mind that during the analyzed time period, family members of the professional soldiers who died in the aviation catastrophe at Smolensk in a government airplane, as well as other soldiers who were killed or died during foreign missions, were granted the right to military family benefits and received due payments.

Table 2
Number and structure of military invalidity, old-age and family pensions from 2010–2013
(for the month of December)

Year	Type of benefit	Number of benefits
2010	military old-age pension	105,427
	military invalidity pension	17,040
	military family pension	37,946
	total	160,413
2011	military old-age pension	107,635
	military invalidity pension	16,531
	military family pension	38,391
	total	162,557
2012	military old-age pension	110,501
	military invalidity pension	16,007
	military family pension	38,875
	total	165,383
2013	military old-age pension	111,756
	military invalidity pension	15,436
	military family pension	39,263
	total	166,455

Source: the authors, based on records held by the Ministry of Defense covering the years 2010–2013.

Amounts of due and paid pensions for invalidity, old-age and family

The data aggregated in table 3 show that in 2013 the amount of an average pension in the uniformed services was 3,499.72 PLN from the Ministry of Justice (an increase by 5.8% relative to 2010), 3,326.70 PLN from the Ministry of Internal Affairs (an increase by 5.9%), and 3,236.59 (an increase by 4.5%), thus being much higher than the pensions paid by ZUS (the Social Insurance Institution) and by KRUS (the Agricultural Insurance Fund), in which average pensions equaled 1,970.39 PLN (an increase by 5.2%) and 1,153.87 PLN (an increase by 5.1%), respectively.

The highest invalidity pension in 2013 was paid by the Ministry of Defense – 3,051.01 PLN on average. The average amount of an invalidity pension paid by the Health and Old-Age Pension Institution of the Ministry of Internal Affairs equaled 2,733.64 PLN and was higher by 54.43 PLN than the average invalidity pension paid by the Pension Institution of the Penitentiary Service (2,679.21 PLN). In turn, the average invalidity pension paid by ZUS was 1,487.65 PLN, nearly 56% higher than the analogous pension paid by KRUS.

The difference between the highest family pension paid by the Ministry of Defense and by the Agricultural Social Insurance Fund (the KRUS) was almost 1,485 PLN in 2013. The former was 970.79 PLN higher than the average family pension paid by the Social Insurance Fund (ZUS).

Summary

Unquestionably, the pension scheme created for professional soldiers is a form of privilege and its most significant benefit arises from the fact that pension seekers must satisfy more favorable conditions to acquire the right to pension and can receive higher allowances than persons subjected to the universal social insurance system.

By granting certain privileges, the legislator has recognized and appreciated the unique character of a service provided by professional soldiers, during which such circumstances may arise that a soldier's health or life will be at risk, and all professional soldiers before entering into service must swear „to spare not, for my Fatherland in need, my own blood nor my life” (Act on Soldiers' Oath, 3 October 1992, Journal of Law of 1992, no 77, item 386).

It is true, however, that this system is not fully approved of in the current economic and social reality, and that many solutions that have been or are now being implemented in the pension provision system of the armed forces are not quite consistent with the rules of a market economy.

Table 3

Average amounts of invalidity and old-age pensions in 2010–2013 (in PLN) –
divided into types of benefits

Year	Type of pension		
	old-age pension	invalidity pension	family pension
Ministry of Defense			
2010	2,857.10	2,789.09	2,410.19
2011	2,986.60	2,879.47	2,500.57
2012	3,096.47	2,951.35	2,579.08
2013	3,236.59	3,051.01	2,688.47
Ministry of Internal Affairs			
2010	2,827.29	2,396.03	2,259.04
2011	2,994.70	2,515.63	2,350.86
2012	3,140.91	2,604.63	2,448.54
2013	3,326.70	2,733.64	2,562.07
Ministry of Justice			
2010	2,961.02	2,359.95	2,414.69
2011	3,160.10	2,459.76	2,496.60
2012	3,308.35	2,538.11	2,551.57
2013	3,499.72	2,679.21	2,640.17
Social Insurance Fund			
2010	1,698.35	1,261.35	1,475.11
2011	1,783.06	1,323.19	1,543.14
2012	1,872.32	1,408.26	1,631.04
2013	1,970.39	1,487.65	1,717.68
Agricultural Social Insurance Fund			
2010	996.18	751.21	1,010.96
2011	1,028.51	777.37	1,054.20
2012	1,097.75	837.16	1,145.64
2013	1,153.87	958.23	1,203.94

Source: the authors. Data from 2010-2013 were obtained from the Central Statistical Office's reports: *Disability and Old-Age Pensions in 2010, 2011, 2012 and 2013 (Emerytura i renty w 2011 r. 2012, Emerytura i renty w 2012 r. 2013, Emerytura i renty w 2013 r. 2014)*.

The above analysis confirms that the number of beneficiaries collecting allowances funded by the Ministry of Defense has been steadily increasing. Although the highest average health or old-age pension in 2010–2013 was paid by the pension providing institution of the penitentiary service, the levels of average pensions paid by the Ministry of Defense still remain much higher than those of pensions received by other pensioners.

The amendments of the Act on Pensions for „former soldiers” – heralded and initiated by the Polish government (the purpose of which is to rationalize

expenses from the budget of the Ministry of Defense allocated to payments of pensions and other social allowances, and to achieve a higher level of social justice) most distinctly intend to encourage professional soldiers to prolong their stay in the army. The new algorithm proposed for calculating pensions allows one to purposefully raise a salary earned at the last post in the army in order to increase the amount of a pension.

It should also be added that the reforms implemented in 2012, such as the extension of the service time for future beneficiaries of the pension scheme (from 15 to 25 years) and the minimum age to be eligible for a pension (55 years of age) will affect the pension provision expenses, which will decrease in the future.

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