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Abstract:

The author analyzes the legal changes in Poland over the past three years on the basis of which the State (legislator) has depleted the assets of open pension funds (OFE) through the redemption of the government bonds they held, and also abolished the obligation of members of the pension insurance system to belong to a pension fund. The subject of the analysis is also the Constitutional Court's judgment of 4 November 2015 (File number K 1/14) which recognized the legal changes as compliant with the Constitution.

The author, who is a civil law expert, decided to conduct his analysis using the civil law methodology. The analysis lead the author to the conclusion that the money collected and recorded in the accounts of members of the open pension funds (the citizens) does not belong to the State. Consequently, the question needs to be answered whether the seizure of the funds by the State can be justified in the light of the Constitution. In his further considerations, the author attempts to go beyond the classical civil law. In his view the complex problem of the second pillar of the pension insurance system, the so-called capital pillar, should be seen in a wider context, taking into account the achievements of constitutional law and social security law.

Finally, the author concludes that both the recommended legal changes as well as the Constitutional Court's judgment of 4 November 2015 are highly controversial. In particular, irrespective of the good will of the Constitutional Court's judges, who are guided by their concern about the condition of the public finances of the State, the judgment and the actions

of the legislator significantly weaken the citizens' trust in the State and the laws created by it. The changes in the second pillar of the pension insurance system are in fact an example of how promises are broken on a massive scale.

The subject discussed by the author also led him to dwell upon some issues of a more general nature regarding the role and importance of civil law and the perception of civil law in the modern world by legislators.