

ЦИВІЛЬНЕ І ТРУДОВЕ ПРАВО

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FEATURES OF SOCIAL PROTECTION OF THE POPULATION: THEORETICAL ASPECT

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Purpose: to analyze different approaches to defining the theoretical and legal content of the concept of "social protection", highlighting the features of social protection of the population in modern conditions.

Research methods: general scientific and special methods were used during scientific research. In particular, the definition of concepts: "systematization of social legislation", "codification of social legislation" was formulated using the logical-semantic method. The comparative legal method was used during the analysis of the common and distinctive features of the forms of systematization of social legislation, the characteristics of the ratio of trends in the further development of the systematization of social legislation and directions for the improvement of systematization. During the generalization of the classification of tasks and functions of the systematization of social legislation, classification, grouping, system-structural and system-functional methods were applied. With the help of special legal and statistical methods, the theoretical and practical problems of the systematization of social legislation have been established. In turn, the structural-logical method was used to determine the possibilities of eliminating the outlined problems and optimizing the systematization of social legislation in Ukraine. **Results:** states that the sphere of social protection of the population in Ukraine needs systematization of the current social legislation taking into account the main trends of the European Community. **Discussion:** the problem of the ineffectiveness of the social legislation of Ukraine regarding the provision of proper social protection of the population and the realization of constitutional rights and guarantees by a person is raised. First of all, the highest value of the European Union is human life, and therefore proper social protection by the state. Thus, in modern conditions, it is necessary to create a theoretical basis in the national legislation, which will become the basis for the formation of social legislation in Ukraine.

Key words: social protection; social security; social protection of the population; social services; social risk; social policy; vulnerable sections of the population; legal policy; social legislation.

Problem statement and its relevance. In accordance with Art. 46 of the Constitution of Ukraine, citizens of our country have the right to social protection. However, after analyzing the national legislation, we did not find a clear definition of the concept of "social protection", namely its meaning, which legal elements are included in it. The desire of our country to get closer to the Euro-

pean Community gives rise to a certain set of topical issues. First of all, the highest value of the European Union is human life, and therefore adequate social protection by the state. Therefore, in modern conditions, it is necessary to create a theoretical base in the national legislation, which will become the basis for the formation of social legislation in Ukraine.

Analysis of recent research and publications.

The following scientists paid special attention to issues of social protection of the population in their writings, in particular: V.M. Andriiv, S.Ya. Vavzhynchuk, S.V. Vyshnovetska, V.V. Volynets, Yu.M. Hryshina, M.I. Inshin, L.V. Kotova, E.V. Krasnova, O.G. Makarenko, N.O. Melnychuk, K.Yu. Melnyk, O.I. Protsevskiy, D.I. Sirokha, O.V. Tyshchenko, VI. Shcherbina, O.M. Yaroshenko, and others. However, taking into account the insufficient complexity of the study of the theoretical and legal content of the concept of "social protection", the topic of the scientific work requires additional attention.

The purpose of this article is to analyze various approaches to the definition of the theoretical and legal meaning of the concept of "social protection", to highlight the features of social protection of the population in modern conditions.

Presentation of basic material of the research.

Having considered the norms of the Constitution of Ukraine, we saw that the legislator emphasizes that Ukraine is a social state. In particular, in accordance with Art. 1: "Ukraine is a sovereign and independent, democratic, social, legal state". In the field of social legal relations, it is necessary to pay attention to the key concept, namely "social protection". Having analyzed the content of the following legal acts: the Law of Ukraine "On Mandatory State Social Insurance in Case of Unemployment" dated March 2, 2000 No. 1533-III, the Law of Ukraine "On State Social Standards and State Social Guarantees" dated October 5, 2000. No. 2017-III, Law of Ukraine "On Pension Insurance" dated November 5, 1991 No. 1788-XII, Law of Ukraine "On Mandatory State Pension Insurance" dated September 7, 2003 No. 1058-IV, Law of Ukraine "On Mandatory State Social Insurance insurance" dated 23.09.1999 No. 1105-XIV, the Law of Ukraine "On Social Services" dated 17.01.2019 No. 2671-VIII, the Law of Ukraine "On Collection and Accounting of a Single Contribution to Mandatory State Social Insurance" dated 08.07.2010 No. 2464-VI, Law of Ukraine "Basics of the Legislation of Ukraine on Mandatory State Social Insurance" dated 14.01.1998 No. 16/98-VR, we did not see a clear legal definition of the above concept. In this connection, the problem arises of the lack of legislative definitions and the multifaceted interpretation of

the concept of "social protection" in scientific circles, which leads to disordered legislative use.

Social protection as one of the main functions of the state is reflected in the basic laws of many countries of the world. This norm means that the state undertakes to provide social services to vulnerable sections of the population, and the assistance itself to the weak, the disadvantaged, to all those who, in connection with a certain social risk, need assistance from the state. For example, the preamble of the French Constitution of 1946 guarantees health care, material support, rest and leisure for children, mothers and the elderly. The main point is that any able-bodied person, based on age, physical and mental condition, or economic situation, has the right to receive assistance from the state to ensure normal working conditions [1, p. 396].

After conducting a thorough analysis of scientific points of view regarding the definition of the concept of "social protection", it can be emphasized that most scientists consider this concept as: "A set of measures that are carried out in society to ensure socially normative conditions ... for the material and spiritual life of all members of society, primarily those who are unable to provide themselves with such conditions" [2, c. 7]. The question is what exactly can be considered socially normal conditions of the material and spiritual life of all members of society. That is, what criteria and levels are included in these regulatory conditions. This issue should be regulated at the level of legislation, because it is necessary to clearly determine whether sufficient social protection is provided, whether proper conditions are created for the material and spiritual life of a person.

Scientist M. Chorna expresses the opinion that: "The concept of social protection, which began to be actively used during the years of independence of Ukraine and was enshrined in the Basic Law of our state, compared to the widely used concept of social protection before 1991, has such a specific burden as protection from the troubles of the transformation period, the risks of the transition from a socialist economy to a market one" [3, c. 151-156].

Taking into account part 1, part 3 of Art. 46 of the Constitution of Ukraine: "Citizens have the right to social protection, which includes the right

to maintenance in case of total, partial or temporary loss of working capacity, loss of breadwinner, unemployment due to circumstances beyond their control, as well as in old age and in other cases provided for by law, a pension, other types of social benefits and assistance, which is the main source of livelihood, must ensure a standard of living not lower than the subsistence minimum established by law" [4] it can be emphasized that the legislator determines the relevant risks, and already after their occurrence, a person has the right to appropriate assistance from the state.

Having analyzed the content of Art. 46 of the Constitution of Ukraine, it is understood that the concept of "social protection" is broader and includes the concept of "social security". After all, the right to social protection is enshrined in the norms of the Constitution of Ukraine and contains in its content elements characteristic of the concept of "social security". Therefore, in practice, the opinions of scientists regarding the definition and legal features of the concepts in relation to each other differ.

Analyzing scientific points of view, I.O. Horban expresses his vision regarding the legal definition of the term "social protection". First of all, the scientist compares the concept of "social security" with the concept of "social protection". Emphasizing that the former has a narrower meaning than social protection. Thus, he notes the following: "Social security is defined as the activity of the state regarding the direct material support of citizens in the event of the occurrence of so-called "social risks" provided for by legislation, at the expense of state funds. monetary funds created for such risks, however, social protection is understood as the activity, or more precisely, state policy aimed at creating such socio-economic conditions that would prevent the emergence of social risks for society" [5, c. 42-46].

E. Timofeeva gives her own definition of the concept of "social protection", namely: "As a complex of organizational, legal and economic measures aimed at protecting the well-being of every member of society guaranteed by the Constitution of Ukraine in the conditions of specific economic development." conditions based on social justice and equal rights" [6, c. 169-174].

M. Chorna expresses his opinion about the concept: "As a system of economic, social, legal, organizational measures that provides the able-bodied person and citizen with the proper conditions for improving their well-being through personal labor contribution.". The category of disabled and socially unprotected strata of the able-bodied population should be singled out separately, as well as social protection: guarantees in the use of the public consumption fund, material support, tax reduction" [7, c. 151-156].

Also, in the spaces of scientific literature, we found another interpretation of the concept of "social protection", namely: "The activity of a socially oriented state, which is carried out through a complex of organizational, legal and socio-economic measures.", the purpose of which is: firstly, to create appropriate conditions for able-bodied citizens to meet their socio-economic and spiritual needs, and secondly, to ensure a guaranteed standard of living not lower than the subsistence minimum for citizens who need social assistance» [8, c. 90-95].

However, considering the issue of social protection, another approach to the legal understanding of the mysterious concept is quite interesting. In this context, the point of view of international organizations is the most well-argued. Therefore, we would like to draw attention to the "UN Children's Fund (UNICEF)". Which is the leading institution of the United Nations Organization for the coordination of social protection programs in Ukraine. The legal basis of such relations is the conclusion of the "Agreement on cooperation between the United Nations Children's Fund and the Government of Ukraine" dated September 21, 1999 No. 995_364 [9]. First of all, this international organization defines social protection: "As a set of institutions and measures of social insurance and social assistance aimed at ensuring the safety of everyday life of the population and includes five main elements - pensions and bereavement assistance, breadwinner assistance, due to illness and temporary incapacity; unemployment benefits [8]. In our opinion, this definition fully discloses the legal basis of providing social assistance, but significantly narrows the list of social services, which automatically affects the subject composition. There-

fore, taking into account the large set of normative legal acts that carry out legal regulation of the sphere of social protection of the population, this position needs to be clarified.

Studying the features of the social policy of the European Union, it is possible to single out three main directions to which it is directed - these are employment, social protection and social involvement. The employment policy is aimed at ensuring job search within the European Union with the provision of social protection. The main strategy of the task is to create better jobs in all countries that are part of the European Union. In practice, such a result is achieved due to the support of existing and creation of new jobs, restoration of labor dynamics, pension provision, as well as effective operation of the social protection system of the population. Important importance is attached to problematic issues of gender justice, labor protection, creation of conditions for the employment of persons from socially vulnerable strata of the population and people with disabilities.

The social policy of the European Union is aimed at overcoming poverty and ensuring adequate social protection of the vulnerable population. A social investment system was created for this purpose. What involves developing people's potential, supporting their initiative in the field of employment and social life. The main problems of the implementation of social investment are the economic crisis and demographic changes taking place in the European Union in modern conditions. To overcome these problems, the effectiveness of the use of social budgets, which help people throughout their lives and contribute to the achievement of positive social consequences, increases.

Conclusions and proposals. Having analyzed various approaches to defining the theoretical and legal meaning of "social protection", it is necessary to emphasize the following. Taking into account the problems of providing social services under martial law, we believe that the scientific community faces the task of creating a new model of social policy in Ukraine, which should meet the principles and standards of social policy of the European Union. To date, national social legislation is quite numerous and outdated, which is unable to properly regulate relations in the field of so-

cial protection of the population. Currently, a large number of various social benefits are fixed, which are not actually paid, but only generate legal conflicts.

Thus, we consider it necessary to systematize the social legislation of Ukraine by adopting a single codified act - the Social Code of Ukraine. In which to reveal the concept of "social protection" as a legal category, which consists of legal norms regulating social relations in the field of social protection, aimed at preventing situations of social risk. The codified act must contain an algorithm for the realization of social rights and guarantees provided for by the Constitution of Ukraine, taking into account the principles and standards of social policy of the European Union.

The adoption of a single codified act in the field of social protection of the population creates a key role at the stage of Ukraine's acquisition of full membership in the European Union.

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ОСОБЛИВОСТІ СОЦІАЛЬНОГО ЗАХИСТУ НАСЕЛЕННЯ: ТЕОРЕТИЧНИЙ АСПЕКТ

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Мета: проаналізувати різні підходи до визначення теоретико-правового змісту поняття «соціальний захист», виокремлення особливостей соціального захисту населення у сучасних умовах. **Методи дослідження:** під час наукового дослідження використовувалися загальнонаукові та спеціальні методи. Зокрема, логіко-семантичним методом сформульовано визначення понять: «систематизація соціального законодавства», «кодифікація соціального законодавства». Порівняльно-правовий метод використано під час аналізу спільних та відмінних рис форм систематизації соціального законодавства, характеристики співвідношення тенденцій подальшого розвитку систематизації соціального законодавства та напрямів удосконалення систематизації. Під час узагальнення класифікації завдань і функцій систематизації соціального законодавства застосовано також інші методи. За допомогою спеціальних юридичних і статистичних методів встановлено теоретичні та практичні проблеми систематизації соціального законодавства. У свою чергу, структурно-логічний метод використано для визначення можливостей усунення окреслених проблем та оптимізації систематизації соціального законодавства в Україні. **Результати:** констатовано, що сфера соціального захисту населення в Україні потребує систематизації чинного соціального законодавства з урахуванням основних тенденцій Європейського співтовариства. **Обговорення:** порушено проблему неефективності соціального законодавства України щодо забезпечення належного соціального захисту населення та реалізації людиною конституційних прав і гарантій. Перш за все, найвищою цінністю Європейського Союзу є людське життя, а отже належний соціальний захист з боку держави. Тому в сучасних умовах у національному законодавстві необхідно створити теоретичну базу, яка стане основою для формування соціального законодавства в Україні.

Ключові слова: соціальний захист; соціальне забезпечення; соціальний захист населення; соціальні послуги; соціальний ризик; соціальна політика; вразливі верстви населення; правова політика; соціальне законодавство.

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