

THE ARGUMENTATION OF THE SPECIAL SOCIAL CARE CONCEPT FOR WAR VETERANS IN UKRAINE

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Abstract. The value of adherence to basic liberal democratic approaches to market self-regulation of the economy is emphasised. At the same time, given the particularly difficult conditions that the Ukrainian people are going through, the author considers the concept that not only socially vulnerable/unable to protect themselves, but also, first and foremost, citizens who perform extremely important duties to the State and their people deserve special recognition and provision of special social security, and improvement of conditions for the exercise of labour and other rights of war veterans. This idea is substantiated in accordance with the provisions of the main section of the Constitution of Ukraine, Ukrainian legislation, and the principles of labour and social security legislation.

Keywords: economic and social content of social security regulation, functions of social care, principles of social care regulation, public and private interests, constitutional relations, labour and social care regulations.

Author contributions

The author prepared the article independently. The author independently selected the literature, analysed it and formulated conclusions.

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INTRODUCTION

The relevance of this issue lies in the need for a comprehensive study and improvement of the social security system for war participants and veterans, which is an important aspect of any state's social policy, and which ultimately has implications for improving demographic policy. When Ukraine needed a strong professional army in 2014, updating the legal regulation of social security became a necessity to more actively engage people in military service. After Russia's full-scale invasion of Ukraine began on 24 February 2022, Ukraine faced many challenges, among which we can currently distinguish a set of private law issues (socio-economic revival, which requires guarantees of the inviolability of private property and compliance with market regulation laws) and a set of public law issues. At that time, the issue of social security for war veterans became of unprecedented relevance.

THEORETICAL FRAMEWORK

Many domestic and foreign scientists, both in the field of economics and law, paid attention to conducting scientific research on this issue. Among them are such prominent figures as Scottish theoretician Adam Smith, as well as modern scientists, in particular Kokhan V. P., Kondratenko O.,

Medvid L. P., Pashynskiy V. Y., Shamrai B. M., Sheverdina V. I. etc. However, taking into account the dynamics of tax relations and the constant renewal of approaches to their legal regulation, as well as the development of economic relations in the modern world, it is necessary to highlight the relationship and the main points of the interpenetration of the economic principles of taxation and their legal design, which is a determining factor for the relevance of this research.

The purpose of the article is to carry out an analysis based on general scientific and special methods of scientific knowledge of the content of the social and economic principles of social care for war veterans in Ukraine, to establish criteria of prioritizing of the state social care to a different recipients, depending on different approaches to social assistance as unconditional (a manifestation of the rule of law's concern for the implementation of a successful policy) or conditional (a manifestation of the state's gratitude for the fulfilment of duties that are particularly important to the state or the fulfilment of other conditions by individuals).

METHODOLOGY

To achieve this goal of the scientific article and solve the tasks used general and special-scientific methods of cognition: dialectical, system-structural, formal-legal and comparative-legal.

RESULTS

The most important challenges facing Ukraine today are the issues of economic revival, as the economy has suffered huge losses in different sectors in different ways, and some production capacities of iconic enterprises such as state company “Artemsil” have been lost. Different sectors of the economy are trying to adapt in their own way to the new conditions, but all of them are suffering from a falling labour market, a huge loss of working-age population for various reasons by previous Ukrainian standards. In any case, Ukraine needs to adapt to the new circumstances more quickly now, as well as to ensure a full post-war recovery of the entire economy. Moreover, for the successful implementation of the new Marshall Plan, Ukraine will need to obtain not only effective, not declarative, security guarantees, but also extraordinary international investment attractiveness, so that the country's European and Euro-Atlantic integration can be fully realised. Only then will Ukraine be unquestionably regarded as part of the Western economic, cultural and ideological civilisation.

For this Western civilisation, the concept of the liberal economic worldview, whose XVIII century classics proclaimed that throughout human history success has been achieved mainly by those individuals, societies and states that put their private interests above all else, has become an absolute value and a ‘recipe’ for success. It is through their own motivation that individuals work most efficiently, make the most profit and develop the best economies. And intervention by the sovereign, the state or certain political forces can more often harm than help the ‘healthy’ development of the economy. Moreover, such government support can be seen as a distortion of market mechanisms, as unfair interference, or even as a source of corruption.

Modern Western societies have evolved to the stage of their history that Francis Fukuyama wrote about in his “The end of history and the last man” (Fukuyama, 1992). It is something similar to the idea of an endless period of democratic justice. After the collapse of the USSR, there was a very popular concept of the destruction of dictatorial and authoritarian regimes. People in the West felt relieved and relaxed, and a new chapter of their development began. The main vector is market economic growth and the values of freedom and independence.

In other words, in an ideal world, all subjects of a certain kind of relations - economic, social, labour, etc. - should be in absolutely equal circumstances WITHOUT providing any preferences, state aid, etc. to any of them to ensure a healthy competitive mechanism that ultimately benefits the economy, the state, and the entire society, respectively. Thus, Adam Smith had called it “invisible hand”: “This orderliness, as would be expected, was produced by the interaction of the two aspects

of human nature: its response to its passions and its susceptibility to reason and sympathy” (Smith, A.). But the same classical theory of liberal market self-regulation also takes into account the subjects themselves - both legal entities and individuals - with the axiom of the same physical and/or intangible conditions, including health. While the concept is a no-brainer for legal entities, individuals may have not only signs of socio-economic inequality, but also physical disabilities and unequal health from birth. These physical and/or mental health disadvantages are of particular importance if they affect the ability of the population to work, which disrupts the balance of full employment.

Moreover, the classical theory of liberal market regulation mentioned above is created for private civil and commercial relations. When there are people who, for one reason or another, do not de facto have the same health or other equivalent circumstances, a public element logically appears. This is due to the public interest in not losing these people from society, in satisfying those needs that people cannot satisfy on their own due to various circumstances, in supporting them not only in providing the most necessary for their physical existence, but also in helping to restore or at least partially improve their ability to work, to perform socially useful work or services, or to produce goods.

In these cases described above, the welfare state has already committed itself to helping such vulnerable people to the best of its economic and budgetary ability, regardless of the reasons for their vulnerability. According to Article 1 of the Constitution of Ukraine, “Ukraine is a sovereign and independent, democratic, social, legal state” (Constitution, 1996). The value concept of orientation of Ukrainian legislation and state activity is enshrined in Article 3 of the Constitution of Ukraine: “A person, his/her life and health, honour and dignity, inviolability and security are recognised in Ukraine as the highest social value”. It is these highest values that Ukrainian servicemen and women risk every day, and any loss of health, work, ability to work or even life will have an extremely strong impact on their families and close relatives. And the war veterans are taking risks to achieve the public interest of both Ukraine and democratic Western civilisation, which has been challenged by the unification of modern dictatorships.

“Human rights and freedoms and their guarantees determine the content and direction of the state’s activities. The state is responsible to the individual for its activities. The affirmation and ensuring of human rights and freedoms is the main duty of the state” (Constitution, 1996). A set of legal norms is adopted that together regulate the issues of social protection of different categories of people, such as people who are disabled from birth or who have acquired a disability during their lives. And a state governed by the rule of law, having already established certain legal and social guarantees, cannot abandon them without following all legal procedures and amending legislation.

However, the public interest is present in all cases of social security, since even on the general grounds of ‘basic’ social protection, the state manifests its social and, most importantly, demographic policy, creates its image as a country that cares about and supports its citizens in difficult situations.

In the case of the military, the state always has a public interest, as these people truly guarantee the security of their society. And in Ukraine, the public interest of not just one society has manifested itself, but the so-called ‘clash of civilisations’ has occurred, but not in the form described by Samuel P. Huntington (Huntington, 2011).

Serhii Plokhly as the director of the Ukrainian Studies Institute of Harvard University had written really interesting, useful for public awareness and creating an honourable opinion about this nation “The Gates of Europe: A History of Ukraine” (Plokhly, 2017). This work was created and published after the beginning of the “small” scale Ukrainian-Russian conflict in 2014, when the Russian Federation destroyed the international law and order. It began with the invasion of Crimea, when Russian soldiers, without identifying signs, attacked Ukrainian authorities in Crimea, added it to their fake constitution and helped local criminals to organise “self-declared” fake countries.

Ukrainians in 2014 were confused, bewildered and lacked a strong, reliable army. It was the first hard period, when we need more military volunteers and to create from them powerful armed forces.

That is why Ukraine decided to stop the conflict in its early stages and not to escalate everything, as Western political leaders said. But to be honest, the first local attempt to break the international law order was in 2008, when the Russians attacked Georgia and occupied North Ossetia and Abkhazia. Then Western politics and societies decided not to touch anything, everyone felt comfort that it stopped and comfort not to see or understand the whole serious insecurity of the situation. All the politicians of the countries of Western civilisation, from the USA to Poland, were worried. Barack Obama was awarded the Nobel Peace Prize. For what exactly? In advance? History shows that such a position was a huge mistake. In 2014, after 6 years of preparation, Russian Federation had occupied Ukrainian Crimea and started war in the south of Ukrainian Donbass region. After almost 8 years of their inspiration, the Russians started a big full-scale war against the whole of Ukraine – the biggest European country. And international community was so worried. After 24 February 2022 Ukrainians hate the word “worried”. Is this really all the civilised world of international law can do with pure evil? We do not want to believe it. There are no legal and moral excuses and explanations for the war attack.

The American historian Timothy Snyder had also written few works on Ukrainian history, few periods. Ukraine he eloquently called the part of the Bloodlands (Snyder, 2011). Moreover, Dr Snyder has a lot of videos, for instance, his expert speech at the United Nations. He underlined the role of the weak reaction of Western societies (and first of all the USA), which provoke dictators to do what they want. Moreover, some politicians, such as Donald Trump or Victor Orban, have accepted the new “unregulated order” of the dictators and have been inspired by this idea. Therefore, it is incredibly dangerous, not just for Eastern Europe, but for the whole world. The problem is not only “who will be next for aggression?”, but more what people will do and agree with what to prevent war aggression on their countries? At the very least, many will vote for populist parties that find friendship with dictators. Most of these parties are similar to right-wing ideologies such as fascism and nazism. Probably no one wants to live in the abyss of 1930’s Europe. It is necessary to avoid this scenario. But de facto the only ones who are now truly fighting to restore not only the territorial integrity and security of Ukraine, but also the international legal order, are the Ukrainian military. Even when they are being opposed by a coalition of dictatorial states, including Russia, North Korea, China, and Iran, at the very least. In addition, the hybrid war is being waged by this coalition of dictatorships against the rule of law of Western civilisation. That is, the public interest in the social protection of Ukrainian war veterans is no longer just Ukrainian, but international. This can help raise the issue of further cooperation and more active European and Euro-Atlantic integration of Ukraine at all levels.

In the case of the military, we propose that such a regulation of social protection be considered conditional, since the priority was the fulfilment of a primary duty of a citizen towards the state, which gives rise to the right to social security for combatants, other war veterans and their families. According to the definition of V. Sheverdina, “social protection of combatants is a system of economic, organisational and social measures implemented by state authorities to support combatants and exercise their social rights” (Sheverdina, 2024, p. 75).

Recognition of itself as a social state governed by the rule of law imposes great obligations on Ukraine, as reflected in part 5 of the Article 17 of the Constitution of Ukraine: “The state shall ensure social protection of citizens of Ukraine serving in the Armed Forces of Ukraine and other military formations, as well as members of their families” (Constitution, 1996).

It is necessary to outline how Ukrainian legislation defines the circle of persons such as war veterans. The basic legal act that defines this concept is the Law of Ukraine On the status of war veterans, guarantees of their social protection of 22 October 1993, No. 3551-XII (On the status, 1993). According to Article 4 of Law No. 3551-XII, war veterans are persons who took part in the defence of the Motherland or in hostilities on the territory of other states. The following are considered war veterans: combatants, persons with disabilities caused by war, and war participants. The social protection provided by this law also applies to the families of military personnel and persons who

have rendered special services to the Motherland. According to Article 5 of Law No. 3551-XII, combatants are persons who took part in combat missions to defend the Motherland as part of military units, formations, associations of all types and branches of the Armed Forces of the active army (navy), in guerrilla units and underground and other formations, both in wartime and in peacetime. This is especially important to cover all defenders of Ukraine, including during the anti-terrorist operation since 2014.

Article 1 of the Law of Ukraine «On social and legal protection of servicemen and their families» of 20.12.1991 No. 2011-XII specifies that social security of servicemen «is the right to provide them with security in case of full, partial or temporary disability, loss of breadwinner, unemployment due to circumstances beyond their control, in old age, as well as in other cases provided for by law» (On social and legal, 1991). In other words, military personnel are entitled to both ‘unconditional’ social security on a general basis, for example when they reach retirement age or become disabled, and special ‘conditional’ social security if they meet certain conditions for receiving it.

It is logically suggested that in such a “conditional” legal regulation of social security, the principles of social justice would be met by distinguishing between “basic” and “extended” or “priority” social security. At the same time, “basic” social security is designed for all those who performed a relevant duty to the State, and “extended” social security is created for volunteers based on the criterion of forced (mobilised) or independent, free-will performance of military duty (volunteers).

Experts in the legal regulation of the status of servicemen emphasise that: “Based on the status of servicemen, the rights and freedoms of servicemen may be restricted or, on the contrary, they may be placed in a privileged position in relation to other citizens. Restrictions on the rights and freedoms of servicemen are related to the proper performance of official duties, maintaining an appropriate level of combat and mobilisation readiness of troops and are objectively necessary, given the specifics of military service. In this regard, the law provides for additional rights, benefits, guarantees and compensation” (Pashynskiy, Medvid, Shamrai, 2023).

Given the current challenges, the system of social protection of combatants (war veterans) needs active policy, transformation, change of philosophy, approaches, principles and mechanisms that will encourage people to take action and strive to take care of their well-being (The White Book, 2022). This conclusion, which is common to all Ukrainians, should be accepted because it is also important for the military. The only thing that needs to be added is that war veterans put at risk what is constitutionally considered the highest social value in Ukraine: themselves, their lives, their health and their safety. And the military dare to do this in the performance of their military duty, for the sake of the public interest, so they deserve not only a worthy recognition of their contribution to the formation of collective security, but also extended priority social care.

CONCLUSION

Thus, in the context of an increasing budget deficit and growing military expenditures, Ukraine needs to reconsider more carefully the approaches to its social policy and legal regulation of social security for various categories of persons. In particular, the author proposes to classify the State’s social security policy according to the criterion of presence or absence of conditions for the recipient of such assistance into conditional and unconditional. In particular, social security for military personnel and war veterans is conditional, since it requires first fulfilment of military duty to the State. Given the complexity of the mobilisation process, which the state has many difficulties with, from a practical point of view, it is also proposed to distinguish between conditional social security for all those who perform their duty to the state and priority social security for volunteers. It is the latter that should be the most extensive as an incentive to voluntarily join the army, a guarantee of maximum support from the state and recognition of a particularly significant social contribution to the security of society, preservation of Ukraine’s sovereignty and territorial integrity.

REFERENCES

- Constitution of Ukraine, No. 254k/96-VR (1996, June 28) Retrieved from: <https://zakon.rada.gov.ua/laws/show/en/254%D0%BA/96-%D0%B2%D1%80#Text> [in Ukrainian].
- Fukuyama, F. (1992). *The end of history and the last man*. Penguin Books.
- Huntington, S. P. (2011). *The clash of civilizations and the remaking of world order*. Simon & Schuster.
- Law of Ukraine On social and legal protection of servicemen and their families, No. 2011-XII (1991, December 20). Retrieved from: <https://zakon.rada.gov.ua/laws/show/2011-12#Text> [in Ukrainian]
- Law of Ukraine On the status of war veterans, guarantees of their social protection, No. 3551-XII (1993, October 22). In edition from 2023, February 5. Retrieved from: <https://zakon.rada.gov.ua/laws/show/3551-12> [in Ukrainian].
- Legal hundred (2022). *The White book «Analysis of the state support system of veterans and their families in Ukraine»*. Retrieved from: <https://legal100.org.ua/wp-content/uploads/2022/08/2022-Bila-kniga.pdf> [in Ukrainian].
- Pashynskiy, V. Y., Medvid, L. P. & Shamrai, B. M. (2023). Legal status and social protection of servicemen: concepts and legal regulation. In *Human rights and public governance in modern conditions*. Riga, Latvia: «Baltija Publishing». P. 658. DOI: <https://doi.org/10.30525/978-9934-26-320-0-33> [in Ukrainian].
- Plokhyy, S. (2017). *The gates of Europe: a history of Ukraine*. Basic Books.
- Sheverdina, V. (2024). On the Question of the Legal Basis of Social Security for Participants in Combat Actions and War Veterans. *Law and Innovation*, 1 (45), 73–78. [https://doi.org/10.37772/2518-1718-2024-1\(45\)-10](https://doi.org/10.37772/2518-1718-2024-1(45)-10) [in Ukrainian].
- Smith, A. (2024) *The wealth of nations*. Retrieved from: <https://www.britannica.com/topic/the-Wealth-of-Nations>
- Snyder, T. (2011). *Bloodlands: Europe between Hitler and Stalin*. Vintage.
- Mosorko, A. (2024). *Ukraine has the highest mortality rate and lowest birth rate in the world – CIA*. Retrieved from: <https://life.pravda.com.ua/society/v-ukrajini-nayvishchiy-riven-smertnosti-ta-naynizhcharodzhuvanist-u-sviti-303696/> [in Ukrainian].

ОБґРУНТУВАННЯ КОНЦЕПЦІЇ ОСОБЛИВОГО СОЦІАЛЬНОГО ЗАБЕЗПЕЧЕННЯ ВЕТЕРАНІВ ВІЙНИ В УКРАЇНІ

Анотація. Підкреслено цінність дотримання базових ліберально-демократичних підходів до ринкового саморегулювання економіки. У той же час, враховуючи особливо тяжкі умови, через які проходить український народ, розглянуто концепцію, згідно з якою не лише соціально незахищені / не здатні себе захистити верстви населення, а і в першу чергу громадяни, які виконують надзвичайно важливі обов'язки перед державою і своїм народом, заслуговують окремого визнання та надання особливого соціального забезпечення, покращення умов реалізації трудових та інших прав ветеранів війни. Цю ідею обґрунтовано відповідно до положень основного розділу Конституції України, законодавства України, принципів законодавства про працю та соціальне забезпечення.

Виокремлено підходи державної політики соціального забезпечення до різних категорій громадян, зокрема два основних: 1) коли встановлюється певне регулювання для суб'єктів безумовно, тобто без ніяких вимог щодо кореспондуючих обов'язків таких осіб перед державою; 2) коли запроваджується державна політика із відповідним правовим регулюванням соціального захисту та підтримки для людей, які взяли на себе зобов'язання із виконання особливо важливих пріоритетних для держави функцій захисту державного суверенітету, територіальної цілісності міжнародно визнаних кордонів України. В останньому випадку підкреслено, що таке регулювання є умовним, оскільки першочерговим було виконання пріоритетного для держави обов'язку громадянином, внаслідок чого виникає право на соціальне забезпечення учасників бойових дій, інших ветеранів війни та членів їхніх сімей. Логічно запропоновано, що у такому «умовному» правовому регулюванні соціального забезпечення відповідати принципам соціальної справедливості буде виокремлення «базового» соціального забезпечення для усіх, хто виконував відповідний обов'язок перед державою і «розширеного» соціального забезпечення для добровольців саме за критерієм примусового (мобілізовані) чи самостійного за вільним волевиявленням виконання військового обов'язку (добровольці). Така державна політика буде не лише визнанням особливої ролі

ветеранів війни, а і логічно обумовлена тим, що добровольці значно спростили і так складний процес мобілізації військовозобов'язаних, заощадивши державі певні ресурси.

Ключові слова: економічний та соціальний зміст регулювання соціального захисту, функції соціального захисту, принципи регулювання соціального забезпечення, публічні та приватні інтереси, конституційні правовідносини, трудові та правовідносини соціального забезпечення.

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Abstract. The value of adherence to basic liberal democratic approaches to market self-regulation of the economy is emphasised. At the same time, given the particularly difficult conditions that the Ukrainian people are going through, which has given rise to a separate priority public interest not only for Ukrainian society, the author considers the concept that not only socially vulnerable/unable to protect themselves, but also, first and foremost, citizens who perform extremely important duties to the State and their people deserve special recognition and provision of special social security, and improvement of conditions for the exercise of labour and other rights of war veterans. This idea is substantiated in accordance with the provisions of the main section of the Constitution of Ukraine, Ukrainian legislation, and the principles of labour and social security legislation.

The author distinguishes approaches of the state social security policy to different categories of citizens, in particular, two main ones: 1) when a certain regulation is established for subjects unconditionally, i.e. without any requirements regarding the corresponding obligations of such persons towards the state; 2) when the state policy with appropriate legal regulation of social protection and support is introduced for persons who have undertaken to perform particularly important priority functions for the state, to protect the state sovereignty and territorial integrity of the internationally recognised borders of Ukraine. In the latter case, it is emphasised that such regulation is conditional, since the priority is the fulfilment of a citizen's primary duty to the state, which gives rise to the right to social security for combatants, other war veterans and members of their families. It is logically suggested that in such a 'conditional' legal regulation of social security, the distinction between 'basic' and 'extended' social security would be consistent with the principles of social justice. At the same time, 'basic' social security is designed for all those who have performed a relevant duty towards the state, and 'extended' social security is created for volunteers, based on the criterion of forced (mobilised) or independent, voluntary performance of military duty (volunteers). Such a state policy would not only recognise the special role of war veterans, but would also be logically justified by the fact that volunteers have greatly simplified the already complex process of mobilising those liable for military service, thus saving the state some resources.

Keywords: economic and social content of social security regulation, functions of social care, principles of social care regulation, public and private interests, constitutional relations, labour and social care regulations.

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