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CONTENTS AND FEATURES OF ADMINISTRATIVE AND LEGAL PROTECTION OF SOCIALLY UNLIMITED POPULATION VERTS

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SUMMARY

The article is devoted to the peculiarities of administrative and legal protection of socially vulnerable groups of the population. In the legal literature, the concept of socially unprotected sections of the population has no legal definition and is understood, albeit traditionally, but uncertainly widely. An important direction of the current stage of political and legal changes in Ukraine is the construction of an effective legal mechanism for the protection of the individual. Socially disadvantaged sections of the population often encounter state-owned obstacles related to the realization of both their rights and the fulfillment of their duties. It is their implementation that causes the emergence of a multitude of administrative-legal relations.

Key words: administrative-legal protection, socially unprotected layers of population, social protection, social security, measures of social protection.

СОДЕРЖАНИЕ И ОСОБЕННОСТИ АДМИНИСТРАТИВНО-ПРАВОВОЙ ЗАЩИТЫ СОЦИАЛЬНО НЕЗАЩИЩЕННЫХ СЛОЕВ НАСЕЛЕНИЯ

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АННОТАЦИЯ

Статья посвящена особенностям административно-правовой защиты социально незащищенных слоев населения. В правовой литературе понятие социально незащищенных слоев населения не имеет легального определения и понимается хоть и традиционно, но неопределенно широко. Важным направлением современного этапа политико-правовых изменений в Украине является построение эффективного правового механизма защиты личности. Социально незащищенные слои населения часто встречаются с государственно-властными препятствиями, относящихся к реализации как их прав, так и выполнению ими своих обязанностей. Именно их реализация обуславливает возникновение множества административно-правовых отношений.

Ключевые слова: административно-правовая защита, социально незащищенные слои населения, социальная защита, социальное обеспечение, меры социальной защиты.

REZUMAT

Articolul este dedicat particularităților protecției administrative și juridice a straturilor sociale neprotejate ale populației. În literatura juridică, conceptul de straturi social neprotejate ale populației nu are o definiție juridică și este înțeles, deși tradițional, dar pe termen nelimitat. O direcție importantă a stadiului actual al schimbărilor politice și juridice în Ucraina este construirea unui mecanism juridic eficient pentru protecția individului. Straturile sociale neprotejate ale populației se întâlnesc de multe ori cu obstacole imperioase de stat, legate de realizarea atât a drepturilor lor, cât și a îndeplinirii îndatoririlor lor. Implementarea lor provoacă apariția multor relații administrative și juridice.

Cuvinte cheie: protecție administrativă și juridică, straturi sociale neprotejate ale populației, protecție socială, securitate socială, măsuri de protecție socială.

Formulation of the problem. Today, Ukraine is in the process of implementing reforms in many spheres of life. One of these spheres is the social sphere. At the international level, the minimum guarantees of social protection of the population are defined, which each state must implement. Lack of definition of socially disadvantaged persons impedes the effective administrative and legal protection of socially vulnerable groups of the population. Improvement of the administrative and legal activity of the authorities, aimed at ensuring the rights

of socially vulnerable groups of the population, is one of the main problems of coordination of activities of state authorities at all levels.

The relevance of the research topic is confirmed by the degree of non-disclosure of the topic content and features of administrative and legal protection of socially unlimited population verts.

Status of research. Scientific analysis of the problems of administrative and legal protection of socially unlimited population verts in Ukraine is carried out by many domestic scientists. Among them

it is necessary to name Pasichnichenko S., Kozhura L., Karpenko O., Sobol E.

The Object and Purpose of the Article is to study the features of public administration in the sphere of protection of socially unprotected categories of the population.

Presentation of the main material.

Each state is the guarantor of social rights and freedoms that must ensure a person's adequate standard of living and provide social protection. These rights and freedoms are in essence the requirements of any state, on the one hand, and, on the



other hand, the duty of the state in the field of social protection of people and their maintenance of life. The administrative and legal protection of the socially unprotected sections of the population, due to their lack of determination, entails a number of dangerous factors related to the prosperity of the people, national security, and, in general, the existence of future state institutions.

From the beginning of the 20th century, the main document on the protection of vulnerable social groups was the 1952 Convention «On Social Guarantees» (Minimum Standards) (No. 102), which was developed and ratified by many states [1]. This document constitutes an essential basis for initiating the development and implementation of a social protection system from a rights-based approach. The Convention on Social Security of 1952 (Minimum Standards) (No. 102) establishes the following principles for managing the implementation of the social security system, regardless of the type of scheme or program used to provide benefits.

According to the Convention, various schemes and programs that make up the social security system must be affiliated. The reference to the development of social security systems is the flagship of modern social security conventions, since it is believed to reflect the internationally recognized definition of the very principle of social security. Convention No. 102 is unique both for its conceptual formulation in the field of social security and for the state authorities it provides for the establishment of social security systems. It declares in a single comprehensive and legally binding document the minimum standards for each of the nine sections of social security (medical care, sickness benefit, assistance in the event of temporary disability through injury, assistance to the elderly, unemployment benefits, help families, maternity and maternity benefits, disability benefits, survivors assistance) and align them with the principles of good and sustainable management [1].

Minimum requirements are set for each unforeseen situation regarding:

1) the minimum percentage of the population to be protected in case of one of the unforeseen circumstances;

2) the minimum level of benefits that should be provided in the event of

one of the contingencies; as well as the conditions and periods of privileges;

3) the general responsibility of the state for the inadequate provision of privileges and inadequate governance by the relevant institutions and services in ensuring the provision of benefits;

4) the right to appeal in case of refusal to pay or complain about its quality or quantity.

Based on the notion that each country should have the right to choose to determine how best to ensure its income security, thereby reflecting its social and cultural values, history, institutions and the level of economic development, Convention No. 102 contains provisions on flexibility, the ratification of the Member States and the progressive reaching of the overall coverage of both the number of protected (contingent) contingencies and on protected persons. In addition, Convention No. 102 also provides for flexibility and guidance on the types of schemes that Member States can establish for the implementation of the Convention (universal schemes, schemes of social insurance, etc.) [1].

Conventions and recommendations adopted by the International Labor Organization in accordance with Convention No. 102 are based on the social security model established by this document. They also provide a framework that raises the level of protection from the point of view of the population covered by various industries, the level of benefits and types of benefits provided [1].

After the proclamation of independence, Ukraine embarked on a course of socio-economic reforms and democratization, which enabled the formation of a socially oriented market economy.

The period of transformation in 1991-1999 was accompanied by the deterioration of the socio-economic situation and living conditions, as well as the demographic crisis. Social policy was aimed at social protection, but the very core of social protection remained unreformed.

Since 2000, the conditions for improving the situation have reflected in the growth of GDP, business development, reduction of the number of unemployed, increase in income.

However, a number of problems remain. These include low innovation

activity of national enterprises, a large number of «shadow» businesses, lack of proper work with adequate wages, and internal political factors. All these factors, and many others, have created serious problems for the sustainability of the social protection system in Ukraine. Thus, a large number of «shadow» businesses makes it impossible to receive a budget, which negatively affects the amount of social payments, and reduces the number of jobs; the lack of innovation activity of national enterprises puts Ukraine in the last steps as an exporter, as there is no competitive product, which also does not allow to increase budget revenues and rational distribution of it, deprives people with disabilities from being able to work, etc.

According to the International Labor Organization's Declaration on Social Justice in a Just Globalization, a full and productive employment is an element of the economic and social policies of any country [2].

Part 1 of the article 46 of the Constitution of Ukraine states that citizens have the right to social protection, which includes the right to protection in case of disability. However, having no official place of work, a person deprives such a right.

The European Forum of the European Union (Brussels, 1998) proposed to consider social protection as a means of subsistence in a broad sense, that is, covering not only social security but also social integration, education, health care, housing policy, social services, etc. d [3].

Measures of social protection, defined in Art. 46 of the Constitution of Ukraine, although they are similar to social security, but include, in particular, compensation, restitution, restoration of rights and other social benefits that can be defined by law not only in the field of social security, but also in other areas of law – labor, civil, administrative, financial, etc.

Social protection is a practical activity on creation of a favorable environment, protection of motherhood and childhood, assistance to the family, public health care, citizens' vocational training, employment protection, labor protection, wage and income regulation, housing maintenance, regulation of citizens' property rights, material service and provision of disabled and other persons in need of social support [4].



Consequently, one can conclude from this that the basis for social protection provided by the state is social assistance and social support, state support and provision of social privileges and services to certain categories of population (including pensions), social insurance.

An important direction of the current stage of political and legal changes in Ukraine is the construction of an effective legal mechanism for the protection of the individual whose rights and freedoms, with the help of the constitutional formula of the legal social state, are ranked in the highest value. The task of creating conditions conducive to decent life and free human development has led to a systemic transformation of the state's role in the economic sphere, the normal functioning of which, as a clear demonstration of the sad experience of post-Soviet Ukraine, can not be achieved only by mechanisms of market self-regulation. Material goods are the most important social value, which ensures, on the one hand, the material foundation of the existence and progressive development of society, and on the other hand, the satisfaction of the natural needs of human existence. The resulting public-private nature of relations caused by such dualism objectively determines the need for state influence, created by the system of functions of a regulatory and protective nature. Due to the systemic interaction of various branches of law, the leading role is played by the administrative law, the tools of which allow to achieve the most reasonable balance of private and public interests as effectively as possible.

The provisions of the Constitution of Ukraine state that our state is a democratic, social and lawful state, that is, it is a state in which the rule of law and social justice are realized. Through the system of rules of law, the state acts as a regulator of social relations, contributes to the normal existence of society as a whole and each individual, through the provision of basic human rights and freedoms. Speaking that the state is «social», it means that it assumes the responsibility of material care for the well-being of citizens, provides social protection of interests both social and individual.

The rights and freedoms of man and citizen have been brought to the forefront in the Constitution of Ukraine. A certain negative situation in the

sphere of providing guarantees of rights and freedoms has been formed, their protection undoubtedly reflects the transitional period of the modern stage of development of Ukrainian society. However, «to write off» the weaknesses and shortcomings only for this would be wrong. Other factors also play a negative role in this process: insubordination to human rights and freedoms, lack of irrevocable responsibility for their violation, imperfection of legislation that suffers from declarativeness, as well as the weakness of the relevant state structures, is still overcome.

Consequently, «disrespect» to the rights, freedoms and rights of a citizen puts the socially unprotected sections of the population under a stronger blow, precisely because of their inability to adequately defend their rights and freedoms through certain features of this particular population.

The concept of socially unprotected layers of the population in legal literature has no legal definition and is understood, albeit traditionally, but uncertainly widely. The categories of citizens receiving social support of the state and municipalities are extremely diverse. The lack of clarity in the concept of socially unprotected sections of the population raises difficulties for the law enforcers.

In the legal literature in relation to the analyzed category, rather vague and vague definitions concerning the forms of interaction between the state and the socially unprotected layers of the population, the system of state support, which are expressed in the state-oriented activity of the state concerning the harmonization of social relations in society, are used to improve the quality and living conditions of each individual.

It should be noted that in the norms of national legislation used, but does not specify the concept of socially unprotected layers, for example, in the Decree of the KSCA dated 09.10.2017 «On the provision of one-time address social material assistance to certain categories of socially vulnerable strata of the city of Kyiv on the occasion of the Day defender of Ukraine in 2017 «lists the socially disadvantaged sections of the population [5].

Moreover, the Supreme Court refers to its «decisions on the category of socially unprotected citizens»

(Case No. 6-3616sv07); however, they again do not indicate which categories of citizens relate to them [6].

In the scientific literature, vulnerability describes potential physical and / or psychological damage. Insecurity is often understood as a measure of resilience, and is increasingly being studied within socio-economic research. In the Yogyakarta Principles, one of the international human rights instruments, the term «vulnerability» is used as a potential one that leads to abuse or social exclusion [7].

Thus, we can say that the representatives of the vulnerable / depressed sections of the population are socially unprotected population, that is, individuals or social groups with high (more than others) probability of getting negative influence from social, economic, environmental factors, obtaining certain illnesses.

So, in our opinion, people with disabilities, the elderly, children, the unemployed and some other categories of society members who need social assistance from independent reasons (for example, migrants, refugees), etc., can be considered as socially unprotected.

Socially disadvantaged sections of the population often encounter state-owned obstacles related to the realization of both their rights and the fulfillment of their duties. It is their implementation that causes the emergence of a multitude of administrative-legal relations.

In our opinion, the essence of public administration in the area of administrative and legal protection of socially vulnerable groups of the population is that the state:

- 1) cares about the social protection of its citizens;
- 2) prohibits the use of forced labor;
- 3) creates jobs;
- 4) provides personnel training;
- 5) provides normal working conditions, free choice of place of work, profession;
- 6) materially supports its citizens;
- 7) guarantees protection against illegal dismissal;
- 8) ensures the right to receive remuneration in a timely manner.

One of the important directions of the state policy in the field of social protection of the population is compliance with state standards and state social guarantees, which are established by laws and other normative-legal acts.



We believe that they include installing:

1) requirements for increasing the amount of social assistance payments to these categories of subjects;

2) definition of types and size of social benefits;

3) determining the size of social benefits that ensure a standard of living that is not lower than the subsistence minimum;

4) adoption of multi-sectoral programs of both local and national importance for improving the material and household provision of these categories of persons;

5) popularization and publicity of everyday problems encountered by socially unprotected persons in everyday life;

6) the introduction of systematic social actions to help these categories of persons;

7) adoption and implementation of social projects;

8) involvement of international donors and private actors in cooperation with the state in the field of research.

At the same time, one should be aware that, in order to provide adequate administrative and legal protection for vulnerable groups of the population, social protection programs should be coordinated among the various sectors of social policy: social development, health care, education, labor, and between different administrative levels, which implements these programs and policies.

The rights of the socially vulnerable groups of the population are determined both in the norms of the national legislation and specifically determined by other by-law legal acts: decrees of the President of Ukraine, resolutions and orders of the Cabinet of Ministers of Ukraine, acts of central and local executive authorities and acts of local self-government.

The main legal acts regulating the possibility of protecting socially vulnerable segments of the population are the Law of Ukraine «On Citizens' Appeals», «On State Social Assistance to Low-income Families», «On Access to Public Information», «On Pension Provision», «On Employment of the population», «On the basics of social protection of the disabled in Ukraine», «On the rehabilitation of the disabled in Ukraine», «On ensuring the organizational and legal conditions for

social protection of orphans and children deprived of parental care» Reference Presidential Decree on urgent measures to ensure implementation and guarantee the constitutional right of access to public authorities and local governments and, of course, the Law of Ukraine «On free legal aid».

The Ministry of Social Policy of Ukraine is the special body authorized to conduct social policy on behalf of the state.

Conclusions.

In view of the above, the following objective circumstance should be noted: the essence of these relations in many respects is the collision of various interests of the state, on the one hand, and all other subjects of the legal relationship, on the other hand. This, in its turn, implies a conclusion: these relations can flood and sometimes inevitably result in legal disputes and conflicts that require legislative regulation.

As a result of these factors and circumstances, the practical, theoretical and scientific importance of improving the administrative and legal activity of the authorities aimed at ensuring the rights of socially vulnerable groups of the population as well as in the process of implementing their legal guarantees increases.

The above is sufficient to characterize the urgency of the problem of administrative and legal protection of socially vulnerable groups of the population.

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