

SOCIAL AND LEGAL GUARANTEES IN THE GENERAL SYSTEM OF GUARANTEES OF HUMAN AND CITIZEN RIGHTS AND FREEDOMS

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Rusal L.M. Socio-legal guarantees in the general system of guarantees of human and civil rights and freedoms.

The article is devoted to the understanding of the general theoretical features of social and legal guarantees in the general system of guarantees of human and citizen rights and freedoms as a complex of interconnected and interacting means and methods of implementation, which have a regulatory and legal basis.

It is emphasized that state social standards and regulations, which are formed, established and approved in the manner determined by the Cabinet of Ministers of Ukraine and are a system of norms, principles and requirements that ensure the process of observing human rights and legitimate interests, are maximally ensured and implemented in Ukraine. Such an approach contributes to ensuring stability in society and enables the proper functioning of all spheres of life of the population.

It is noted that the stability of social and legal guarantees during the period of martial law is a guarantee of preventing social anomie and crisis. It is important to ensure a stable process of such guarantees for all social groups of the population, given the war realities. To do this, it is necessary to improve the regulatory framework, if necessary, to reform the bodies implementing social guarantees, as well as the procedural features of such activities.

Attention is focused on the fact that the stability of social and legal guarantees during the period of martial law is a guarantee of preventing social anomie and crisis. Under certain crisis, force majeure circumstances, there may be a need to adjust the specific component. In particular, martial law in the state, a significant number of internally displaced persons, which we observe today in Ukraine, make adjustments to the distribution of social support and assistance.

It is emphasized that Ukraine, as a legal, democratic, social state that implements the program principles of the European integration course, forms domestic social guarantees on the basis of international legal guarantees for the provision and implementation of human and citizen rights and freedoms. Social security is regulated at a high level by a regulatory framework that provides for the types, features of implementation, and conditions of social security for the population.

Key words: general social guarantees, human and citizen rights and freedoms, state social standards, social standards.

Русаль Л.М. Соціально-правове гарантування в загальній системі гарантій прав і свобод людини і громадянина.

Стаття присвячена осмисленню загальнотеоретичних особливостей соціально-правового гарантування в загальній системі гарантій прав і свобод людини і громадянина як комплексу взаємопов'язаних і взаємодіючих засобів та способів реалізації, що мають нормативно-правове закріплення.

Наголошено, що державні соціальні стандарти і нормативи, які формуються, встановлюються і затверджуються в порядку, визначеному Кабінетом Міністрів України та є системою норм, принципів і вимог, які забезпечують процес дотримання прав і законних інтересів людини максимально забезпечуються і реалізуються в Україні. Такий підхід сприяє забезпеченню стабільності у суспільстві і дає можливість належного функціонування усіх сфер життєдіяльності населення.

Зазначено, що стабільність соціально-правового гарантування в період воєнного стану є запорукою недопущення суспільної аномії та кризи. Важливо забезпечити стабільний процес такого гарантування усім соціальним групам населення, з огляду на воєнні реалії. Для цього варто удосконалювати нормативно-правову базу, за потреби здійснити реформування органів, що здійснюють реалізацію соціальних гарантій, а також, процесуальних особливостей такої діяльності.

Акцентовано увагу на тому, що стабільність соціально-правового гарантування в період воєнного стану є запорукою недопущення суспільної аномії та кризи. За певних кризових, форс-мажорних

обставин може виникати потреба у корегуванні видової складової. Зокрема, воєнний стан в державі, значна кількість внутрішньо переміщених осіб, що ми спостерігаємо сьогодні в Україні, вносять корективи у розподіл соціальної підтримки та допомоги.

Наголошено, що Україна, як правова, демократична, соціальна держава, яка реалізує програмні засади євроінтеграційного курсу, формує внутрішньодержавні соціальні гарантії на основі міжнародно-правових гарантій забезпечення та реалізації прав і свобод людини та громадянина. Соціальне гарантування регламентується на високому рівні нормативно-правовою базою, де передбачено види, особливості реалізації та умови соціального забезпечення населення.

Ключові слова: загальносоціальні гарантії, права і свободи людини та громадянина, державні соціальні стандарти, соціальні нормативи.

Problem statement. Today in Ukraine, state authorities and social security authorities are trying to ensure the implementation of the fundamental rights of citizens, in accordance with national legislation and international legal standards. Public organizations, volunteer movements and socially active citizens are actively involved in this process in order to maintain social stability and the full development of the rule of law and civil society under martial law.

The stability of social and legal guarantees during martial law is a guarantee of preventing social anomie and crisis. It is important to ensure a stable process of such guarantees for all social groups of the population, given the realities of war. To do this, it is necessary to improve the regulatory and legal framework, if necessary, to reform the bodies implementing social guarantees, as well as the procedural features of such activities.

The status of the development of this issue. For a comprehensive analysis and understanding of the above issues, it is advisable to rely on the theoretical and methodological potential of the works of domestic and foreign legal scholars, as well as the works of modern scholars who also paid significant attention to the general theoretical features of social and legal guarantees in the general system of guarantees of human rights and freedoms.

We can note the works of the following scholars and practitioners: S. Afanasenko, L. Bogachova, Yu. Karlash, I. Magnovsky, L. Ryabovol, O. Simakova, I. Smirnova and others.

These issues are regulated by the relevant regulatory and legal framework, namely: the Laws of Ukraine "On State Social Standards and State Social Guarantees", "On Ensuring the Rights and Freedoms of Internally Displaced Persons" and others.

The purpose of the article is to deepen the study of the general theoretical features of social and legal guarantees in the general system of guarantees of human rights and freedoms.

Presentation of the main material. Social and legal guarantees are one of the most important guarantees that contribute to the formation of an adequate level of provision of basic needs of the entire population of the state.

In Ukraine, social guarantees are regulated at a high level by a regulatory and legal framework, which provides for the types, features of implementation and conditions of social security of the population.

The Constitution of Ukraine establishes general principles of regulatory and legal guarantees. In particular, Article 57 of the Fundamental Law determines that laws and other regulatory and legal acts that determine the rights of citizens must be brought to the attention of the population in the manner established by law. Otherwise, such regulatory and legal acts are invalid. The system of guarantees of constitutional rights and freedoms is represented by general and special (legal) guarantees. General guarantees are determined by the level of development of the main spheres of public and state life - political, economic, social, cultural (spiritual) and others [1].

Today, Ukraine is actively implementing a policy of European integration, in particular in the sphere of social and legal guarantees. Therefore, it is appropriate to emphasize that, as L.L. Bogachova states, in European law, guarantees of human rights and freedoms are understood as means of protecting rights from violations, procedures for restoring violated rights and the procedure for compensating for damage caused. It is customary to divide guarantees into general (applying to any rights and freedoms) and special (applying to individual rights and freedoms). The system of general guarantees includes: a) institutional guarantees related to the functioning of bodies whose activities are aimed at protecting and defending violated rights; b) procedural guarantees that are implemented in the administration of justice, primarily within the framework of criminal proceedings; c) material guarantees in the form of a person's right to compensation for damages caused by the violation of his or her rights [2, pp. 56–70].

This approach is relevant in modern society and covers all areas of a person's life.

Of course, under certain crisis, force majeure circumstances, there may be a need to adjust the specific component. In particular, for example, martial law in the state, a significant number of internally

displaced persons, which we observe today in Ukraine, make adjustments to the distribution of social support and assistance.

Also, L.T. Ryabovol notes that for a democratic society it is important to provide for the following rules: the law does not have retroactive effect; no one can be held responsible for actions that were not recognized as an offense at the time of their commission; the enshrining of certain rights and freedoms in the constitutions does not mean the denial or diminution of other generally recognized human rights and freedoms; the rights and freedoms of a person and a citizen may be limited by law only to the extent that this is necessary to protect the constitutional order, the rights and legitimate interests of other persons, and to ensure the defense and security of the state. A special role in the system of guarantees of human and civil rights and freedoms is played by international legal guarantees, namely: international regulatory legal acts, which enshrine the relevant rights; the activities of international bodies and institutions aimed at protecting human rights and freedoms [3, pp. 22–25].

It should be noted that today in Ukraine the issue of temporary forced restriction of certain rights of citizens, in particular, the right to travel abroad of a certain category of citizens, has become acute. During the armed aggression of Russia against Ukraine, such measures are appropriate and justified, because in order to preserve the state and defeat the enemy who violates all the norms of the civilized world, it is necessary to accumulate all resources.

It is correct to think that guarantees of human rights and freedoms are a system of norms, principles and requirements that ensure the process of observing human rights and legitimate interests. The purpose of guarantees is to ensure the most favorable conditions for the implementation of the constitutionally enshrined status of a person. Guarantees are a means of ensuring the transition from the possibilities provided for by the Constitution to reality. Social rights guarantee the provision of appropriate social conditions for a person and a citizen. This is the right to health care, the right to housing, the right to material security in old age, in case of illness, full or partial loss of working capacity, loss of a breadwinner, etc., the right to an adequate standard of living for oneself and one's family (food, clothing, housing) [4, pp. 3–5].

The practical implementation of constitutional rights and freedoms is ensured by two categories of guarantees: 1) general guarantees, which cover the entire set of objective and subjective factors aimed at the practical implementation of the rights and freedoms of citizens, at eliminating possible causes and obstacles to their incomplete or improper implementation, at protecting rights from violations (ideological, political, economic, social, organizational); 2) special (legal) guarantees – legal means and methods by which the rights and freedoms of citizens are implemented, protected, defended, violations of rights and freedoms are eliminated, and violated rights are restored [5]. As L.T. Ryabovol notes, in Ukraine and in foreign countries an effective system of domestic guarantees of human and citizen rights and freedoms is enshrined at the legislative level, which covers procedural and organizational guarantees, which are both judicial and extrajudicial in nature. An important aspect is that the procedure, grounds and limits of restrictions on human rights and freedoms are normatively defined and fixed. Domestic guarantees are formed on the basis of international legal guarantees for the provision and implementation of human and citizen rights and freedoms. These include international acts that directly enshrine human rights, as well as international bodies, organizations and institutions designed to ensure and assist in the protection of these rights. It is noted that "human rights guarantees in democratic states are a holistic set of legal and institutional means of domestic and international legal nature, judicial and extrajudicial, actually constitutional guarantees. A promising direction of research is to study directly the mechanisms for implementing such guarantees, ways to increase their effectiveness in Ukraine based on positive experience gained in the international, in particular European, legal space" [3, pp. 22–25].

The opinion of I. Y. Magnovsky, who notes that guarantees of human and citizen rights and freedoms are conditions, means and methods created by society and the state and derived from it by institutions of power, institutions, organizations that ensure their actual implementation, protection and defense. The mechanism of the system of guarantees of rights and freedoms for their implementation in real reality is directly a complex of interrelated and interacting regulatory and legal means and methods that cover the entire set of objective and subjective factors aimed at the real exercise of each person's rights and freedoms [6, pp. 29–31].

Social norms and standards are indicators of the necessary consumption of food, non-food goods and services and the provision of educational, medical, housing and communal, social and cultural services. Expenditure norms (financing) are indicators of current and capital expenditures from budgets of all levels to ensure the satisfaction of needs at a level not lower than state social standards and standards [7].

State social standards and norms, as a rule, are formed, established and approved in the manner determined by the Cabinet of Ministers of Ukraine with the participation and agreement of other parties to social partnership.

The Ministry of Social Policy of Ukraine provides a classification of types of state social standards and norms, in particular [8]:

The following types of state social standards and regulations are distinguished by their scope of application:

- state social standards in the field of population income (to determine the size of state social guarantees in the field of wages, payments under mandatory state social insurance, the right to receive other types of social payments and state social assistance and their sizes, as well as to determine the priority of areas of state social policy);
- state social standards in the field of social services (to determine the size of state guarantees of social support for persons in difficult life circumstances);
- state social standards in the field of housing and communal services (to determine state guarantees for the provision of housing and communal services and the size of payments for housing and housing and communal services that ensure the implementation of the citizen's constitutional right to housing);
- state social standards in the field of transport services and communications (standards for providing public transport, indicators of the quality of transport services and standards for providing the population with communication services);
- state social standards in the field of providing educational institutions (list and volume of services provided by state and municipal institutions of preschool, general secondary, vocational and higher education, standards for the maximum filling of classes, groups and the ratio of pupils, students and teaching staff in educational institutions, standards for material support of educational institutions and additional types of social and material support of students);
- state social standards in the field of providing services by cultural institutions (list and volume of free services provided to the population by institutions, enterprises, organizations and cultural institutions, indicators of the quality of services provided to the population by institutions, enterprises, organizations and cultural institutions, standards for providing the population with institutions, enterprises, organizations and cultural institutions);
- state social standards in the field of services provided by physical culture and sports institutions (list and volume of free services provided to the population by physical culture and sports institutions, as well as children's and youth sports schools, standards for providing the population with physical culture and sports institutions);
- state social standards in the field of consumer services, trade and public catering (standards for providing the population with consumer services, quality indicators for providing consumer services; standards for providing retail space and places in public catering establishments; indicators of the quality and safety of goods and services of public catering enterprises).

Even under martial law, significant attention is paid to social guarantees in Ukraine. This is evidenced by the fact that the Law of Ukraine "On the State Budget of Ukraine for 2024" provides for an increase in state social guarantees for the population [9].

In particular, from January 1, 2024, an increase in the minimum wage has been established. In the monthly amount: from January 1 - 7100 UAH, from April 1 - 8000 UAH. In the hourly amount: from January 1 - 42.6 UAH, from April 1 - 48 UAH.

Today, Ukraine is making certain adjustments to the practical implementation of social security for the population, but even under martial law, the state is trying to maximize to provide social guarantees to all citizens, especially vulnerable categories of the population.

Conclusions. Thus, we have come to the conclusion that social and legal guarantees in the general system of guarantees of human rights and freedoms are a set of organizational, legal and economic measures defined and established by the Constitution of Ukraine, aimed at ensuring social protection of the population and providing for compliance with state social standards in all spheres of a person's life. Social and legal guarantees are established in order to determine the priorities of state social policy in ensuring human needs in material goods and services and financial resources for their implementation and contribute to meeting the primary and most necessary needs of citizens, in particular, those who, due to certain objective reasons, find themselves in difficult life situations. The priority areas of social and legal guarantees are state social standards in the areas of: population income, provision of social services, housing and communal services, transport services and communications, provision of educational institutions and services by cultural institutions, consumer services, trade and public catering.

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