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CERTAIN ASPECTS OF SOCIAL AND LEGAL PROTECTION OF MILITARY PERSONNEL IN UKRAINE

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Rusal L.M. Certain aspects of social and legal protection of military personnel in Ukraine.

The article is devoted to understanding the general theoretical features of the social and legal protection of military personnel in Ukraine as a complex of interconnected and interacting means and methods of ensuring, guaranteeing and implementing the rights of military personnel in the general system of human rights.

It is emphasized that the social and legal protection of military personnel in Ukraine is their guaranteed right and the responsibility of the state for its implementation. Ensuring social protection of persons undergoing military service is one of the tasks of the state.

The social and legal protection of military personnel should include the right to: – medical care and rehabilitation, – pension provision, – education; – legal and psychological assistance; – appropriate conditions of service. Separate legislation provides for social guarantees for family members of military personnel, which is also a significant support for the military, in particular those serving during martial law.

It is noted that each element of ensuring social guarantees is implemented using its own tools and mechanisms. This process involves the development and implementation of a system of legal and social guarantees aimed at ensuring the constitutional rights and freedoms of military personnel, as well as meeting their material and spiritual needs, taking into account the specifics of military service and the specifics of their social status.

It is emphasized that due to the specifics of service duties related to ensuring state sovereignty and territorial integrity of Ukraine, a system of benefits, guarantees and compensations defined by current legislation is provided for military personnel.

During the period of martial law, which, according to the Law of Ukraine «On Defense», is the basis for establishing a special period, the activities of the military system are regulated under a special legal regime.

It is emphasized that in Ukraine it is necessary to make changes to the legislation, adjust the activities of social services and rehabilitation centers, in order to provide maximum psychological and legal support and social adaptation of military personnel both during martial law and after Ukraine's victory over the enemy.

Key words: social and legal protection, military personnel, legal status, social guarantees.

Русаль Л.М. Окремі аспекти соціально-правового захисту військовослужбовців в Україні.

Стаття присвячена осмисленню загальнотеоретичних особливостей соціально-правового захисту військовослужбовців в Україні як комплексу взаємопов'язаних і взаємодіючих засобів та способів забезпечення, гарантування і реалізації прав військовослужбовців в загальній системі прав людини.

Наголошено, що соціально-правовий захист військовослужбовців в Україні є їхнім гарантованим правом і відповідальністю держави щодо його реалізації. Забезпечення соціального захисту осіб, які проходять військову службу, є одним із завдань держави.

Соціально-правовий захист військовослужбовців повинен включати право на: – медичну допомогу і реабілітацію, – пенсійне забезпечення, – освіту; – правову і психологічну допомогу; – належні умови несення служби. Окремо законодавством передбачені соціальні гарантії для членів сім'ї військовослужбовців, що теж є вагомою підтримкою для військових, зокрема тих, що несуть службу під час військового стану.

Зазначено, що кожен елемент забезпечення соціальних гарантій реалізується за допомогою власних інструментів і механізмів. Цей процес передбачає розробку й реалізацію системи правових і соціальних гарантій, що спрямовані на забезпечення конституційних прав і свобод військовослужбовців, а також на задоволення їхніх матеріальних і духовних потреб, з урахуванням особливостей військової служби та специфіки їх соціального статусу.

Акцентовано увагу на тому, що через специфіку службових обов'язків, що пов'язані із забезпеченням державного суверенітету та цілісності території України, для військовослужбовців передбачено систему пільг, гарантій і компенсацій, визначених чинним законодавством. У період дії воєнного стану, що згідно із Законом України «Про оборону» є підставою для встановлення особливого періоду, діяльність військової системи регулюється в умовах особливого правового режиму.

Наголошено, що в Україні необхідно вносити зміни до законодавства, корегувати діяльність соціальних служб та реабілітаційних центрів, з метою надання максимальної психологічно-правової підтримки та соціальної адаптації військовослужбовцям як під час воєнного стану, так і після перемоги України над ворогом.

Ключові слова: соціально-правовий захист, військовослужбовці, правовий статус, соціальні гарантії.

Problem statement. Ukraine is waging a brutal war with an unprincipled enemy that violates the norms of international law, laws and customs of warfare and destroys the foundations of the development of the civilized world. At this tragic time, its best sons and daughters have come to defend our Motherland. Even in the conditions of Russia's war against Ukraine, our state is trying to provide maximum social guarantees to military personnel and members of their families.

Social and legal support for military personnel in Ukraine is one of the priority areas of the state's social policy. This issue is also relevant, given that during the war the number of military personnel who have been injured, disabled and need special support from the state and the environment increases.

It is necessary to amend the legislation, adjust the activities of social services and rehabilitation centers, in order to provide maximum support and adaptation to military personnel both during martial law and after Ukraine's victory over the enemy.

The status of the development of this issue. For an in-depth analysis of the outlined topic, it is necessary to take as a basis the works of domestic and foreign legal scholars, as well as the works of modern scholars, who also paid significant attention to the peculiarities of the social and legal protection of military personnel, especially during the period of martial law in the state.

We can note the works of the following scholars and practitioners: E. Bolotina, O. Kvasha, V. Pashinsky, L. Medvid, A. Stepanova, N. Khortyuk, B. Shamray.

These issues are regulated by the relevant regulatory and legal framework, namely: the Laws of Ukraine "On Social and Legal Protection of Military Personnel and Members of Their Families", "On Defense", "On Pension Provision for Persons Discharged from Military Service and Certain Other Persons" and others.

The purpose of the article is a deepening of the study of the general theoretical features of certain aspects of the social and legal protection of military personnel in Ukraine.

Presentation of the main material. Social and legal protection of the population is an important task of the state. Today, military personnel need special support from the state and society, because it is important that people who defend the country from external armed aggression do not feel unnecessary in society.

Social protection of military personnel is both their guaranteed right and the state's responsibility for its implementation. This means that military personnel have the opportunity to receive social guarantees in accordance with the requirements of current legislation. Such a right is conditioned by their performance of specific tasks and functions related to ensuring national security and defense of the country [1, pp. 651–675].

N. Khortyuk notes that the special legal status of military personnel is determined by a combination of factors, including [2, pp. 13–19]: 1) the exceptional nature of military service; 2) the specific procedure for its commencement, suspension and termination; 3) the scope of functions and powers exercised during service; 4) additional social and labor guarantees, benefits and privileges that compensate for the special conditions of military activity; 5) a higher level of responsibility placed on persons undergoing military service. Thus, military personnel constitute a separate group of employees whose activities are aimed at protecting state interests, security and integrity of the country. They have a separate labor and legal status regulated by special regulatory legal acts, including the provisions of labor legislation. These factors necessitate a special approach to the creation and implementation of a social protection system for this category of citizens. As evidenced by both international and domestic practice, each element of ensuring social guarantees is implemented using its own tools and mechanisms. In particular: firstly, decent living conditions for the working population are ensured through the establishment of a minimum wage, its indexation, a balanced tax burden and the creation of a favorable environment for business; secondly, key needs of society – such as general education, youth education, cultural development, healthcare, physical culture and specialist training – are financed

from the state and local budgets in the form of free services; thirdly, citizens who find themselves in difficult life situations (for example, due to job loss, illness, retirement, economic difficulties or a large number of dependents) have the right to support in the form of pensions, scholarships, social benefits, tax benefits and other forms of material support [3, pp. 117–122].

As a result, the social protection system provided by the state aims to guarantee everyone a decent standard of living, to promote their development and self-realization regardless of their financial situation or external circumstances.

It should be noted that in March, the Verkhovna Rada of Ukraine adopted in the second reading and as a whole the draft Law "On Amendments to Certain Laws of Ukraine on Ensuring the Rights of Military Personnel and Police Officers to Social Protection".

The law is aimed at improving the mechanisms for implementing certain rights of military personnel, in particular regarding access to information, medical care, provision of leave, establishing the level of disability, as well as legal regulation of other aspects related to military service and the performance of duties by military officials. In addition, the document contains provisions on guaranteeing police officers the right to receive a one-time cash benefit in the event of death or disability [4].

The Ministry of Defense of Ukraine, which is the central body of executive power and military management, subordinate to which the Armed Forces of Ukraine are, has developed a Memorandum "Social and Legal Protection of Military Personnel and Their Families", which states that the foundations of state policy in the field of social security of military personnel and their families are determined by the Law of Ukraine "On Social and Legal Protection of Military Personnel and Their Families". This regulatory legal act establishes a unified system of social and legal security, which guarantees the creation of favorable conditions for military personnel and their families in the social, economic and political spheres. The law is also aimed at ensuring the proper implementation of their constitutional duty to protect the state and regulates legal relations arising in this area [5].

According to the Law of Ukraine "On Social and Legal Protection of Military Personnel and Members of Their Families", ensuring social protection of persons undergoing military service is one of the tasks of the state.

This process involves the development and implementation of a system of legal and social guarantees aimed at ensuring the constitutional rights and freedoms of military personnel, as well as meeting their material and spiritual needs, taking into account the peculiarities of military service and the specifics of their social status. At the same time, such a system plays an important role in maintaining social balance among the military. The main components of social protection are provision in the event of complete, partial or temporary disability, loss of a breadwinner, unemployment that arose through no fault of the military personnel, reaching retirement age, as well as under other conditions stipulated by current legislation [6].

Military personnel have the right to enjoy all human and civil rights and freedoms, as well as state guarantees for their implementation, which are provided for by the Constitution of Ukraine and current legislation. At the same time, taking into account the specifics of military service, certain restrictions and features are established for them, determined by special regulatory legal acts.

Given the special nature of the duties performed related to the protection of state sovereignty and territorial integrity of Ukraine, military personnel are provided with benefits, guarantees and compensations, enshrined in the relevant legislative acts.

In the conditions of martial law, which in Ukraine became the basis for the introduction of a special period in accordance with the Law of Ukraine «On Defense», the functioning of the military system acquires a specific legal regime.

The special period covers the time from the moment of the official announcement of general mobilization (except for targeted) or its implementation in the case of a hidden nature, as well as from the moment of the introduction of martial law throughout the territory of Ukraine or in its individual regions. This period includes the stage of mobilization measures, military operations and, in part, the reconstruction stage after the end of hostilities [7].

The Law of Ukraine "On Social and Legal Protection of Military Personnel and Members of Their Families" provides for social guarantees for military personnel and members of their families during a special period.

The implementation of the norms of this Law, as well as other legal acts regulating the social and legal protection of military personnel and their families, is carried out by authorized state authorities and local self-government bodies. Persons called up to the ranks of the Armed Forces of Ukraine during mobilization in the conditions of a special period, after its completion, have a preferential right to conclude a contract for the continuation of military service. During the mobilization period – from the moment of its announcement until the beginning of martial law or the adoption of a decision on

demobilization – annual basic leave is granted to military personnel provided that no more than 30% of the personnel of the relevant category are on vacation at the same time [6].

We focus on the practical implementation of the features of social guarantees and social security for military personnel in Ukraine, in particular, during martial law.

During martial law, which covers a special period, military personnel are allowed to be granted part of the annual basic leave, as well as leave for family reasons or other valid reasons with the preservation of financial security. Each of these leaves cannot last more than 10 calendar days, not including the time required to travel to the place of rest and back through the territory of Ukraine, which should not exceed two days in one direction. Partial annual leave is granted once a year, provided that no more than 30% of military personnel of one category within the unit are on leave.

It should be emphasized that for the period of service on mobilization in a special period, as well as for servicemen who took or participate in measures related to national security and defense, in particular in deterring and repelling armed aggression of the Russian Federation, and who were directly in the areas of such operations, no fines, penalties or interest for the use of credit funds are applied. This provision applies to debt obligations to banks, enterprises, institutions, organizations regardless of the form of ownership, as well as to individuals. The only exceptions are loans taken for the purchase of housing (houses, apartments, objects of unfinished construction or rights to them) or vehicles [8].

In our opinion, the issue of medical care for military personnel and their family members is extremely important.

According to the Law of Ukraine "On Social and Legal Protection of Military Personnel and Their Family Members", military personnel have the guaranteed right to: – receiving free qualified medical care in military medical health care institutions during conscription for training, special or verification training; – providing medical care in state or municipal medical institutions at the expense of the Ministry of Defense of Ukraine, other legally established military formations and law enforcement agencies in the absence of military medical institutions, relevant units or equipment at the place of service or residence, as well as in situations requiring urgent intervention; – the right to free psychological support; – sanatorium and resort treatment and rest once a year in sanatoriums, boarding houses, rest houses and tourist bases owned by the Ministry of Defense of Ukraine or other military formations, with preferential payment of vouchers in accordance with the norms determined by the Cabinet of Ministers of Ukraine (and after inpatient treatment in a hospital – free of charge, based on the conclusion of a military medical commission); – free sanatorium and resort treatment for medical indications for military personnel on conscription, cadets (students) of higher military institutions or universities with military departments, as well as for female military personnel; – extraordinary receipt of vouchers to sanatoriums and health facilities for persons who have suffered illnesses while performing their official duties and have undergone treatment in military medical institutions; – priority referral for rehabilitation to sanatoriums and resorts for persons employed in hazardous industries, those whose service is of a special nature, as well as for persons with disabilities as a result of hostilities, participants in hostilities and those equated to them.

In addition, military personnel who have been confirmed to have been deprived of their liberty as a result of armed aggression against Ukraine are subject to mandatory rehabilitation, reintegration and adaptation measures, and also receive the necessary support after release [6].

The next aspect of social security is the pension provision for military personnel.

According to the Law of Ukraine "On Pension Provision for Persons Discharged from Military Service and Certain Other Persons", pensions are guaranteed to pensioners in the event of their call-up to military service during mobilization, for a special period for the duration of such service [9].

An important type of social guarantees is the right to education.

Servicemen have a guaranteed right to receive education, including postgraduate education, in specialized military educational institutions, as well as in structures that provide training, retraining and improvement of their qualifications. Officers who were accepted for contract service after completing basic or full higher education received at the expense of the state budget may continue their studies in other higher education institutions without interruption from the performance of official duties after the period of service corresponding to the duration of their previous education [10].

Conclusions. Thus, we have come to the conclusion that the social and legal protection of military personnel in Ukraine is their guaranteed right and the responsibility of the state for its implementation. Ensuring social protection of persons undergoing military service is one of the tasks of the state.

The social and legal protection of military personnel should include the right to: – medical care and rehabilitation, – pension provision, – education; – legal and psychological assistance; – appropriate conditions of service.

Separately, the legislation provides for social guarantees for family members of military personnel, which is also a significant support for the military, in particular those serving during martial law.

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