

The doctrine of social security: the development of conceptual positions

Tyshchenko Olena

Doctor of Law Taras Shevchenko National University of Kyiv



Abstract. *The scientific article is devoted to the evolutionary aspects of the formation of the doctrine of social security as a social and legal phenomenon, which characterizes the social status of a person in society and the state. There is an indissoluble link between the ideological principles of the social policy of the state and the peculiarities of the social security system, which operates in a particular country. The author proposes the stage of formation of the theory of social security in the XX century. – the beginning of the XXI century. The modernist tendencies of social security in modern conditions are inquired, which are based on the implementation of social security in the leading countries of the world at the level of high social standard as the basic value of social security.*

Key words: *social security, doctrine of social security, theory of "social factor", social policy, social standard.*

References:

The social and legal process of formation of the state and society reflects the peculiarities of the formation and development of social security as a social and legal phenomenon. Historical experience shows that social security plays the role of a peculiar marker that captures the level of democratization of the social policy of the state and is a measure of humanization of social development. In post-Soviet countries, to which Ukraine belongs, the process of modernizing social and security relations is complicated by the presence of a significant body of social and security legislation, the process of reforming of which is in its initial stages. Among scientists and practitioners, an active discussion is continuing on the selection of the most advanced forms of systematization of social and security norms. This process often becomes controversial. However, human centered ideas of the conceptual foundations of social policy embodied in the social and security legislation of the countries of the European Union encourage representatives of the scientific schools of social security of independent Ukraine to a new thorough scientifically unbiased understanding of the ways of transformation of social security, aimed at further promising development.

Analysis of research and publications.

The problem of the formation of social security as a social and legal phenomenon has always been the focus of the representatives of the doctrine of social welfare law. Fundamental research of social and security relations was carried out by Professor S.M. Prylypko (Problems of the Theory of Social Security Law: Monograph, 2007), which advocates the position of assigning the right to social security to such natural human rights as the right to life. The theoretical and legal aspects of the fundamentals of social insurance as the main organizational and legal form of social security

are dedicated to the work of scientists O.V. Moskalenko (Basic Principles of Mandatory State Social Insurance under Market Economy conditions: Monograph, 2012), M.I. Bodnaruk (Legal regulation of social insurance in Ukraine, monograph, 2014), O.L. Kuchma (Problems of the theory and legal regulation of social insurance in Ukraine: monograph, 2016). The doctrinal basis for the formation of legal relationships in the field of social security is disclosed in the works of L.P. Shumna (Right to Social Support and Guarantees of its Implementation under Market Economy conditions: Monograph, 2014), S.M. Synchuk

(Social Security Relationships: Subjects, Content, Objects: Monograph, 2015), M.M. Shumylo (Relationship in the field of pensions in Ukraine: monograph, 2016) and others. At the same time, the latest trends in the development of social relations in the field of social security, aim at developing innovative principles of the theory of social security, which correlate with the European integration processes of social change.

Setting goals and objectives. In the process of writing the article, the goals and objectives of the research work were to form the doctrine of social security law in relation to the peculiarities of the development of social security as a social and legal phenomenon, to distinguish the stages of the formation of scientifically based statements regarding the development of social security and to determine the specificity of the modernization of scientific approaches to this issue.

Presentation of the main material. In special scientific literature, the notion of "securing" is defined as "material resources that provide the opportunity to live, exist" [1, p. 356]. The essence of the concept of "securing" can emphasize its social nature, indicating its kind affinity with the existence of a person, his/her life as a social being in a social environment.

In the 20's and 40's of the 20th century, the theory of social security was studied by M. A. Vihdorchyk, V. M. Dohadov, L. V. Zabelin, I. K. Ksenofontov, M. A. Miliutyn, M. A. Semashko, Z. R. Tetterborn, V. H. Yarotskyi and others. The main objective of social security indicated by the scientists was seen in implementing the improvement of the material situation of the general population. But, at the same time, their scientific views often had a controversial scientific basis, given the ideological factors on which the formation of social policy was based. So, considering the essence of social security, L.V. Zabelin emphasized that it is impossible to confuse the concept of "lack of security" with the concept of "social insecurity", these categories are different in meaningful content [3, p. 15]. As one of the founders of the theory of "social risk" M.A. Vihdorchyk noted that the loss of earnings for a modern man is the same as for the representatives of the animal world to lose their connection with nature, which in most cases leads to imminent death [4, c . 5]. V. N. Durdenevskiy, who studied the phenomenon

of social security, pointed to the "social dangers" that threaten the life and existence of many segments of the population and noted that such dangers can be eliminated by the provision of monetary and social assistance [5, p. 39]. Complex socio-economic conditions, impoverishment of the population led to the emergence of an understanding of social security as a priority for poverty alleviation, provision of means for life support.

Analysis of scientific literature of 50-80's of the twentieth century testifies that the problem of the effectiveness of the functioning of the social security system was actively raised in the scientific sphere. Scientists discussed the legal content, the essence of the basic concepts of the social welfare industry. Scientists V.S. Andrieiev, K.S. Batyhin, M. L. Zakharov, R.I. Ivanova, V. V. Karavaiev, Ya. M. Fohel, V. Sh. Shaikhhatdinov in their works laid the conceptual foundations of the doctrinal understanding of social security as a social and legal phenomenon. Analyzing the peculiarities of the formation of the system of social and security relations, as the basis of the subject of the right to social security, V. S. Andrieiev paid particular attention to the characteristic feature of the sphere of social security - a significant number of norms governing social and security relations. He included the social security system to a system of legal norms regulating pensions and some other social relations of an alimentary nature that arise in connection with provision of citizens in old age and with disability, with the provision of a mother and a child, with unpaid medical care and treatment, and also closely related to them establishment of legal facts and the resolution of disputes over the provision of certain types of social security [6, p. 71]. M.L. Zakharov believed that social security should be understood as the state system of socio-economic measures related to material provision or service at the expense of public funds for the consumption of the elderly, disabled, ill citizens and families with children [7, p. 6-7].

It should be noted that in the 70-90's of the 20th century in the doctrine of social security law occurred the innovative developments in the understanding of the essence of social security. It is necessary to emphasize the fact that in Europe, in the 70's and 80's of the twentieth century, the attention was intensified on the social ideas of German-American social psychology E. Fromm, who

emphasized that "the understanding of the human psychics should be based on the analysis of human needs arising from their conditions of existence", "charitable society – is a society of happy people" [8, with. 454]. Thus, the scientific literature begins to indicate the fact, that the main purpose of social security is to create the proper conditions towards citizens for a decent existence, welfare, conditions for a level of material security that will allow them to feel socially protected.

The civilization theory of the "social factor" is gaining further development - ensuring the vital needs of citizens. A significant contribution to the development of the theory of "social factor" was introduced by the scientist V. Sh. Shayhatdinov, who emphasized that social security is a system of social relations, which consist in the providing centralized social funds of consumption, formed by the state at the expense of society, the vital needs of citizens through an individual form of distribution instead of paying for work, in exchange for or in addition to it in cases specified by law, taking into account the individual labor input of citizens and the social factor or bezekvival etno [9, p. 15].

The civilization theory of the "social factor" is gaining further development - ensuring the vital needs of citizens. A significant contribution to the development of the theory of "social factor" was introduced by the scientist V.Sh. Shaikhhatdinov, who emphasized that social security is a system of social relations, which consist in providing from the centralized social funds of consumption, formed by the state at the expense of society, the vital needs of citizens through an individual form of distribution instead of paying for work, in exchange for or in addition to it in cases specified by law, taking into account the individual labor input of citizens and social factor or non-equivalently [9, p. 15].

With the development of public relations in the post-Soviet countries, the idea of monopoly value of the state in social security is gradually adjusted, it is carried out exclusively at the expense of the state budget and is gradually replaced by new dispositive tendencies of social self-sufficiency (voluntary participation in the solidarity system of compulsory state pension insurance, non-state pension insurance, etc.), a new vision of social and security relations is formed.

One of the first basic documents concerning social security in independent Ukraine was the Concept of Social Welfare of the Population of Ukraine, approved by the Verkhovna Rada of Ukraine Decree No. 3758-XII dated 21.12.1993. The Concept states that the social welfare system of the population should be constructed in such a way as not to create equalization and restraint in the distribution and consumption of life's goods, not weaken the effectiveness of motives and incentives for work, and to create the conditions for their full disclosure [10]. Under these conditions, the national social security school in Ukraine began to develop. Scientists who initiated the formation of the Ukrainian social security school: V. M. Andriiv, N. B. Bolotin, Ya. I. Bezuhlu, V. Ya. Burak, S. M. Prylypko, S. M. Synchuk, I. M. Syrota, N. M. Stakhovska, B. I. Stashkiv and others.

I.M. Syrota, studying the development of the national scientific school of social welfare law in Ukraine, emphasizes the special significance of social security in the present ... In any industrially developed civilized state, where there are market relations, social security serves as one of the guarantees of the realization of rights and freedoms of citizens [11, p. 142-145].

A significant influence on the development of the Ukrainian doctrine of social welfare law was the adoption of the Constitution of Ukraine on 28th of June in 1996, where in Part 1 of Art. 46 is proclaimed that citizens have the right to social protection, including the right to social protection, which includes the right to provide them in case of full, partial or temporary disability, loss of breadwinner, unemployment due to the circumstances which are beyond their control, in old age and in other cases stipulated by law [12] The application of the concept of "social protection" in the Constitution of Ukraine served as the development of a discussion among scholars on the relation between the concepts of "social protection" and "social security" and the feasibility of their application in the national legislation. In this context, N.B. Bolotina pointed out that the understanding of social protection is actually the social and protective activity of the state in protecting the population from social risks ... the organizational and legal system established in Ukraine to protect the population from social risks, neither in its composition nor in its

essence does not give grounds to apply to it the term "social security" ... Ukraine has established the legal and institutional foundations for a new system of social protection [13, p. 91-95].

A detailed study of the content of the concept of "social security" and its relationship with the concept of "social protection" was made by Professor S.M. Prylypko. Studying the social and legal nature of the right to social security, the scientist emphasizes that the right to social security is closely linked with the right to life and belongs to everyone from

birth; the right to social security has a certain amount and content and is disclosed in the Constitution of Ukraine and legislation; the right to social security belongs to the number of subjective human rights and is protected directly in court [14, p. 323-329]. Supporting this point, it should be emphasized that the basis of the doctrine of social security in Ukraine is based on the principle that the right to social security is one of the main socio-economic rights of a person because it supports human life.

Conclusion

Taking into account the aforementioned, we can conclude that the analysis of the doctrinal approaches to the evolution of understanding the essence of social security as a social and legal phenomenon makes it possible to distinguish the following four stages: the first stage – 20's-40's of the twentieth century - the emergence of the idea of the existence of the principles for considering social security as a socio-economic policy of the state, aimed at protecting the population from social insecurity, first of all - loss of earnings; the second stage– 50's-60's of the twentieth century. - adoption of scientific views on the understanding of social security as a social and legal phenomenon, implemented at the expense of public consumption funds; the third stage– 70's-80's years of the twentieth century. - transformation of the theory of "social factor" in the context of increasing the social significance of the immediate need to meet the vital needs of the population; the fourth stage - 1990 and to date - modernization of doctrinal principles in the context of modern humanistic tendencies in the field of social security as a social and legal position of a person based on the principles of implementation of state-legal standards and guarantees of social security at a decent high standard of living.

In this regard, in the aspect of scientific understanding, social security as a socio-legal phenomenon should be considered in two ways: broad and narrow. In a broad sense: social security is a social and legal position of a person characterized by the level of his/her welfare, quality of life; in the narrow sense: social security is the activity of state and non-state bodies for the implementation of social security for those categories of people who find themselves in difficult socially significant circumstances and require special attention of the state and society [15, p.149].

Thus, one of the main characteristics of effective social security in modern conditions is the creation of a system of social support for vulnerable groups of the population at a level where the guaranteed living wage as a high social standard will meet the needs of the person at the European level of life. In view of socio-economic development, Ukraine is still at the stage of becoming a social state in the classical theoretical sense with the corresponding consequences for the effective functioning of social security. Accordingly, in order to determine the essence of contemporary social and legal policy of Ukraine, it is more appropriate to use the notion of "socially oriented state", which should be understood by the state, whose social policy is aimed at realizing the material provision of citizens at the level of minimum social standards and guarantees defined by legislation with a prospect on their gradual increase [16, p.305-306.]. Historical experience of the leading countries of the world, such as Germany, Great Britain, France, Canada, testifies that the socially oriented state is an initial stage in the formation of a social state, based on the social policy of human-centered theory based on the priority of the human right to life.

References:

1. Dal V.I. Explanatory Dictionary of the Living Great Russian Language by Vladimir Dal / V.I. Dal; [ed. Jan Baudouin de Courtenay]. – SPb.-M .: Partnership M.O. Wolf, 1903. - 877 pp.
2. Zabelin L. Theory of Social Welfare / L. Zabelin. - M .: Edition of the All-Union Soviet Socialist Republic, 1924. - 203 p.

3. Zabelin L.V. Social insurance in the life of the working class of the USSR / L.V. Zabelin. - M. : Gos. The issue of labor "Gostrudizdat", 1930. - 90 p.
4. Vigdorchyk N.A. Social insurance. A systematic presentation of the history, organization and practice of all forms of social insurance / N. A. Vigdorchyk. - SPb. : Publishing House "Practical Medicine" (V.S. Ettinger), 1912. - 302 p./
5. Durdenevsky V. Lectures on the Right to Social Culture / V. Durdenevsky. - Moscow: Gosizdat, 1929. - 328 p.
6. Andreev V.S. The notion and system of the Soviet social security law / Andreev V.S. / jurisprudence. - 1969. - No. 5. - P. 66-72.
7. Soviet pension law: tutorial [subs. Ed. M.L. Zakharova]. - M. : "Yurid. lit. ", 1974. - 432 p.
8. Osipov G. History of Sociology in Western Europe and the USA / G. Osipov. - Moscow: Publishing house NORMA, 2001. - 576 p.
9. Shaykhatdinov V.Sh. Theoretical Problems of the Soviet Social Security Law / V.Sh. Shaykhatdinov. - Sverdlovsk: Izvestia Ural University, 1986. - 156 p.
10. Concept of social welfare of the population of Ukraine: Approved by the Verkhovna Rada of Ukraine from 21.12.1993 № 3758-XII // Bulletin of the Verkhovna Rada of Ukraine of 08.02.1994 - No. 6, Art. 31
11. Syrota I.M. Development of the National Scientific School of Social Security Law in Ukraine / I.M. Syrota // Scientific Papers of the Odessa National Law Academy. - O. : "Legal Literature", 2003. - T. 2. - P. 141-146.
12. The Constitution of Ukraine: Law of Ukraine dated June 28, 1996 - No. 254k / 96-BP // Official Bulletin of Ukraine dated October 1, 2010 - No. 72/1. Special Issue, Article 2598
13. Bolotina N.B. The Right to Social Protection: Establishment and Development in Ukraine: [monograph] / N. B. Bolotina. - K. : Knowledge, 2005. - 381 p.
14. Prylypko S.M. The right to social security - one of the most important socio-economic human rights / S.M. Prylypko // State and Law: Coll. sciences - Issue 19. - K. : Koretsky Institute of state and law of National Academy of Sciences of Ukraine, 2003. - P. 323-329.
15. Tyshchenko O.V. The essence of social security: doctrinal views / O.V. Tyshchenko // Comparative and analytical right: Electronic scientific special edition. - 2013. - No. 4-1. - P. 145-149.
16. Tyshchenko O.V. The right of social security in Ukraine: theoretical and practical problems of the formation and development of the industry: monograph / O.V. Tyshchenko. - K. : DP "Print Service", 2014 - 394 pp.