

Review Paper

# Development of National Social Insurance Systems in Ukraine and European Countries as a Factor in the Evolution of Human Rights to Social Security

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## ABSTRACT

The purpose of this study is to investigate the state of social security in Ukraine and its comparative analysis in comparison with European countries, as well as to establish the concept, content, features, and purpose of this sphere in Ukraine. The methods used to study this subject can be distinguished as follows: dialectical method, formalisation method, law-cognising method, formal legal method, hermeneutical method, logical legal method, systemic, structural-functional method, axiomatic method, methods of analysis and synthesis, induction and deduction, etc. The results of this study are the definition and clarification of the characteristics and features of legal regulation of social security in Ukraine; established the list of types of social security in Ukraine. The authors investigated the development of social security in Ukraine since 1990; analysed the development of social security in Europe and identified four main models of social protection through the implementation of social security; identified the main problems in the field of social security as one of the factors of social protection of the population. The authors defined the term "social security", established the content and features of the national social security system of Ukraine; investigated the development of social security in Ukraine and in European countries.

## HIGHLIGHTS

- The provisions set out in this paper are of practical value primarily for authorised persons whose activities are directly aimed at governing the social security system and improving it, as well as for persons whose rights are somehow affected by this area and for those who are insured persons in the system under mandatory state social security.

**Keywords:** Social protection, national social security system, types of social security, aid, law

The main task of any legal and democratic country is to guarantee, ensure, and protect fundamental human and civil rights and freedoms. To ensure and exercise the rights prescribed in the legislation of Ukraine, numerous institutions are being created, the functioning of which allows putting a person at the centre of social, public, and political life, thereby helping them to exercise their rights in due course (Kirilenko and Tolubyaka, 2016). One of the areas that is developing and requires constant improvement is the social sphere, namely social

security, since it provides support for the most active working-age part of society. In other words, social security creates intangible and tangible goods designed to meet the needs and interests of people (Bezzub, 2019).

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According to the economic transformations that are currently taking place in the world, the level of social risks is growing. The list of social risks is contained in the Social Security (Minimum Standards) Convention, 1952 (No. 102) (1952) and in the European Code of Social Security (1964). The introduction of social security programmes, which should become the basis and criterion for social security of people, should contribute to mitigating the adverse consequences of implementing social risks (Petryshyn and Hyliaka, 2021). Article 46 of the Constitution of Ukraine (1996) establishes the right of people to social security and state support in case of dangerous situations that may affect life support. This right is guaranteed by mandatory social insurance at the expense of insurance premiums of citizens, enterprises, institutions, and organisations, as well as budgetary and other sources of social security; the creation of a network of state, municipal, and private institutions for caring for the incapacitated.

Gaps in the regulation of social security and its inefficiency in Ukraine are primarily conditioned upon the low financial status of people, significant migration of the population outside the state. Additionally, one of the main issues of inefficient functioning of social security is the low level of wages among people (Kniazieva *et al.* 2021). There are also numerous other problems existing in the social security system itself, which include very frequent changes in the legislation governing this area; a considerable spread of informal employment without paying taxes and insurance deductions in Ukraine; inconsistency and conflicts in legal acts governing social security. There is an urgent need to solve them, as well as to investigate the development of social security in Ukraine and European countries as an essential factor in ensuring the human right to social security (Koval, 2014; Kozoriz, 2014).

The main objectives of this study are as follows: to describe and analyse the sphere of social security in Ukraine, to determine the content, features, and purpose of this sphere; to study the practices of legal regulation of social security in Ukraine and in European countries; to identify the main issues of social security in Ukraine and formulate recommendations for improving this sphere.

## MATERIALS AND METHODS

Using the methods of synthesis and theoretical analysis, the authors examined the scientific papers on social security, determination of the features of the national insurance system in Ukraine, and analysed the development of social security in Ukraine and in European countries. The dialectical method underlies this study, since it is used to cognise all the social activity processes that have become the subject matter of this paper. The use of this method enables a research-to-practice study of the issue of improving the sphere of social security in Ukraine to ensure the implementation of human rights guaranteed by the Constitution of Ukraine (1996) and other legislative acts. It is also used to clarify the concept, content, and significance of social security in Ukraine and the possibilities of developing and improving the legal regulation of this area.

The study utilized the formal legal method to analyze the regulatory development of the social security sector in Ukraine and European countries. The system method helped identify the scope of the study and propose solutions. The historical method examined the specific features of the sector's development in Ukraine since the 1990s. Comparative and synthesis methods were employed to analyze foreign practices and their potential application in Ukraine. Additionally, the study employed the hermeneutical method to explore the essence of "social security," the analysis method to dissect the subject into components, and analogies to establish similarities among legal phenomena.

## RESULTS AND DISCUSSION

Currently, the following types of social security have been developed and operate in Ukraine: pension insurance; temporary disability insurance; unemployment insurance; insurance against industrial accidents and occupational hazard that caused disability. The most extensive is mandatory state pension insurance, which ensures the provision of pension payments, namely: old-age pensions, disability pensions, and survivor's pensions (except for those related to an occupational disease or the occurrence of an industrial accident). Pension insurance funds are used to pay benefits for the burial of pensioners.

Another common and in demand is social security in case of illness, the functions of the policyholder in which are performed by the Social Security Fund. In case of insured events related to diseases and motherhood, the Fund is authorised to reimburse payments to insured persons (mainly employees) that compensate for the loss of earnings. It is known that the Social Security Fund pays approximately UAH (hryvnia) 2 billion to Ukrainians every month (Kirilenko and Tolubyaka, 2016). The Social Security Fund is managed on a parity basis by the state, employers, insured persons, or their representatives.

Ukraine's history of social security development under various ruling countries and its transition to the Soviet period shaped its social security system, with the introduction of insurance principles in the 1920s but later replaced by a State Social Security System. Only since the 1990s, when Ukraine started to regain its independence, did the revival of the social security system begin on an insurance basis as a social protection institution independent of the state. Considering this particular period of history, the authors identify several stages in the establishment and development of the institution of social security in Ukraine. The first stage, beginning with the declaration of independence of Ukraine and ending with the adoption of the Constitution of Ukraine (1996), is described by the search for a model for building social security in Ukraine that differs from the Soviet Social Security System. The Resolution of the Verkhovna Rada of Ukraine "On the draft Concept of social security of the population of Ukraine" (1994) was adopted. The Concept has consolidated the main models of social security in the market conditions of Ukraine: security provided through social security in case of unemployment, temporary or permanent disability and social assistance to people in need and maintenance of their standard of living in certain cases.

According to this Concept, four forms of social security were distinguished: pension insurance; health insurance; insurance in case of unemployment; insurance against occupational hazard. According to the above, there were four types of social security, but health insurance was divided into two parts: the first is compensation for the cost of treatment, the second is compensation for lost earnings as a result of illness. The Concept prescribed ensuring the rights of working persons, as well as their

family members, to medical care and treatment in medical institutions and other services, which were to be provided at the expense of health insurance (Resolution of the..., 1994). An important task of that time, which had to be solved by the state bodies of Ukraine, was the eradication of Soviet norms in the regulation of Social Policy and the consolidation of regulation of the social status of war veterans, repressed persons and persons affected by accidents at the Chernobyl nuclear power plant and, accordingly, their social protection (The system of..., 2009).

The second stage. The Constitution of Ukraine (1996) declares Ukraine as a social state, which became the basis for the establishment and development of the national system of social security and social security of the population in Ukraine. Pursuant to Article 46 of the Constitution of Ukraine (1996), citizens have the right to social security, which includes the right to support them in case of full, partial, or temporary loss of labour capacity, loss of the breadwinner, unemployment due to circumstances beyond their control, as well as due to old age and in other cases stipulated by law. This right is guaranteed by mandatory state social insurance at the expense of insurance premiums of citizens, enterprises, institutions, and organisations, budgetary, and other sources of social security, as well as the creation of a network of state, municipal, and private institutions for caring for the incapacitated. Essential for the development of the social security system was the introduction of the obligation to pay insurance deductions only by enterprises, institutions, organisations, but also by citizens. If previous reforms were aimed at adapting the old version of social security system to the new economic and social conditions, then with the adoption of the Law of Ukraine No. 16/98-VR "Fundamentals of the legislation of Ukraine on mandatory state social insurance" (1998) by the Parliament of Ukraine, a new stage of its development began.

The third stage. This stage lasted until 2003. The laws of Ukraine were adopted: Law of Ukraine No. 2017-III "On state social standards and state social guarantees" (2000), Law of Ukraine No. 1105-XIV "On mandatory state social security against industrial accidents and occupational diseases that caused disability" (1999), Law of Ukraine No. 1533-III "On mandatory state social security

in case of unemployment" (2000), Law of Ukraine No. 2240-III "On mandatory state social security in connection with temporary disability and expenses caused by burial" (2001), Law of Ukraine No. 1058-IV "On mandatory state pension insurance" (2003). The fourth stage. This stage of development dates back to 2003 and continues to the present day. It is described by the approximation of national legislation to the standards of European regulation of social protection of the population, specifically social security. Furthermore, since January 1, 2004, the first level of the insurance pension system, namely the solidary pension insurance system, has been introduced.

Draft laws on the introduction of a single social contribution have been developed since 2002. This would allow centralising the functions of collecting insurance deductions in one insurance fund and reduce administrative costs. The completion of this work was the adoption of the Law of Ukraine No. 2464-VI "On collection and accounting of a single contribution to mandatory state social security" (2010). Proceeding from these development stages, it is necessary to give a more detailed description of the evolution of social security in Ukraine. After Ukraine gained independence in 1991, it inherited the social security and social security system that was available in the USSR. Ukraine received a social security system, where the state was the main employer and owner of all available means of production, and was responsible for emerging social risks. The social security mechanism that existed before the reform and development of this sphere did not correspond to the realities of independent Ukraine and social and labour relations. This was primarily conditioned upon the fact that the liberalisation of prices and a variety of forms of ownership considerably increased the number of people who felt the impact of various social risks, as well as the fact that the level of state support began to decrease significantly, which in turn led to the loss of Ukraine's manageability of social processes (Pukala and Vnukova, 2017; Nadtochiy, 2018).

After the adoption of the Constitution of Ukraine (1996), the social security was reformed and developed based on the principles of a democratic social state, among which the authors of this study distinguish the following ones: interrelation and mutual responsibility of members of society;

recognition of the primacy of human rights and their interests; support from state bodies, non-state and non-profit institutions, insurance funds, whose activities are aimed at solving problems arising in the social sphere. The adoption of the Law of Ukraine No. 16/98-VR "Fundamentals of the legislation of Ukraine on mandatory state social insurance" (1998) allowed consolidating the procedure and principles for distributing responsibility for the implementation of social security between employers, the state, and the population.

This law became the main regulation and regulator when updating and creating the regulatory framework for social security regulation in Ukraine. Based on this act, the following legal acts in the field of social security of Ukraine were adopted: the Law of Ukraine No. 1533-III "On mandatory state social security in case of unemployment" (2000); the Law of Ukraine No. 1105-XIV "On mandatory state social security against industrial accidents and occupational diseases that caused disability" (1999); the Law of Ukraine No. 1058-IV "On mandatory state pension insurance" (2003). Funds that are accumulated in the social security funds and the pension fund of Ukraine are allocated as follows:

- ♦ insurance, which is carried out in case of accidents at work or occupational diseases, and makes provision for compensation to victims of damage from such insured events, such as payments of temporary disability benefits, disability payments as a result of an accident at work, compensation for damage caused by the loss of the breadwinner in connection with the occurrence of an accident at work;
- ♦ temporary disability insurance, which provides compensation for lost earnings due to an illness unrelated to occupational hazard (general illness), as well as for the period of maternity leave;
- ♦ insurance that is carried out in case of unemployment (financing of professional training of persons, promotion of employment of unemployed persons, payment of unemployment benefits).

It is important to investigate the practices in the establishment and development of this field in European countries during the study of the

social security sector. The active development of social security through insurance in European countries occurs in the 20<sup>th</sup> century. The impetus for the development of this area in Europe was the adoption of regulations in some countries, which governed the insurance of employees in case of unemployment, illness, or disability. European countries have four models of social protection and, accordingly, social security:

**Continental model of social protection.** This model includes Belgium, Switzerland, Germany, the Netherlands, France, and Austria. The discoverer of this model of social protection is considered to be O. von Bismarck, who proposed to create three branches of social security that still exist in these countries, namely disease Insurance, old-age insurance, and insurance against occupational hazard. The main features of the continental model of social protection are as follows: the implementation of social security at the expense of contributions from insured persons and employers; public-private solution of emerging social problems; spending approximately 50% of GDP (gross domestic product) on social protection of the population; professional solidarity is the link between professional activities and the level of social security; social assistance to low-income members of society.

**The Anglo-Saxon model.** This model of social protection includes Ireland and the United Kingdom (UK). The main representative of this model is considered to be V. Beveridge. The main provisions of this model are as follows: unification and uniformity of social payments and services, which are expressed in the same exchange of medical services, pensions, and conditions for providing medical care; the general nature of social security, its extension to all persons who need it; distributed equity; implementation of payments at the expense of insurance premiums and at the expense of the state budget (Semigina, 2007).

**Scandinavian model.** This social protection model includes Denmark, Norway, Finland, and Sweden. The main condition for the functioning of this model is the organisation of society, which engages in its activities on the principle of institutional activity. The main features of the Scandinavian model of social protection are as follows: the financing of payments is made at the expense of taxes (in the vast majority) and from insurance deductions

of employees and employers; solidarity and universalism, which is expressed in covering the entire population of the country and involvement of each citizen in the financing of social security, making appropriate contributions according to their income; social protection of the entire population, which is provided by the state budget of the country; stable economic growth rates in the country and high labour productivity.

**Southern European model of social protection.** This includes Spain, Italy, Portugal, and Greece. The main features of this social security model are as follows: social policy, which is overwhelmingly passive in nature, aimed at compensating for losses incurred by citizens of a particular country; the presence of a low level of social protection; the presence of a low level of GDP per capita and a high rate of inflation; an asymmetric system of social spending (the largest share of social spending in these countries of the southern European model of social protection is pension costs, accounting for approximately 15.4% of GDP) (Pavlova, 2015; Pukala *et al.* 2018).

The first country to be described in this study is Great Britain, where the National Insurance Act (1911) was adopted, based on the principle of public solidarity. It introduced insurance payments for different population segments, with exemptions for low-income individuals. The UK's social security system includes national healthcare and is financed through insurance deductions. It features a comprehensive pension system, with non-state pensions being the most common. The Beveridge plan played a significant role in the development of social security, consolidating the principles of unity, universality, and integration to provide social insurance for vulnerable populations.

The next country described by the authors is France. In France, there is a rather complex organisational structure of social security, which is formed due to high spending on social programmes, which exceeds the average level in Europe. Since 1980 and until 2015, payments for social protection through social security have increased by 20.6% to 31.9% (Pavlova, 2015). France has a comprehensive social security system consisting of professional and sectoral schemes aimed at protecting the population through various insurance funds. Contributions from employers and employees are the primary

source of funding. Pensions in France can reach 50% of wages, and the total cost of pension provision is 14%.

Germany is considered one of the examples of an “economic miracle”, since the country’s authorities created a policy that used entrepreneurial initiative and hard work of people, which in turn led to their unification and overcoming the crisis after the post-war times (Kirnos, 2011). The concept of “Soziale Marktwirtschaft” in Germany emphasized a socially responsible market economy, with employees having the right to elect members of the supervisory board and a working council to address work-related issues. Social security institutions in Germany operate based on the principles of self-government, although state bodies monitor their activities for legality. The pension system is a crucial aspect of social protection, with both non-state and state pensions in place, and it covers a significant portion of the retired population. Considering the German experience, the introduction of similar practices in Ukrainian legislation would enhance the protection of people’s rights and contribute to the development of the social security institution.

The approach used in organising the social security system in Ukraine meets the standards of the International Labour Organization, which considers national social security systems as a combination of social assistance and social security systems. Since 1990, a number of regulations have been adopted that govern the implementation of social security, measures are being taken to ensure the financial stability of the insurance system of Ukraine, and the payment of a single social contribution has been introduced, which replaced and combined contributions for all existing types of social security. Even despite the shortcomings that arise in the regulation and implementation of social security, Ukraine is stabilising the poverty rate in Ukraine, increasing the number of unemployment payments or assistance for the birth of a child.

## CONCLUSION

In this study, the authors have defined a list of types of social security was established, including pension insurance, medical insurance, unemployment insurance, temporary disability insurance, insurance against industrial accidents and occupational hazard

that caused disability. It was established that the main body in the field of social security is the relevant social security fund, which is authorised to provide assistance to persons in need in case of an insured event. The authors analysed the development of the national social security system in Ukraine and identified the features that occurred in the course of the development of this sphere since 1990. Several regulations used to develop social security are highlighted, among which the authors of this study can distinguish the Law of Ukraine No. 1533-III “On mandatory state social security in case of unemployment”, the Law of Ukraine No. 1105-XIV “On mandatory state social security against industrial accidents and occupational diseases that caused disability”, the Law of Ukraine No. 1058-IV “On mandatory state pension insurance”, the Law of Ukraine No. 16/98-VR “Fundamentals of the legislation of Ukraine on mandatory state social insurance”.

The authors also analysed the development of the social security sector in European countries, in particular using evidence from Great Britain, Germany, and France. There are four main models of social protection, which is carried out through social security: the Scandinavian model, the Southern European model, the continental and Anglo-Saxon model, which were also characterised in this study. Thus, in summary, the study of the development of the social security sector allows carrying out this activity more efficiently in Ukraine, protecting and guaranteeing the rights of persons entitled to social security to the fullest extent, which is established by the Constitution and laws of Ukraine. Adopting the practices of European countries in implementing social protection of their citizens through social security will allow providing social security services in Ukraine more efficiently and qualitatively.

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