

**SOCIAL RIGHTS, SOCIAL RESPONSIBILITIES, SOCIAL
RESPONSIBILITY AS DEFINING DIMENSIONS OF NATIONAL
LEGAL SYSTEMS**

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Abstract: *In the current conditions of socio-political development of Ukraine, the consideration of social rights, their "capabilities" and guarantees, should primarily take place in the context of those threats and challenges that directly affect their provision and implementation. In modern Ukraine, in the period of development of the legal framework of state and public life, the problem of the effectiveness of legislation is acute. Ensuring and respecting social rights must be reflected in the implementation of social policy by the state. Among the problems that are the subject of interference in the content of social policy is the low standard of living. The study investigates the concept of "social policy", its main purpose. The legal framework that regulates issues related to the effectiveness of social policy implementation has been identified. According to the analysis, the main problems of imperfection of social policy are insufficient wages. Accordingly, ways to improve social policy in order to ensure a minimum and sufficient standard of living are considered in detail. The practical significance of the study is that it has developed five main areas for improving the content of social policy in order to preserve and respect the social rights of citizens to health, work, leisure, etc.*

Keywords: corporate law, economic crisis, legal field, legal status, legislative regulation, crisis changes.

The development of the national model of social policy in Ukraine is taking place against the background of a deep economic and social crisis, which has led to impoverishment of the general population, reduction of small and medium business, which serves as the basis of general well-being in developed countries; political instability and populism of the government; directing significant funds to defence and security; emergence of new strata of socially vulnerable groups – participants in hostilities, including the disabled, temporarily displaced persons in need of social assistance. On the other hand, the implementation of Ukraine's European integration commitments requires the government to take a number of socially unpopular measures in the economic sphere, which further worsen the socio-economic situation and contribute to the gradual delegitimation of reforms in this sphere¹. This may

¹ N.V. Trusova, N.S. Tanklevska, V.P. Synchak, O.S. Prystemskyi, M.A. Tereshchenko, "State support of agro-insurance of agricultural risks in the market of goods derivatives of Ukraine", in *Industrial Engineering and Management Systems*, 2020, vol. 19, no. 1, p. 93-102.

intensify the consolidation processes in Ukrainian society, aimed at the struggle for social rights².

The criteria of general social efficiency should be considered first and foremost. This refers to the efficiency criteria or performance indices, such as signs, boundaries, parties, manifestations of certain activities, through the analysis of which one can determine the level and quality of the process, its compliance with the needs and interests of civil society and human. Such criteria, on the one hand, are objectively related to the needs, interests, and goals of social development (both national and regional), and on the other hand – they give the opportunity to see (and measure) the satisfaction (implementation, achievement) of pressing needs, interests, and goals of each member of society³. It should be considered that the quality of legislation is determined by the social content, its compliance with public needs and interests.

Thus, in reflecting on social rights, the scientific and civil communities must duly emphasise that at present not only the state has failed to respond to some threats at least close to European standards, but also, in fact, the national legal system has demonstrated an "arrhythmic" nature of operation in today's conditions⁴. The state of development of the national legal system is a kind of indicator of sustainable (or approximated) economic, legal, political, social development of each state, and most importantly – the achieved level of protection of human rights, freedoms, and legitimate interests⁵. Accordingly, it is clear that an effective legal system, as the embodiment of the appropriate achieved level of development of law, must be able to: a) perform certain tasks; b) reproduce the necessary functions both in the normal course of life and in extreme conditions.

Nowadays, there is an increase in the social orientation of the legal system as a means of developing and achieving the interests of the subjects by consolidating certain goals, provisions, rules of conduct. Of particular importance is the provision of optimal combination of social and legal principles of society⁶. This task is quite complex: legal and social principles are designed to ensure the welfare of the individual, today it is, first of all – social

²V. Bukach, N. Kaminska, I. Medvid, "Institutional guarantees of social rights", in *Law Journal of the National Academy of Internal Affairs*, 2021, vol. 14, no. 1, p. 39-46.

³ S. Nagima, R.U. Rakhmetova, A.A. Musulmankulova, K.A. Abenova, K. Akmaral, "Socio-economic sustainable development of the regions of Kazakhstan: Research of demographic potential", in *Journal of Environmental Management and Tourism*, 2019, vol. 10, no. 5, p. 1124-1134.

⁴ V. Bondarenko, "Legal influence in the system of social influence", in *Social and Legal Studies*, 2021, no. 2, p. 12-18.

⁵ F.B. Pan, "Analysis on management measures of corporate social responsibility of supply chain", in *Revista de Cercetare si Interventie Sociala*, 2015, vol. 51, p. 240-248.

⁶ R.P. Lutskyi, R.V. Zvarych, V.B. Skoromovskiy, L.Y. Korytko, O.B. Oliynyk, "Theoretical foundations of constitutional consolidation of the principles of social state and law", in *Journal of the National Academy of Legal Sciences of Ukraine*, 2021, vol. 28, no. 4, p. 113-121.

rights: maintaining the optimal ratio between the incomes of the able-bodied part of society and incapable citizens; providing subsidies, relevant benefits, reducing, and limiting the scale of impoverishment; curbing unemployment, and as a prospect, ensuring a sufficient standard of living⁷. And this refers to the "regular" course of events. However, currently it also includes such general social tasks as guaranteeing national security, eliminating the consequences of pandemics, environmental disasters, implementation of social programmes that will reflect the position of "everything necessary taken into account", support for rehabilitation measures⁸.

In these circumstances, it is extremely important what "section" of social rights should be provided to the legal system today, guaranteed by the state and defended by the judiciary: those that will be built for decades on a residual basis or, indeed, those that will help live in modern Ukrainian realities not by bread alone, but also to have sufficient conditions for self-fulfilment of a person, protection of their honour and dignity. Thus, in modern European countries, the right to an adequate standard of living is one of the most important social rights of the individual. Despite the fact that each person must personally take care of their well-being, there must, however, be created conditions for them to be able to ensure a minimum standard of living. Especially when it comes to the elderly and the disabled people. It is the duty of the state, according to which the state recognises the right of everyone to a sufficient standard of living for themselves and their families⁹. Notably, the concept of "sufficient standard of living" is not defined in the scientific community. Therefore, it is evaluative: that is, each person determines a level that corresponds to their idea of a sufficient standard of living at their discretion¹⁰.

⁷ O.V. Prokopenko, M.D. Domashenko, V.Y. Shkola, "Management features of economic security in foreign economic activity of Ukrainian machine-building enterprises", in *Actual Problems of Economics*, 2014, vol. 160, no. 1, p. 188-194; B. Miethlich, S. Kvitka, M. Ermakova, L. Bozhko, O. Dvoryankin, S. Shemshurina, I. Kalyakina, "Correlation of educational level, labor potential and digital economy development in Slovakian, Ukrainian and Russian experience", in *TEM Journal*, 2020, vol. 9, no. 4, p. 1597-1605.

⁸ O.L. Kopylenko, N.M. Onishchenko, "Ensuring human rights in the context of radiation protection: prerequisites for practical implementation", in *Bulletin of the Ministry of Justice of Ukraine*, 2020, vol. 1, p. 34-40; B. Miethlich, L. Šlahor, "Creating shared value through implementing vocational rehabilitation in the corporate social responsibility strategy: A literature review", in *Proceedings of the 32nd International Business Information Management Association Conference, IBIMA 2018 - Vision 2020: Sustainable Economic Development and Application of Innovation Management from Regional expansion to Global Growth*, Seville, Spain, 2018, p. 1444-1460.

⁹ "International Covenant on Economic, Social and Cultural Rights", 1976. Available at https://zakon.rada.gov.ua/laws/show/995_042

¹⁰ O. Gulac, A.V. Shcherbak, "Social responsibility: approaches to the formation of concept", in *Law. Human. Environment*, 2021, vol. 12, no. 2, p. 101-109.

Thus, there is some uncertainty in the provisions of international instruments, which refer to a "sufficient standard of living". It is up to the state to define and set minimum standards below which the living standards of citizens must not fall. Admittedly, ensuring a sufficient standard of living is a difficult problem even for wealthy countries. The exercise of the right to an adequate standard of living affects the internal resources and capabilities of the state¹¹. The International Covenant on Economic, Social, and Cultural Rights identifies the most general programmes to address these needs. By exercising the right to work, a person must receive the means necessary for them to exist. To provide it with the appropriate conditions for this is the task of the domestic legislation of each state.

Social policy is an integral part of the protective function of the state

In this context, attention should be drawn to the fact that the matter of healthcare in Europe is an extremely important issue, as it is all over the world, especially in the realities of today. Statutorily it is consolidated in Article 35 of the Charter of Fundamental Rights of the European Union in 2000¹². It is the exercise of the right to healthcare that most reflects the inadequacy of the legal system of Ukraine and not only in relation to the principles of the social, legal state. Unfortunately, there are still significant differences in the level of healthcare in different social strata and even in different regions of the EU. In particular, the healthcare systems of Central and Eastern Europe are significantly inferior to the systems of the "old" EU members. Differing starting opportunities are the main reason for this. Another factor complicating national healthcare systems is demographic trends¹³. Europe is getting older, in 2020, there have been 40% more people over the age of 75 than in the 1990s. It is these factors that are "underdeveloped" by the pan-European community that have led, inter alia, to the rapid spread of COVID-19.

In general, in the context of rapid globalisation processes in the world, there are more and more issues that change the political, economic, social structure of the world community and cannot be solved at the level of one or more states, but require the intervention of supranational institutions, unity of

¹¹ Y.A. Buribayev, G. Mukaldyeva, G.G. Nurahmetova, B. Uteyev, Y. Nessipbekov, Z.A. Khamzina, "Pension reform in the Republic of Kazakhstan: Main directions, conditions for implementation and development prospects", in *International Journal of Environmental and Science Education*, 2016, vol. 11, no. 18, p. 11611-11619.

¹² "Charter of Fundamental Rights of the European Union", 2000. Available at https://zakon.rada.gov.ua/laws/show/994_524#Text

¹³ N.K. Komilova, N.J. Mukhammedova, Z.N. Tojiyeva, M.I. Nazarov, U.T. Egamberdiyeva, "Territorial definitions of population mortality in Uzbekistan", in *Astra Salvensis*, 2019, p. 619-640.

the regional community, one of which is the European Union¹⁴. This is one of the activities of this entity and countries seeking to become a member. Therewith, EU member states must be aware that the EU legal framework is not subject to discussion and change or repeal, but must be adopted and implemented into national legislation. There is a generally accepted approach according to which social policy is an activity aimed at managing the social sphere of society, meeting the material and cultural needs of its members, regulating the processes of social differentiation of society, including income of economically active population and disabled people, which allows each member of society to exercise their most important socio-economic rights through the state, non-governmental organisations, and foundations. First and foremost, this refers to the right to the level and quality of life necessary for the normal reproduction and development of the individual¹⁵.

The social policy of the state is one of the areas of its activity related to ensuring the social rights of citizens, namely: the right to work, rest, housing, a sufficient standard of living, etc., improving their well-being and life¹⁶. As a rule, this activity is carried out through the introduction and implementation of social programmes. Accordingly, the goal of EU social policy is to improve working conditions and improve living standards, stimulate employment and create equal opportunities, the mandatory minimum social protection of citizens of EU member states¹⁷. The content and scope of social policy, the basic principles of social partnership in the EU were defined by the Maastricht Treaty of 1998 and its annexes: the Agreement on Social Policy and the Protocol on Social Policy¹⁸. These documents became the basis for the development of European social legislation. Furthermore, social policy in the EU is implemented through the introduction of common social standards,

¹⁴ Z. Kovalchuk, "Personal reflection in constant conditions social change", in *Social & Legal Studios*, 2021., issue 4(14), p. 177-183; O. Datsko, N. Nakonechna, O. Patsula, "Mechanisms for strengthening economic security of Ukraine", in *Social and Legal Studios*, 2021, no. 2, p. 130-140.

¹⁵ T.B. Tokarskyi, "The main aspects of social policy of the European Union", in *International Scientific and Practical Conference World Science*, 2018, vol. 2, no. 30, p. 132-136; R.U. Rakhmetova, K.A. Abenova, "The main demographic trends of rural and urban population of Kazakhstan", in *World Applied Sciences Journal*, 2013, vol. 27, no. 13A, p. 273-277.

¹⁶ G. Mukhanova, "The population life quality related to health as the basis from human capital formation in Kazakhstan", in *Life Science Journal*, 2014, vol. 11, no. SI 8, p. 20-28.

¹⁷ Y.A. Buribayev, Z.A. Khamzina, "Gender equality in employment: The experience of Kazakhstan", in *International Journal of Discrimination and the Law*, 2019, vol. 19, no. 2, p. 110-124; B. Miethlich, A.G. Oldenburg, "Social inclusion drives business sales: A literature review on the case of the employment of persons with disabilities", in *Proceedings of the 33rd International Business Information Management Association Conference, IBIMA 2019: Education Excellence and Innovation Management through Vision 2020*, Granada, Spain, 2019, p. 6253-6267.

¹⁸ O.O. Mohylchuk, "Some issues of developing the EU's foreign policy function under the Treaty on European Union", in *Scientific Bulletin of Uzhhorod National University*, 2015, vol. 32, no. 1, p. 60-64.

which are specified in other EU legal acts, namely: the Charter of Fundamental Social Rights of Workers¹⁹, the White Paper "On Growth, Competitiveness and Employment: Challenges and Ways to enter the 21st century"²⁰, the Green Paper "European social policy, reflections for the Union"²¹, the White Paper "European social policy: the path to union"²², etc.

Assessing the mechanism of regulation of economic and social processes in the European Union, it can be concluded that, on the one hand, as a result of integration, a supranational level has emerged, to which the nation state has transferred some of its functions²³. On the other hand, the subnational level is developing, which reflects the increasing role of local actors in the context of globalisation – individual administrative units, regions, states, territories, lands. Many issues of social policy are transferred to their jurisdiction in part or in full²⁴. EU social policy is implemented through an extensive system of institutions operating within the framework of the Treaty of Lisbon amending the Treaty on European Union²⁵ and the Treaty establishing the European Community²⁶. The subjects of social policy implementation within the EU are the relevant institutions, authorised state bodies of EU member states, non-governmental institutions.

Considering that each of these actors has its own powers and functions, effective social policy, both in the EU as a whole and in individual countries, is only possible if they work together. In view of this, it seems logical, first of all, to approximate national social protection systems by harmonising national legislation, resulting in economic and social equalisation and the development of a unified European social model based on the principle of combining social efficiency and social solidarity. This is a strategic goal of the EU, the

¹⁹ "Charter of Fundamental Social Rights of Workers", 1989. Available at http://search.ligazakon.ua/l_doc2.nsf/link1/MU89415.html

²⁰ Yu.V. Sverdlova, *Human capital in the strategy of competitiveness of the European Union economy*, Ivan Franko Lviv National University, Lviv, 2016.

²¹ D. Radomska, "Social policy of state", in *Scientific Journal of the National Academy of Internal Affairs*, 2021, vol. 120, no. 3, p. 71-76.

²² M.V. Mnykh, "Social policy of our state in the conditions of associate membership of Ukraine in the EU", in *Ukrainian Society*, 2015, vol. 3, no. 54, p. 114-124.

²³ N.V. Trusova, T.A. Cherniavska, Y.Y. Kyrlov, V.H. Hranovska, S.V. Skrypyuk, L.V. Borovik, "Ensuring security the movement of foreign direct investment: Ukraine and the EU economic relations", in *Periodicals of Engineering and Natural Sciences*, 2021, vol. 9, no. 3, p. 901-920.

²⁴ L. Yarova, "Social policy of the European Union: stages of development and legal framework", in *Contemporary Ukrainian Politics. Politicians and political scientists about it*, Ukrainian Centre for Political Management, Kyiv, 2010, p. 257-267.

²⁵ K.O. Spinul, "The Lisbon Treaty and its impact on the development of the European Union", in *Lisbon Treaty – 10 Years After Entry into Force. What has changed in the functioning of the EU?*, Petro Mohyla Chornomorsk National University, Mykolaiv, 2019, p. 11-13.

²⁶ "Treaty establishing the European Community", 2005. Available at https://zakon.rada.gov.ua/laws/show/994_017#Text

achievement of which is possible only provided that those features – certain principles of organisation, institutions, mechanisms, priorities that have developed historically, including mentality – are considered in the social sphere, the totality of which determines a model of social development of a particular state or several states.

Directions of social policy development

The model of social policy is a conditional characteristic, a scheme of functioning of elements, which is based on values, goals, objectives, tools, forms of implementation, the interrelation with economic and political factors. The model is associated with a certain ideology, the components of which are: the image of reality, the hierarchy of values, the methodology of activity. This is not a mature image, but a category based on the ideas of social justice and ensuring basic human rights. It is improved and supplemented in accordance with the changes taking place in society²⁷. Among the main problems that constitute the subject of interference in the social policy of the states and EU regulation are security of the rights of migrant workers, healthy and safe working conditions, as well as the introduction of safety standards for products entering the market, equality and non-discrimination, wage growth²⁸. Accordingly, these are the main areas that require the adaptation of Ukrainian legislation as a step towards EU membership.

The study considers one aspect of improving social policy – raising wages. It is possible to increase the efficiency of legal regulation in the social sphere in Ukraine under the conditions of economic growth, increase of the employment rate and decrease of unemployment, increase of the tendency of increase of wages in the structure of incomes of the population²⁹. Currently, wages, which constitute the basis of household income, remain low. After all, according to the requirements of the European Social Charter, the minimum wage must be at least 2.5 subsistence wages. The negative trend of wage dependence on the sphere of activity has not been overcome yet, and the

²⁷ I.O. Tkach, “Prospects for the development of the European social model: experience for Ukraine”, in *Bulletin of the Taras Shevchenko National University of Kyiv*, 2013, vol. 4, no. 114, p. 88-91.

²⁸ O. Ivasechko, “Dynamics of the establishment of EU social policy: main stages”, in *Ukrainian National Idea: Realities and Prospects of Development*, 2014, vol. 26, p. 107-112; A.S. Khamzin, S. Aldashev, Y.M. Tileubergenov, A.K. Kussainova, Z.A. Khamzina, Y.A. Buribayev, “Legal regulation of employment in Kazakhstan”, in *International Journal of Environmental and Science Education*, 2016, vol. 11, no. 18, p. 11907-11916.

²⁹ A.T. Okanova, G.S. Kaipova, A.Z. Nurmagambetova, A.Z. Shakbutova, D.I. Zakirova, “The measurement of quality of income tax assessment in building contractors”, in *Intellectual Economics*, 2021, vol. 15, no. 1, p. 140-164; V. Marhasova, Y. Kovalenko, O. Bereslavskaya, O. Muravskiy, M. Fedyshyn, O. Kolesnik, “Instruments of monetary-and-credit policy in terms of economic instability”, in *International Journal of Management*, 2020, vol. 11, no. 5, p. 43-53.

quality and results of work are not yet its main measure³⁰. Considering the European experience, one of the important areas of social relations should be to improve policies and mechanisms for remuneration. In particular, there should be a transition from a centralised, administrative procedure for setting the amount of wages and its protection to consensus, to hourly wages. The parties to the agreement in this case should be employers, trade unions and government officials³¹. It is usually a matter of reaching consensus within a certain area. The participation of government agencies will ensure the stability of inflation, the impact on the regulation of intersectoral relations in the economy, stimulating the development of certain uncompetitive industries, training, ensuring labour mobility, the implementation of employment guarantees³².

Furthermore, social standards must be defined by law as guarantees for employees and a duty for employers. In this case, the unions will receive a legal remedy to defend the legal rights of citizens. Ukraine urgently needs to increase the cost of labour, the share of wages in the structure of production costs and make the transition to determining the real price of labour as the value of funds required for a full expanded reproduction of human capital. On this basis, a social structure of the European type should be based – with a low level of poverty and property stratification. Care should be taken to ensure proper motivation for active behaviour in the labour market, in particular through the acquisition of a high level of education and qualifications, maintaining health, and continuing employment after reaching retirement age³³. Particular attention of society and government should be focused on combating large-scale migration of labour, creating real conditions for the fulfilment of the full potential of citizens in their homeland³⁴. Finally, the purpose of social policy is to ensure the material well-being of citizens, to

³⁰ “Ukraine in 2007: internal and external situation and development prospects”, 2008. Available at <https://niss.gov.ua/publikacii/poslannya-prezidenta-ukraini/ukraina-v-2007-roci-vnutrishne-i-zovnishne-stanovische-ta>

³¹ K. Bodaukhan, A. Jussibaliyeva, Z. Kochiigit, “Actual aspects of population migration from labor surplus to the labor-deficit regions of Kazakhstan and state regulation of migration processes”, in *International Journal of Management and Business Research*, 2018, vol. 8, no. 2, p. 71-85.

³² Y.S. Shemshuchenko, N.M. Onishchenko, N.M. Parkhomenko, S.O. Suniegin, “Ways of development and implementation of social policy in the context of European integration of Ukraine: normative principles”, in *Social policy: the requirements of society, the challenges of time, human needs: a scientific and analytical report*, V.M. Koretsky Institute of State and Law under NAS of Ukraine, Kyiv, 2016, p. 52-74.

³³ G.N. Mukhamadiyeva, A.K. Kussainova, G.T. Baisalova, N. Apakhayev, Z.A. Khamzina, Y.A. Buribayev, “Labour law of the modern Kazakhstan”, in *Journal of Legal, Ethical and Regulatory Issues*, 2017, vol. 20, no. 1, p. 1-7.

³⁴ “Ukraine in 2007: internal and external situation and development prospects”, 2008. Available at <https://niss.gov.ua/publikacii/poslannya-prezidenta-ukraini/ukraina-v-2007-roci-vnutrishne-i-zovnishne-stanovische-ta>

achieve stability and security of life in society, the integrity and dynamism of its development. Therefore, it is extremely important to ensure social rights, as noted by leading lawyers-practitioners and representatives of the scientific community, to investigate the following areas:

1) scientific forecasting of the development of law, legislation, economy, population growth, creation of new industries and jobs; development of appropriate plans of forecasts and material and financial support in the economy, social sphere, fight against unfair competition, monopoly in the economy, etc.;

2) redistribution of material goods between regions and segments of the population, their direction to ensure the average living standard achieved by the country throughout the country, prevention of poverty, changes in the quality of life in the direction of deterioration;

3) creation of state, predominantly legal guarantees for prevention of natural disasters, pandemics, anthropogenic catastrophes, for immediate liquidation of their consequences, help to the affected population;

4) creation of systems of education, healthcare, pension provision, solution of other, social issues, accessible to wide segments of the population, considering the problem of security of citizens, certain societies, groups of the population, etc.;

5) in continuation of this subject, it is important to emphasise that to ensure social human rights in practice, it is important to doctrinally develop and implement the category of "social responsibilities", including socially responsible: the state, big business, every member of civil society. Without proper obligations corresponding to rights, it is impossible to raise the question of proper social rights either in the theoretical or in the practical meaning.

Conclusions

Social policy plays an important part in combining social and legal principles of society. It is a protective mechanism in preserving the social needs of the individual. The main aspect of social policy development is to ensure a sufficient standard of living. In general, social policy addresses healthcare, the exercise of the right to labour, leisure, etc. Legislative documents regulating the above issues have been identified. However, social policy is implemented inefficiently in Ukraine. The level of wages is considered and it is determined that it is less than 2.5 subsistence wages. Improving social relations can be an increase in wages. Five main areas have been identified, which are designed to preserve the social rights of citizens and improve the content of social policy. Furthermore, the implementation of "sound" social policy is currently impossible without the proper multifaceted establishment and development of the corresponding judicial system.