INTERNATIONAL LEGAL ASPECT OF SOCIAL PROTECTION OF MILITARY SERVANTS

Abstract. The article discloses the international legal aspect of social protection of military personnel. In modern conditions, international legal acts establishing the social protection of military personnel during the period of hostilities are of great importance. The most important of them are: the Geneva Convention on improving the participation of the wounded and sick in the active army; The Geneva Convention on Improving the Participation of the Wounded, Sick and Shipwrecked Armed Forces at Sea; Geneva Convention on the Treatment of Prisoners of War; Rome Statute of the International Criminal Court and others. The above-mentioned international normative legal acts contain norms that regulate guarantees of social security of servicemen and their families during hostilities.

The main international legal acts related to the social protection of man and citizen include (adopted by the UN General Assembly and ratified by Ukraine): Universal Declaration of Human Rights; International Covenant on
Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Optional Protocol to the International Covenant on Civil and Political Rights; Convention on the Protection of Human Rights and Fundamental Freedoms (adopted in Rome) and others.

In a comparative aspect, we note that the legal framework of Ukraine contains a fairly wide range of benefits and guarantees of social protection for veterans, disabled people and participants in the war, as well as other persons to whom this law applies. The main tasks of this law are: creation of appropriate conditions for maintaining health and active longevity; organization of social and other types of service, strengthening of the material and technical base of institutions and services created for this purpose, and training of relevant specialists; implementation of targeted programs of social and legal protection of war veterans; provision of benefits, advantages and social guarantees in the process of labor activity in accordance with professional training and taking into account the state of health.

**Keywords:** military personnel, material assistance, rights and freedoms, social guarantees, socio-economic rights, international experience.

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**МІЖНАРОДНО-ПРАВОВИЙ АСПЕКТ СОЦІАЛЬНОГО ЗАХИСТУ ВІЙСЬКОВОСЛУЖБОВЦІВ**

Анотація. У статті розкрито міжнародно-правовий аспект соціального захисту військовослужбовців. У сучасних умовах великого значення набувають міжнародно-правові акти, що закріплюють...
соціальний захист військовослужбовців у період ведення бойових дій. Найважливішими з них є: Женевська конвенція про поліпшення участі поранених і хворих у діючій армії; Женевська конвенція про поліпшення участі поранених, хворих та осіб, які зазнали корабельної аварії, зі складу збройних сил на морі; Женевська конвенція про поводження з військовополоненим; Римський статут міжнародного кримінального суду та інші. В названих міжнародних нормативно-правових актах містяться норми, які регулюють гарантії соціального забезпечення військовослужбовців та їх сімей під час здійснення бойових дій.

До основних міжнародно-правових актів, що стосуються соціального захисту людини і громадянини, належать (прийняті Генеральною Асамблеєю ООН та ратифіковані Україною): Загальна декларація прав людини; Міжнародний пакт про громадські і політичні права; Міжнародний пакт про економічні, соціальні та культурні права; Факультативний протокол до міжнародного пакту про громадянські і політичні права; Конвенція про захист прав людини й основних свобод (прийнята у Римі) та інші.

В порівняльному аспекті зауважимо, що нормативно-правове забезпечення України містить достатньо широкий ряд пільг та гарантій соціального захисту ветеранам, інвалідам та учасникам війни, а також іншим особам, на яких поширюється дія цього закону. Основними завданнями цього закону є: створення належних умов для підтримання здоров’я та активного довголіття; організації соціального та інших видів обслуговування, зміцнення матеріально-технічної бази створених для цієї мети закладів і служб та підготовки відповідних спеціалістів; виконання цільових програм соціального і правового захисту ветеранів війни; надання пільг, переваг та соціальних гарантій у процесі трудової діяльності відповідно до професійної підготовки і з урахуванням стану здоров’я.

Ключові слова: військовослужбовці, матеріальна допомога, права та свободи, соціальні гарантії, соціально-економічні права, міжнародний досвід.

Statement of the problem. Protection of the rights of servicemen, provision of social guarantees by the state in the form of sufficient material and financial support to servicemen guarantees the effective functioning of the armed forces of any state. Also, today's realities show that there is a need to provide social guarantees to the participants in the military operations in the east of Ukraine, their family members, wounded servicemen, as well as
families whose members died during the anti-terrorist operation and anti-terrorist operations, in particular in terms of improving the financial and material condition of the said categories of persons in the context of international experience.

**Analysis of recent research and publications.** The issue of protecting the rights of military personnel and their families in Ukraine and other countries is the subject of consideration by many scientists, in particular, S. Vetlynskyi, S. Korolev, M. Kravchenko, O. Pankov, O. Sydorchuk, L. Tsyukal and others [1–5]. In the conditions of constantly arising armed conflicts, this issue is of scientific interest and requires additional justification.

**The purpose** of the article is to substantiate the international legal aspect of social protection of military personnel in Ukraine.

**Presenting main material.** In Ukraine, a system of normative and legal acts of different legal force has developed, which regulate the issue of social and legal protection of military personnel, their constitutional rights and freedoms, and guarantees regarding their implementation. By legal force, these regulatory acts are divided into the following levels [1, 3, 4]:

- constitutional regulation;
- international legal regulation;
- legislative regulation;
- regulation by subordinate legal acts.

Constitutional regulation of social protection of military personnel is carried out on the basis of the Constitution of Ukraine. The Basic Law lays down the legal basis for regulating the social protection of military personnel. Yes, Art. 17 of the Constitution of Ukraine defines guarantees of social protection of citizens of Ukraine who are in service in the Armed Forces of Ukraine and in other military formations, as well as their family members" [1, 4].

These constitutional provisions are the legal basis for other legislative acts regarding the social protection of military personnel. The Constitution of Ukraine has the highest legal force. Laws and other normative legal acts are adopted on the basis of the Constitution of Ukraine and must comply with it. Its norms are norms of direct effect and guarantee the protection of constitutional rights and freedoms of man and citizen, including social protection of military personnel directly on the basis of the norms of the Constitution of Ukraine.

The socio-legal protection of servicemen should be understood as "the activity (function) of the state, aimed at establishing a system of legal and social guarantees that ensure the realization of constitutional rights and..."
freedoms, the satisfaction of the material and spiritual needs of servicemen in accordance with the special type of their official activity and status in society, maintenance of social stability in a military environment”.

Family members and parents are defined in accordance with the Family Code of Ukraine (persons who live together, are connected by common life, have mutual rights and obligations. A couple is considered a family when a wife and a husband, in a relationship with education, work, treatment, the need to care for parents, children and for other valid reasons do not live together. A child belongs to the family of his parents even when he does not live together with them), and dependents according to the Law "On pension provision persons released from military service and certain other persons" (persons who were fully dependent on the deceased or received assistance from him, which was a constant and main source of livelihood for them). NPA: Resolution of the CMU of February 28, 2022 No. 168 "Issue of certain payments to military personnel, rank and file officers, police officers and their families during martial law"; Telegram of the Finance Department of the MoU No. 248/1226 dated 03/10/2022.

The guarantees of social and legal protection of military personnel and their family members are as follows: "military personnel enjoy all the rights and freedoms of a person and a citizen, the guarantees of these rights and freedoms, enshrined in the Constitution of Ukraine and the laws of Ukraine, taking into account the peculiarities established by this and other laws. In connection with the special nature of military service, which is related to the protection of the Motherland, military personnel are provided with benefits, guarantees and compensations defined by law" [1, 2, 4].

The defining act in this area is the Law of Ukraine "On social and legal protection of military personnel and members of their families". It should be noted that the mentioned regulatory act was adopted in 1992. This law defines the basics of the legal status of military personnel, regulates issues related to ensuring their rights and freedoms, social and legal protection of military personnel and their family members, and the limitation of certain rights in connection with the performance of their duties officers of the military service.

Of particular interest in the comparative legal aspect is the international legal regulation of social protection of military personnel.

The main international legal acts concerning the social protection of a person and a citizen include: the Universal Declaration of Human Rights (adopted by the UN General Assembly on December 10, 1948) [2, 3]; International Covenant on Civil and Political Rights (adopted by the UN General Assembly on December 16, 1966, ratified by Ukraine on October 19,
1973) [2, 4]; International Covenant on Economic, Social and Cultural Rights (adopted by the UN General Assembly on December 16, 1966, ratified by Ukraine on October 19, 1973) [1, 2]; Optional Protocol to the International Covenant on Civil and Political Rights (Ukraine joined the Protocol on December 25, 1990) [2, 5]; Convention on the Protection of Human Rights and Fundamental Freedoms (adopted in Rome on November 4, 1950) [2, 4] and others.

In modern conditions, international legal acts establishing the social protection of military personnel during the period of hostilities are of great importance. The most important of them are: the Geneva Convention on improving the participation of the wounded and sick in the active army [3, 4]; The Geneva Convention on Improving the Participation of the Wounded, Sick, and Shipwrecked Armed Forces at Sea [4, 5]; Geneva Convention on the Treatment of Prisoners of War [3]; The Rome Statute of the International Criminal Court (adopted on July 17, 1998) [2, 5] and others. The above-mentioned international normative legal acts contain norms that regulate guarantees of social security of servicemen and their families during hostilities.

In the USA, Germany, France and many other countries of the world, there is a system of guaranteed social benefits for military personnel, which has the following structure: "basic salaries, additional payments and allowances, food and permanent housing allowance (including temporary, special, incentive payments and compensatory allowances), one-time payments upon release from military service" [4, p. 13]. At the same time, the analysis of the basic salaries of military servicemen in some NATO countries and Ukraine in absolute values showed that the level of military servicemen of Ukraine is 1.5–3 times less than in Russia and Poland, and 5–13 times less than in USA and Germany [4, 5]. The given data show that the amount of basic salaries of military personnel in Ukraine needs to be increased immediately. In the opposite case, it is difficult to talk about the efficiency of service of military personnel, respect for this profession and the choice of entrants for their professional training [1, 3].

From a comparative legal point of view, we note that social security in NATO countries consists of the following main areas: direct payments, which are made on a regular basis, special payments from the incentive fund, compensation payments, benefits for military personnel, benefits for family members of military personnel. At the same time, direct payments should be understood as disbursement of funds (cash support), housing support, distribution of food products. Thus, it can be concluded that in NATO countries, direct payments are made in monetary and food forms (Table 1).
Table 1

<table>
<thead>
<tr>
<th>Benefits</th>
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<td>Benefits for military personnel</td>
<td>Provide free medical care, various types of insurance. The basic and main principle of medical care for personnel of the armed forces of NATO member countries is the attachment of families to a permanent family doctor. There are also benefits for obtaining educational services, benefits in specialized food and industrial goods stores.</td>
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<tr>
<td>Benefits for family members of military personnel</td>
<td>Consist of a number of social programs. Thus, members of military servicemen's families have benefits for receiving education, benefits in children's preschool institutions, benefits in specialized stores of food and industrial goods, etc. Such benefits are provided to family members of active military personnel, those who have retired, as well as those who are killed, missing or captured in the line of duty.</td>
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<tr>
<td>The right to overtime employment</td>
<td>The employment period should not exceed 6 months. In addition, they have an advantage in obtaining part-time and part-time work.</td>
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Another area of social security for servicemen and their family members is providing them with housing. Thus, in the armed forces of the United States, one of the main problems when solving socio-economic issues includes, first of all, the shortage of modern housing stock. In the armed forces of Turkey, most officers live in the houses of the subsidized housing fund of the Ministry of National Defense. Housing is built throughout Turkey according to a single program under the direct supervision of the General Staff [2, 4, 5].

Accordingly, it should be noted that Ukraine currently has a number of legal acts regulating the protection of the rights of servicemen and their family members. At the same time, the existence of these normative acts does not ensure real protection of the rights of military personnel and their family members. The peculiarity is that most of the normative acts in this area are outdated and purely declarative.
Another national regulatory act in this area is the Law of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection". This legislative document defines persons who belong to war veterans, direct combatants and war participants. Also, its norms apply to persons who had special merits for the Motherland. The normative legal act establishes a sufficiently wide range of benefits and guarantees of social protection for veterans, disabled people and war participants, as well as other persons to whom this law applies. The main tasks of this law are: creation of appropriate conditions for maintaining health and active longevity; organization of social and other types of service, strengthening of the material and technical base of institutions and services created for this purpose, and training of relevant specialists; implementation of targeted programs of social and legal protection of war veterans; provision of benefits, advantages and social guarantees in the process of labor activity in accordance with professional training and taking into account the state of health [1, 3, 4].

The provision on the completion of military service by citizens of Ukraine in the Armed Forces of Ukraine is supplemented by a new subsection on the procedure for suspending and continuing military service [1, 3, 5]:

- suspension of military service applies to servicemen who voluntarily left a military unit or place of service, deserted or voluntarily surrendered;
- the contract, all payments and provision of food, material, and other types of support to such servicemen are suspended;
- this time is not included in the term of military service, service and years of service, except in cases where the absence of guilt, the composition of the crime, the event was proven in a court of law or an acquittal was rendered.

The analysis of the cited normative acts gives reason to assert that they do not correspond to the actual state of social relations in this sphere, the current indicators in the social sphere, the level of minimum indicators of social payments in the state. Scientists also note that "in the legislative acts regulating the procedure for the creation and operation of various military formations, there is a duplication of legal norms contained in the Law of Ukraine "On Social and Legal Protection of Servicemen and Members of Their Families." Also, these normative acts contain a large number of norms, the validity of which has been suspended by other laws."

Conclusion. Thus, the system of regulatory regulation in the field of protection of the rights of servicemen and their families consists of constitutional regulation - Art. 17 of the Constitution of Ukraine and
international legal regulation, which includes the following international acts and treaties: Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Optional Protocol to the International Covenant on Civil and political rights, the Convention for the Protection of Human Rights and Fundamental Freedoms, the Geneva Convention on the Improvement of the Participation of the Wounded and Sick in the Armed Forces, the Geneva Convention on the Improvement of the Participation of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea, the Geneva Convention on treatment of prisoners of war, the Rome Statute of the International Criminal Court, etc.

Important acts regulating the social and legal protection of servicemen in Ukraine are the following laws: Law of Ukraine "On social and legal protection of servicemen and their family members", Law of Ukraine "On the status of war veterans, guarantees of their social protection"; regulation by subordinate legal acts. The aforementioned normative acts regulate one of the defining vectors of the activity of our state - the protection of the rights of military personnel. The determined direction of the state's activity occupies an important place in the conditions of the armed conflict in the east of the country, the annexation of the Crimean peninsula and the constant threat of the conflict spreading to other territories.

References:
