

INTERNATIONAL LEGAL ASPECTS OF PROVIDING ADMINISTRATIVE SERVICES IN THE FIELD OF SOCIAL PROTECTION OF THE POPULATION

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In the article the author analysis of selected aspects of international legal regulation of administrative services in the sphere of social protection of the population, in particular regarding the institutional anchoring of a list of such services. The author also analyses the international standards regarding subject-consumer who is eligible to receive administrative service in the field of social protection, legal status relative to the state entity providing such services. Ukrainian legislation provides for the provision of administrative services in the sphere of social protection only to citizens of Ukraine, while international norms of the European Community declare to the citizens of any other member of the Organization with the same rights as its nationals in respect of the distribution to them of the legislation and in respect of the right to benefits in every sector of social security. Additionally, the author attentioned to the modern research directions in the field of administrative services of social protection of the population. So, the author draws attention to the urgent need to improve the quality of administrative services in the sphere of social protection of children of persons who are under social risk, and therefore for reasons beyond their control have become hostages of the situation. The helplessness of children in this case may be resolved exclusively by the state on behalf of the competent authorities, in particular, by providing quality, fast, adequate administrative services.

Key words: administrative services, administrative services in the field of social protection, social protection, social security, Convention, code, European Union.

Міськевич А.В. / МІЖНАРОДНО-ПРАВОВІ АСПЕКТИ НАДАННЯ АДМІНІСТРАТИВНИХ ПОСЛУГ У СФЕРІ СОЦІАЛЬНОГО ЗАХИСТУ НАСЕЛЕННЯ / Запорізький національний університет, Україна

У статті автор здійснює аналіз окремих аспектів міжнародно-правового регулювання надання адміністративних послуг у сфері соціального захисту населення, зокрема щодо інституційного закріплення переліку таких послуг. Аналізуються міжнародні стандарти щодо суб'єкта-споживача, який має право отримати адміністративну послугу у сфері соціального захисту, за правовим статусом по відношенню до держави-суб'єкта надання такої послуги. Додатково звертається увага на останні напрями досліджень у сфері надання адміністративних послуг у сфері соціального захисту населення.

Ключові слова: адміністративні послуги, адміністративні послуги у сфері соціального захисту, соціальний захист, соціальне забезпечення, конвенція, кодекс, Європейський Союз.

Міськевич А.В. / МЕЖДУНАРОДНО-ПРАВОВЫЕ АСПЕКТЫ ПРЕДОСТАВЛЕНИЯ АДМИНИСТРАТИВНЫХ УСЛУГ В СФЕРЕ СОЦИАЛЬНОЙ ЗАЩИТЫ НАСЕЛЕНИЯ / Запорожский национальный университет, Украина

В статье автор осуществляет анализ отдельных аспектов международно-правового регулирования предоставления административных услуг в сфере социальной защиты населения, в частности относительно институционального закрепления перечня таких услуг. Анализируются международные стандарты относительно субъекта-потребителя, который имеет право получить административную услугу в сфере социальной защиты, по правовому статусу в отношении государства-субъекта предоставления такой услуги. Дополнительно обращается внимание на последние направления исследований в сфере предоставления административных услуг в сфере социальной защиты населения.

Ключевые слова: административные услуги, административные услуги в сфере социальной защиты, социальная защита, социальное обеспечение, конвенция, кодекс, Европейский Союз.

Ukraine as a sovereign and independent state is young and is on the road to statehood. Essential to achieving the goal, namely: the implementation of the constitutionally-enshrined intentions to build social, legal state has legislation that enshrines not only the priority vectors of state policy, but the legal mechanisms for their implementation, in particular in the field of observance of rights, freedoms or interests of the population of the state. The key to the formation of such national legislation, which would guarantee the implementation of state policy, is the study of experience of legal regulation of certain legal relations in foreign countries and borrowing its positive aspects taking into account national peculiarities.

Considering the appearance in the legislation of Ukraine of such institution as administrative services, is important to study the peculiarities of its realization in different spheres, especially in the sphere of social protection of the population. Priorities of improvement of legal regulation of administrative services in the sphere of social protection of population, the urgency of change and the high quality of practical implementation that may be provided by the accounting and borrowing the positive experience of foreign countries, what is the relevance of this article.

Some aspects of research of international standards in the sphere of administrative services was considered by E. I. As-trachan, N. B. Bolotina, V. L. Grokholsky, I. P. Holosnichenko, E. E. Machulsky, V. P. Tymoshchuk and other scientists. However, a comprehensive study of the definition of subject orientation of legal regulation of international legal and nor-

native acts of administrative services social protection of population in Ukraine wasn't conducted.

The purpose of this article is to validate the feasibility of implementation into national legislation of Ukraine the experience of foreign countries on certain aspects of providing administrative services social protection of the population.

At the present stage of development of Ukraine is at the stage of reforming of a wide range of policy areas, including social protection. One of the areas of reform in this area is the improvement of national legislation and approaches to standards and principles of the international community.

The underlying legal basis for the harmonization of national legislation with international standards in the sphere of administrative services in social protection are the norms of the Ukrainian Constitution, which provides that existing international agreements, the agreement ratified by the Verkhovna Rada of Ukraine, are part of national legislation of Ukraine (article 9) [1]. Further implementation of the constitutional norms are reflected in the Law of Ukraine of 29 June 2004 «About the international treaties of Ukraine», which, among other things, States that «if an international Treaty of Ukraine, which entered into force in accordance with the established procedure establishes rules other than those stipulated in the relevant legislative act of Ukraine, the rules of the international Treaty» (part 2 of article 19) [2].

The prospect of accession to the European Union and the obligation to comply with the Copenhagen criteria, which is the main motivating factor and the basic direction of reforms

of all candidate countries also highlight the need to reform the national administration towards achieving the standards, which will enable effective cooperation and collaboration with the administrations of other member States of the EU [3].

At the international and interstate levels, the issues of social protection, in particular through the mechanism of providing administrative services in this sphere are regulated by the norms of many acts. That was due to the determination of the social security system one of the most powerful institutional expressions of social solidarity and an important means of ensuring an adequate standard of living for the people of Europe, as specified in the European Code of Social Security 14 December 1972 № N ETS 78 [4], a request for the ratification of which was filed by the Ukraine.

The Code provides for the following types of administrative services of social protection of the population: the right of victims of industrial injuries or occupational diseases to medical care, assistance in connection with illness and disability, and their breadwinners – assistance in case of death of the breadwinner, regardless of the occurrence of the respective unforeseen circumstances and provided that the legislation does not provide for the right to the assistance that is due in any specified period; unemployment benefits; aid to families, including periodic cash payment, which is provided to the families; or a combination of periodic cash payments, tax reduction, natural care or social services for families; benefits in connection with motherhood for the circumstances of pregnancy, childbirth and their consequences or cessation of earnings due to the same circumstances, as determined by national legislation. The protection of such legislation should apply to all economically active population and all children of the economically active population.

In addition, minimum standards of social protection that are defined in the Convention concerning minimum standards of social security from 28 June 1952 № 102 [5] that the services of the state in the sphere of social protection provides benefits in respect of sickness, unemployment, old age, employment injury or occupational disease, family, in connection with pregnancy and childbirth, disability, loss of breadwinner.

Also, the international norms of the Convention concerning Equality of Treatment of Nationals and Non-Nationals in Social Security (Entry into force: 25 April 1964), allocate a separate industry that implement the right to social protection:

- (a) medical care;
- (b) sickness benefit;
- (c) maternity benefit;
- (d) invalidity 400 benefit;
- (e) old-age benefit;
- (f) survivors' benefit;
- (g) employment injury benefit;
- (h) unemployment benefit; and
- (i) family benefit.

In addition, the Convention specified in Each Member for which this Convention is in force shall grant within its territory to the nationals of any other Member for which the Convention is in force equality of treatment under its legislation with its own nationals, both as regards coverage and as regards

the right to benefits, in respect of every branch of social security for which it has accepted the obligations of the Convention [6].

However, article 46 of the Ukrainian Constitution States granting the right to social protection is provided only to citizens of Ukraine [1], which does not comply with international standards, in particular the specified norms of the European Union.

Besides, to achieve the best results in the direction of reforming of legal relations in the sphere of administrative services social protection of the population, it is necessary to change the approach to national standards in state policy, particularly in this area, namely: not to catch up with the achievements of the international community and consistent with its current trends, that is, to change domestic legislation to reflect not only achieved, but also to actively participate in discussions of new programs, research, and time to react to innovations. This approach will greatly accelerate the development and creation of a sustainable legal framework, changes in which will be preceded by a worldwide basic research into the mechanisms of their implementation and testing based on domestic cultural-demographic and other characteristics.

So, the special attention of the European community focused on the issues of social protection of children, combat child poverty and welfare. This concept was confirmed in the published research Advisory report of the EU: tackling and preventing child poverty, promoting child well-being [7]. The lack of emphasis on the welfare of children is reflected in the statistical research that testifies to the presence in 2011, 27.0% of children (aged 0-17 years) EU at risk of poverty or social exclusion, compared with 24.3 % of the adult population (18-64) and 20.5 % of older people (65 and over). In addition, children were at greater risk of poverty or social exclusion in the largest member States [8].

Such empirical base clearly illustrates the logical chain of how difficult it is to escape the persons exposed to social risk, the vicious circle of problems, because suffer the children of such persons, and then and all the subsequent generations. The result for the state is, in particular, the rapid decline in the skills of the population through a lack of access to education for children in socially vulnerable families and the like.

Thus, the provision of administrative services in the sphere of social protection of children is of course important, but underdeveloped in Ukraine and requires further investigation.

In the development and implementation of administrative reforms, in particular in the field of administrative services social protection of population in Ukraine, it is necessary to avoid gross methodological errors. Specified possible if, among other things, the basis of the transformation processes in Ukraine to put borrowed models of transformation that will simultaneously account for civilizational and geopolitical features of our state that will serve as a solid bridge between the future state and national past. Specified at the present time, contains certain differences both at the institutional level (by the example of defining the subject-the consumer of the state service in the sphere of social protection of the population by legal status, nationality) and doctrinal (for example, the approach to social protection through the social protection of children).

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