

CRITERIA FOR THE CLASSIFICATION OF SOCIAL RIGHTS

КРИТЕРІЇ КЛАСИФІКАЦІЇ СОЦІАЛЬНИХ ПРАВ

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The purpose of the article is to establish criteria for the classification of a person's social rights. The author determined that the declaration of a legal and independent state requires a revision of worldview approaches to establishing the content of legal relations between a person and the state, the state and society, society and a person. The author emphasized that in Ukraine there is a rather significant «array» of scientific publications on the issues of finding answers to the problems of the implementation and protection of human rights and freedoms in general, and in particular - in the social sphere. It is emphasized that the social rights of a person constitute a significant amount in establishing the content of a person's legal status; the implementation of such rights refers to the system of guarantees for the actual implementation of the individual's right to physical existence. It is determined that social rights are rights that help a person to overcome difficult life circumstances (for example, the loss of working capacity violates the mechanism for accruing appropriate social security payments). It was concluded that the specifics of the protection of the social rights of the individual and the creation of a system of guarantees for their implementation cannot be connected with the assessment of the economic state of the state. It is emphasized that the Western European legal tradition comes from the introduction of approaches that the social rights of a person should be understood as the rights of a person to a «decent standard of living», which is broader than their normative reflection in relation to the category «sufficient standard of living».

Key words: administrative-legal relations, administrative-procedural relations, decent standard of living, state, sufficient standard of living, concept, human-centeredness, international legal regulation, principles, social state, social dialogue, value.

Метою статті визначено встановлення критеріїв класифікації соціальних прав особи. Автором визначено, що проголошення правої і незалежної держави вимагає перегляду світоглядних підходів до встановлення змісту правовідносин між людиною та державою, державою та суспільством, суспільством та людиною. Автором підкреслено, що в Україні діє доволі значний «масив» наукових публікацій з питань пошуку відповідей на проблематику реалізації та захисту прав і свобод людини в цілому, і зокрема, - у соціальній сфері. Наголошено, що соціальні права особи складають вагомий обсяг у встановленні змісту правового статусу людини; реалізація таких прав відноситься до системи гарантій власне реалізації права особи на фізичне буття. Визначено, що соціальними правами є права, які допомагають людині здолати тяжкі життєві обставини (наприклад, втрата працездатності порушує механізм для нарахування відповідних виплат соціального забезпечення). Зроблено висновок, що специфіка захисту соціальних прав особи та створення системи гарантій їх реалізації не може пов'язуватись із оцінкою економічного стану держави. Наголошено, що західноєвропейська правова традиція виходить із запровадження підходів, що соціальні права особи мають розумітись як права особи на «гідний рівень життя», що є ширше за нормативне їх відображення у співвідношенням із категорією «достатній рівень життя».

Ключові слова: адміністративно-правові відносини, адміністративно-процесуальні відносини, гідний рівень життя, держава, достатній рівень життя, концепція, людиноцентризм, міжнародно-правове регулювання, принципи, соціальна держава, соціальний діалог, цінність.

Formulation of the problem. The declaration of a legal and independent state requires a revision of worldview approaches to establishing the content of legal relations between a person and the state, the state and society, society and a person. Protection of human rights and freedoms is a concept that will always attract the research attention of scientists and practitioners. In Ukraine, there is a fairly significant «array» of scientific publications on the issues of finding answers to the problems of the implementation and protection of human rights and freedoms in general, and in particular - in the social sphere. The social rights of a person constitute a significant amount in establishing the content of a person's legal status; the implementation of such rights refers to the system of guarantees for the actual implementation of the individual's right to physical existence. Social rights and their implementation are rights that help a person to overcome difficult life circumstances (for example, loss of working capacity violates the mechanism for accrual of appropriate social security payments). Therefore, the search for ways to ensure the effectiveness of their implementation remains relevant and in demand.

The state of scientific development of the problem. The issue of social rights implementation within labor relations was studied in the publications of N.B. Bolotina [1], I.V. Venediktova [2], L.F. Kupina [3] and others; in the field of administrative and legal relations - in the works of Yu.O. Legezy, L.O. Zolotukhina [4] and other scientists. From the point of view of constitutional and legal regulation, the issue of regulation of social dialogue was carried out in the publications of N.V. Mishinoy [5], O.M. Baimuratov [6] and others. In general, it should be noted that there is an increase in the level of research attention to the problem

of establishing a system of social rights, but such studies are characterized by a certain fragmentation of approaches and require generalization, which is reinforced by the processes of the emergence of the concept of sociocentrism and subsequent globalization.

The purpose of the article is to establish criteria for the classification of social rights.

Presenting main material. Defining the system of social rights and interests is a component of the general system of rights. It is worth noting that two categories of generalizations of certain phenomena are used in scientific research. Such categories are «system» and «classification». Within the limits of scientific knowledge, the categories «system» and «classification» are not identical, but certainly cannot exclude each other. It can be said that the system should be understood as objective reality, while the classification is understood as a certain set of scientific views, concepts, ideas regarding the selection of certain criteria (circumstances) that allow the characterization of this or that phenomenon.

Thus, the system of social rights is fixed at the normative level, while their classification is reflected in the scope of scientific and practical research.

Among the criteria for the classification of social rights, it is necessary to highlight such a criterion as their functional implementation. The functional implementation of social rights allows to classify them into: rights in the field of pension provision; rights in the field of social security; rights related to a person's participation in labor relations, etc. According to the content, social rights are divided into material and procedural norms.

According to the basis of acquisition, social rights are divided into basic and derivative. When it comes to basic

social rights, first of all it is necessary to talk about their enshrining in the Constitution of Ukraine (for example, this is the right to freedom of labor), while the detailing of such rights already occurs at the level of other legislative acts - for example, the Labor Code of Ukraine, the Law of Ukraine «About vacations» etc. [6, c. 123-127].

It should be emphasized that social rights are fundamentally different from other groups of rights - political, public, cultural, spiritual [7, c. 212].

An interesting approach to classification proposed by P.M. Rabinovych, who divides human rights into rights that ensure: the physical existence of a person; rights that ensure the social freedom of an individual; rights that ensure identification of a person [8, c. 223]. Based on this classification, scientists distinguish physical (life), personal, political, economic and other rights.

Therefore, the system of social rights should be understood as a generalization of the rights and interests of a person, which are implemented by him in order to ensure his social existence and physical existence. As noted by A.V. Oleinyk, socio-economic rights are functionally aimed at creating opportunities for a person to ensure his existence [9].

Normatively, the system of social rights in accordance with the Constitution of Ukraine includes such rights as: the right to work (Article 43 of the Constitution of Ukraine); the right to rest (Article 45 of the Constitution of Ukraine); the right to strike (Article 43 of the Constitution of Ukraine); the right to health care (Article 49 of the Constitution of Ukraine); the right to social protection (Article 46 of the Constitution of Ukraine); the right to housing (Article 47 of the Constitution of Ukraine); the right to a sufficient standard of living (Article 48 of the Constitution of Ukraine); the right to a safe environment (Article 50 of the Constitution of Ukraine).

Therefore, the achievement of the principles of building social dialogue defined in Art. 3 of the Law of Ukraine dated December 23, 2010 No. 2862-VI, requires a review of the subject of administrative and legal relations, and requires its understanding as a certain set of social relations between the state and the individual, where the basis is the introduction of the idea of understanding a person as the highest social value, which has to be a vector for determining community development vectors.

The implementation of the concepts of people-centeredness and social dialogue requires a change in the value understanding of law as a regulator of the relationship between the individual and the state on the basis of non-authoritarian coercion, namely on the basis of parity relations, which can be achieved, including by introducing convenient and transparent procedures for implementation by state and municipal bodies in the field of permissive - licensing, control and supervision, administrative and tort proceedings.

The implementation of the concept of social dialogue within the limits of administrative and legal relations is able to fully fulfill the main task entrusted to the modern state, which consists in the comprehensive domination of man, his interests and needs, and establishing the content of the competence of public authorities.

The specifics of the protection of the social rights of the individual and the creation of a system of guarantees for their realization have long been associated with the assessment of the economic state of the state. But the existing practice of law enforcement has proven that the state's argumentation of the existence of a budget deficit as a reason for not fulfilling its obligations to a person regarding his social security is inadmissible. However, at the same time, it is worth noting that the Ukrainian state, at the constitutional level, has undertaken a commitment to a sufficient standard of living, which is understood as guaranteeing the level of the minimum wage at the level of the subsistence minimum for the relevant persons. But the Western European legal tradition comes from the introduction of approaches that the social rights of a person should be understood as the rights of a person to a «decent standard of living», which is broader than their normative reflection in relation to the category «sufficient standard of living».

Conclusion. Therefore, social rights refer to the rights that ensure the physical existence of a person, his identification in society, and cannot be limited by the approaches of their compliance with the criterion of sufficiency. The implementation and protection of social rights should provide a person in the modern world with a decent standard of living that meets the requirements of social justice and reasonableness.

Thus, social rights must be understood as rights that help a person overcome difficult life circumstances (for example, loss of working capacity violates the mechanism for accrual of appropriate social security payments).

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