

ISSUES OF PRIVATE LEGAL REGULATION OF SOCIAL RELATIONS

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SOCIAL PROTECTION OF SOLDIERS OF THE ARMED FORCES OF MODERN AZERBAIJAN

Abstract. In modern warfare, one of the key places in motivating servicemen is social protection, which the state guarantees to them and their family members. This is especially important given the "humanization" of the war, which aims to disable the fighters (wounds of varying severity, psychological losses), rather than their elimination. In view of this, modern practices of social support in countries that have successful combat experience seem relevant. One of the latest examples was the war between Azerbaijan and Armenia in Karabakh. A separate aspect of relevance for Ukraine is that both countries are also natives of the USSR and the corresponding model of social protection. Analysis of the current state of the problem in Azerbaijan shows that it has not yet been possible to completely change the inherited practices from the USSR, but there is a positive experience in the form of developing a system of social funds. Moreover, the financing of these funds is based on the principle of public-private partnership, with a clear awareness of the duty to the participants in hostilities.

Keywords: *protection of motherland, veterans, social and legal guarantee, a system of social guarantees, law, war.*

Relevance of the study. The recent brilliant military operation of the Azerbaijani army against the Armenian armed forces on the territory of Karabakh, called the "44-day war", clearly showed the world the advantages of modern weapons and methods of warfare over the Soviet past. At the same time, the main actors in any war, and hence the armed forces, are people - servicemen who need from the state certain social guarantees and an adequate level of protection, especially in cases of certain losses - psychological, physical, or life in general. Under such conditions, the success of hostilities directly depends on public policy in this area. Therefore, this article is the first attempt to analyze the current state of social protection of servicemen in Azerbaijan, as a successful example of hostilities to return their own territory, which is certainly extremely relevant for Ukraine, where the number of combatants at the beginning of 2021 was over 400 thousand persons.

Recent publications review. One of the main directions of social policy of modern Azerbaijan is to increase the standard of living and prosperity of servicemen. To understand the content of this area of social policy, it is necessary to study legislative acts such as: Constitution of the Republic of Azerbaijan (hereinafter AR) of November 12, 1995, Military Doctrine of AR (June 8, 2010, № 1029-IIIQR), Law on Armed Forces of Azerbaijan (October 9, 1991 № 210-XII), the Law "On the Status of Servicemen" (December 25, 1991, № 36), the

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Law of the AR "On Pension Provision for Servicemen" (April 29, 1992, № 109), the Law "On compulsory state personal insurance of servicemen" (May 20, 1997, № 296-IQ) and others. They contain the relevant legal norms governing public relations in the military-social sphere. Based on them, we will be able to identify its components and mechanisms of its functioning.

The article's objective is to investigate the principles and features of social protection the soldiers of the armed forces of modern Azerbaijan.

Discussion. Measures of state social policy in the military sphere have a complex structure that requires their classification in order to systematize and streamline. The criteria for classification, on the one hand, are the categories of rights in the military-social sphere, and the second group includes measures of material and intangible nature, which will be discussed later.

The first group includes ensuring the political rights and freedoms of servicemen, freedom of conscience, inviolability of the individual, the right to work, the right to financial and material support, the right to rest, the right to housing, the right to health care, the right to education, the right to pension provision, the right to change the place of service, the right to awards and military ranks, the right to receive assistance and other benefits, the right of families of servicemen to social protection, the right to appeal. The studied areas are grouped by categories of human and civil rights and freedoms in the social sphere, and they are reflected in the Constitution of the Republic of Azerbaijan [1].

The rights themselves are quite abstract, so the rights enshrined in the form of national law are called social and legal guarantees. From this we can conclude that social measures in the military sphere are limited to ensuring the implementation of social and legal guarantees for servicemen.

Socio-legal guarantees of servicemen are recognized as a priority of social policy in the military sphere. And quite often, enshrining in the legal framework of human rights and freedoms may seem a sufficient indicator for social policy based on human rights, because, indeed, human rights materialize the vital needs and fundamental interests of man, the ideas of freedom, equality and justice, and their implementation is able to create conditions for its further self-realization. Isn't this the essence and the need for further readaptation of the military? But often practice shows that the formal enshrinement of human rights in law as guarantees does not correspond to the real state of affairs in their implementation.

It is obvious that the system of social and legal guarantees requires in practice adequate structural mechanisms, which, according to the law, have to be implemented by state bodies, institutions, and administrations. Local executive bodies and municipalities play an important role in creating living conditions, in particular in the field of labor, housing, and social protection of military families. The servicemen also have the right to complain to state bodies, non-governmental organizations and associations, courts, and military administration bodies.

Speaking about the specific mechanisms of control over the observance of the rights and freedoms of servicemen, first of all, it should be noted the existence of the institution of ombudsman, or more precisely - the Commissioner for Human Rights of the AR under the President of the Republic. treaties ratified by Azerbaijan, violated human rights and freedoms [2]. Already under the Commissioner for Human Rights, there is a sector for the protection of the rights of servicemen, which, in fact, has the right to consider complaints from servicemen.

Despite the fact that the mechanism of ensuring the participation of civil society institutions in the protection of the interests of servicemen is not reflected in the norms of the republican legislation, in practice, however, there is a wide range of non-governmental military and combat organizations, about 60 of them. Doctrine Research Center, Center for Protection of Servicemen's Rights, Center for Public Control over the Defense and Security Sector, Center for Democratic Control over the Armed Forces, Public Associations of Veterans of the Armed Forces, Social Protection for Families of National Heroes of Azerbaijan, Social Assistance to Martyrs' Families", "Assistance to the families of missing persons", "Social protection of the families of servicemen", the Association of Reserve and Retired Officers and others. And in 2008, as a result of the merger of several non-governmental public military organizations, a Center for Military Analytical Research was established.

The mechanism of implementation of social policy in the military sphere includes four subsystems: economic, regulatory, organizational, managerial and institutional.

1. The economic mechanism of implementation of social policy in the military-social sphere includes generally accepted methods for the entire social sphere - taxation, social insurance contributions, soft loans, subsidies, wage regulation, income distribution, indexation

of cash benefits for servicemen, etc. Among the sources of funding are the state budget, the State Social Protection Fund, the Assistance Fund of the Armed Forces of the AR, the Mortgage Fund at the Central Bank of the AR.

2. The normative-legal mechanism covers the whole spectrum of normative-legal acts, regulates the interaction between subjects and objects of social policy. It includes regulations at both the legislative and executive levels.

3. The organizational and management mechanism includes a set of executive (President, Cabinet of Ministers, ministries (including social profile), committees, foundations), legislative (Milli Mejlis) and judicial bodies that implement social protection and social security measures. Municipalities in general, according to experts, have mostly nominal power (however, they are responsible for providing veterans who have served more than 15 years, housing, or land to build a house) [3]. Network of military NGOs, due to the traditionally closed nature of the military organization, their participation in the decision-making process and monitoring of social protection of servicemen is minimal. Given the results of the latter armed conflict, their weight and need cast doubt on the realities of modern warfare and increased state support for the security sector.

4. Finally, the institutional mechanism includes various social practices: social protection, social security, social insurance.

Social protection - a mechanism of interaction between the individual and society; is a system of economic, organizational, administrative, legal measures carried out by society and its local groups (municipality, labor collective, etc.), the state, other social institutions, which are designed to prevent adverse effects on people from the social environment and mitigate the consequences of such actions [4]. Thus, social protection is one of the main mechanisms of social technologies for the practical implementation of social policy goals in the military sphere. Social protection itself is based on and consists of such subsystems as social security, social support and social insurance (Fig. 1). The Institute of Social Services and Social Work in Azerbaijan is in the process of continuing to form and develop (the Law "On Social Service" was adopted only in December 2011).

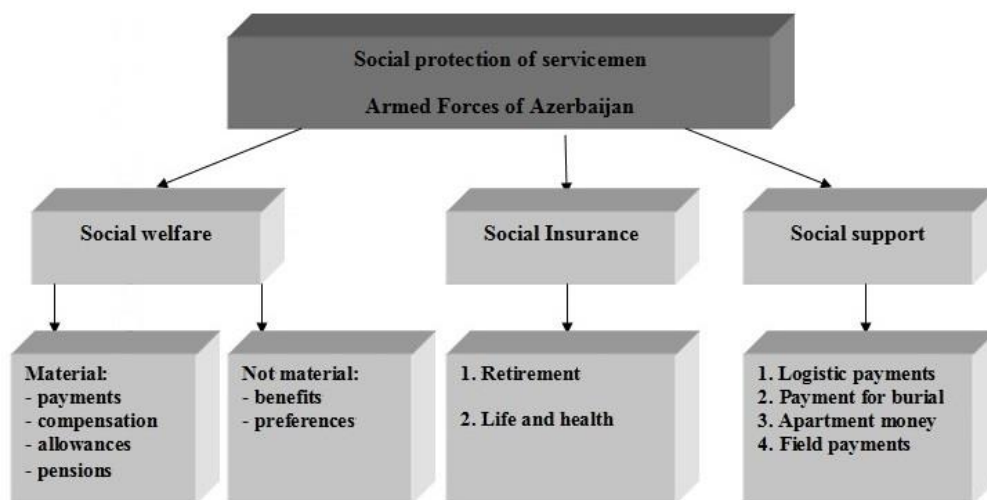


Fig. 1. Social protection of servicemen of Azerbaijan Armed Forces

Source: developed by author, based on [4-6].

According to Part I of Art. 38 of the Constitution of the Republic of Azerbaijan, everyone has the right to social security. And Part III of this article states that everyone has the right to social security after reaching the statutory age, in case of illness, disability, loss of breadwinner, disability, unemployment and in other cases provided by law. Social security, therefore, is designed to compensate for the limited opportunities caused by the onset of certain life circumstances (age, disability, hostilities, disasters, etc.). It includes measures of material (social assistance, pensions, etc.) and intangible (benefits, preferences) nature.

Benefits are part of the social security system of servicemen and represent special, priority rights related to the release or facilitation of conditions for servicemen to comply with statutory norms, rules, responsibilities, living conditions of a material nature [5].

Despite a large-scale reduction in the social benefits of servicemen in 2001, some of

them have survived. Depending on the scope of benefits of the serviceman, they can be divided into benefits in the field of labor and military service. According to the system of material support are distinguished: housing, medical care, education, in the field of transportation and postal parcels, pension provision. Material social security of servicemen includes various types of assistance and compensation.

Compensations are such cash payments that are addressed to persons in need of social support in circumstances beyond the control of the recipient [6]. In the case of servicemen, these payments are due to the specifics of their profession and living conditions.

Social support is the provision of one-time financial assistance to state servicemen and bodies of local self-government. It includes assistance to cover travel expenses; for the burial of the family of the deceased pensioner (in the amount of a three-month pension); for the burial of deceased officers, ensigns, midshipmen, servicemen of active-service military service and individual family members of the specified category of servicemen; daily allowance for each day of business trip; financial assistance to pay for accommodation in the place of business trip; money for the time spent on training tasks for combat training during field meetings and outings in training centers, camps, training grounds, alternate airfields, maneuvers and exercises outside the point of permanent deployment of the military unit and unit; and the assistance of heads of local executive bodies in the construction and purchase of building materials to servicemen who have expressed a desire to participate in the construction of private homes or the purchase of houses.

Social insurance is an institution of social protection of the economically active population from the consequences of social risks. This institution differs from the above subsystems by the source of funding, namely, it is formed by insurance contributions of workers and employers, while others are funded by the budget. In the military sphere, a distinction is made between pension insurance and life and health insurance during military service. Of course, the development of the military and combat component of Azerbaijan's social policy was in completely different challenges before and with the beginning of the so-called 44-day war (or the Second Karabakh conflict). In preparation for a possible military operation, funding for the Azerbaijani Armed Forces itself was significantly increased, which raised the prestige of the service and contributed to the recruitment and, of course, moral and psychological readiness of each serviceman to perform tasks, which was successfully demonstrated between September 27 and November 10, 2020. From the point of view of social protection of the service, its imperfection was offset by five key factors:

1. Significant increase in funding of the Armed Forces of the AR and their modernization;
2. Increasing the retention of servicemen of the Armed Forces of the AR;
3. The prestige of military service is created and maintained in the information space and at the level of government institutions;
4. Support by Turkey;
5. Traditional societies of the AR and the religious component of education, which formed the focus on the need to return their own territories.

As a result of the rapid operation in Karabakh and its successful completion, the Armed Forces of the Republic of Azerbaijan had 2,783 dead servicemen, 1,245 wounded, and more than 100 missing. This state of affairs, of course, prompted the need to develop new forms of social support and protection, the basis of which, normatively and institutionally, has already been laid in advance. Thus, on December 8, 2020, the President of the Republic of Azerbaijan Ilham Aliyev signed two decrees - "On the establishment of the" Azerbaijan Army Assistance Fund", which replaced the liquidated" Armed Forces Assistance Fund "(existed since 2002) and" On the establishment of the "Support Fund". wounded in connection with the protection of the territorial integrity of the Republic of Azerbaijan and the families of martyrs (YAŞAT Foundation)" [8]. If the first of them is only partially focused on the social guarantees of the military and combatants, the second is the purpose of existence. In accordance with its program objectives, it was created to form a transparent, effective and accessible platform for providing additional support (financial assistance and other support measures) measures taken by the state in the field of social protection of the following persons: servicemen with disabilities with the protection of the territorial integrity of the Republic of Azerbaijan, and members of the families of persons who have become martyrs; employees of state bodies (structures) with disabilities obtained in the performance of official duties in the territories liberated from occupation, as well as a result of participation in the elimination of the consequences of

hostilities after their completion, or family members of deceased employees.

The State Agency for Provision of Services to Citizens and Social Innovations under the President of Azerbaijan (ASAN) has been appointed as the fund manager. General control over the formation and management of the fund is exercised by the Board of Trustees. It is interesting that the head of the fund was appointed a veteran of the Second Karabakh War Elvin Huseynov (officer of the special forces) [9, 10].

The social sphere covered by the foundation's activities is really huge and includes both war veterans and civilians who suffered during the war and as a result of shelling, explosions on explosive devices, wounded during the city battles. Here we are talking not only about the manufacture of high-tech prostheses and treatment, but also the purchase of drugs, rehabilitation abroad, tuition fees, assistance in employment of veterans, assistance in paying for the needs of children and so on. A special article - helping children of martyrs, widows of martyrs and family members in general. The very status of a "martyr", by the way, is also an element of the social protection system. In the republic, it is provided to persons who died during the struggle for independence of Azerbaijan, victims of the Black January events, who died in the Karabakh war in the early 90's. Alley of Shahids was created in the center of Baku in their memory. Also, servicemen killed in combat operations, killed in the Second Karabakh War, as well as civilians killed in rocket and artillery shelling by Armenians in residential areas during the conflict also have the status of martyrs in Azerbaijan.

Conclusions. Thus, the analysis of the structure of the system of social protection of servicemen (Fig. 1) and the basic socio-military legislation gives the author the opportunity to draw the following conclusions:

- the main subject of social policy in the military sphere is the state with its bureaucracy and traditions, prone to the patriarchal nature of power initiatives;
- the possibility of objects of social policy - the military - to be its normative subjects due to the absence and weakness of civil society institutions (political parties, public associations) representing their interests is excluded. At the same time, the most powerful state fund for the implementation of social initiatives and support is headed by a veteran, which testifies to the great trust and role of this social group;
- social policy is based on a human rights approach, ie the provision of largely limited social and legal guarantees for servicemen contained in military and social legislation;
- separation of the status of "martyrs" - fighters for independence, who have significant support from the state, as a tribute to the contribution and the corresponding losses for the independence of the state and the interests of public policy;

The main mechanism of state social policy in the military sphere in practice is social protection, which is represented by a system of preventive measures, one way or another related to the limited social and legal status of this category of population, and the nature of state social policy is compensatory, but with significant state support through the establishment of appropriate institutions, large funding and expansion of services.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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Кирило НЕДРЯ
СОЦІАЛЬНИЙ ЗАХИСТ СОЛАТІВ ЗБРОЙНИХ СИЛ
СУЧАСНОГО АЗЕРБАЙДЖАНУ

Анотація. В умовах сучасної війни, одне з ключових місць у мотивації військовослужбовців посідає соціальний захист, який держава гарантує їх та членам родин. Особливої актуальності це набуває зважаючи на «гуманізацію» війни, яка спрямована на виведення з ладу бійців (поранень різного ступеню тяжкості, психологічні втрати), а не їхньої ліквідації. Зважаючи на це, актуальними видаються сучасні практики соціальної підтримки у державах, які мають успішний досвід ведення бойових дій. Одним з останніх показових прикладів стала війна Азербайджану та Armenії у Карабасі. Окремий аспект актуальності для України полягає в тому, що обидві держави теж є вихідцями з СРСР та відповідної моделі соціального захисту. Аналіз сучасного стану проблеми в Азербайджані показує, що у повній мірі змінити успадковані практики від СРСР ще не вдалося, однак позитивний досвід у вигляді розвитку системи соціальних фондів є. Причому, фінансування цих фондів будується на принципі державного і приватного партнерства, з чітким усвідомленням обов'язку перед учасниками бойових дій.

Загальні висновки:

– головним суб'єктом соціальної політики у військовій сфері є держава з його бюрократичним апаратом та традиціями, схильними до патріархальної природи владних ініціатив;
– виключається можливість об'єктів соціальної політики - військовослужбовців - бути її нормативними суб'єктами через відсутність і слабкість інститутів громадянського суспільства (політичних партій, громадських об'єднань), що представляють їх інтереси. У той же час, найбільш потужний державний фонд з реалізації соціальних ініціатив та підтримки очолюється ветераном, що свідчить про велику довіру і роль даної соціальної групи;

– в основі соціальної політики лежить підхід, заснований на правах людини, тобто забезпечення в значній мірі обмежених соціально-правових гарантій військовослужбовців, що містяться у військово-соціальному законодавстві;

– виокремлення статусу «шахідів» – борців за незалежність, що мають суттєву підтримку від держави, як данина внеску та відповідним втратам заради незалежності держави та реалізації інтересів державної політики;

– основним механізмом державної соціальної політики у військовій сфері на практиці є соціальний захист, який представлений системою попереджувальних заходів, так чи інакше пов'язаних з обмеженим соціально-правовим статусом даної категорії населення, а сам характер державної соціальної політики щодо них носить компенсуючий характер, однак за значної державної підтримки через створення відповідних інституцій, великого фінансування та розширення сфери послуг.

Ключові слова: захист Батьківщини, ветерани, соціальні та правові гарантії, система соціальних гарантій, закон, війна.