

## ORGANIZATIONAL AND LEGAL MECHANISMS OF THE FUNCTIONING OF THE SOCIAL STATE

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### Abstract

The article examines conceptual approaches to defining the social state and identifies legal mechanisms for its functioning. Ukraine's transition to market relations, aggravated by Russia's military aggression, has deeply affected the legal system, requiring reforms in social policy and law. Although the Constitution defines Ukraine as a social state, the realization of this principle remains inconsistent. The early stages of market transformation were marked by mass violations of social rights, declining health guarantees, rising unemployment, and reduced material security for vulnerable groups such as pensioners, people with disabilities, the unemployed, and low-income families. Addressing these challenges requires reducing social tensions through a new system of social guarantees. The experience of European welfare states, notably Germany, France, Spain, and Sweden, shows that constitutional recognition of the social state must be supported by effective institutions and legal mechanisms. In Ukraine, however, many normative acts remain declarative, lacking clear implementation procedures. The absence of a unified conceptual framework for social policy, combined with fragmented responsibility between state institutions, hinders its effectiveness. Social policy should be legally defined by Parliament, not left to ad hoc executive initiatives. A framework law on social policy is needed to establish its definition, goals, principles, mechanisms, and funding sources, while clarifying the competencies of state and local authorities. This would ensure that social rights enshrined in the Constitution—such as the right to social protection, health care, and a sufficient standard of living—move from declarations to enforceable guarantees. The article argues for developing a comprehensive Concept of Social Policy and adopting a law on the social budget. The latter would consolidate financial planning for social needs, ensure transparency, and serve as a key instrument of welfare state building. Strengthening the legal foundations of social policy and social budgeting would help Ukraine reduce inequality, guarantee human dignity, and align with European standards of social protection.

**Keywords:** welfare state, social policy, social budget.

### 1. Introduction

A significant feature of the contemporary stage of socio-legal development is its transitional character. As noted by legal scholars such as V. A. Bachynin, V. S. Zhuravskiy, and M. I. Panov, obsolete contradictions inherited from the past seek resolution through the dramatic clashes of various social forces. At the same time, new civilisational foundations are being laid for future transformations. Slowly, yet inevitably, the relics of the totalitarian system are being dismantled, and the former type of legal reality is gradually being replaced by another (Bachynin et al., 2003). This observation reflects the

complexity and contradictory nature of the legal and political situation, which exists in the context of the formation and conceptualisation of legal approaches to defining the content and essence of a democratic social state governed by the rule of law.

With the proclamation of the Declaration of State Sovereignty in Ukraine, the concept of prioritising social factors in state activity was established. Following the enshrinement of the term social state in the Constitution of Ukraine, the necessity for social orientation and social focus in legislation began to emerge. This process is logical, as social objectives derive directly from societal ideals and reflect the fundamental values of the community. In contemporary legal doctrine, the category of a socialist state has been replaced by that of a social state, signifying not only a terminological shift but also a transformation in the very essence of the state in the social sphere (Yermolenko, 2002). This entails the establishment of new directions for social policy, the creation of a transparent and stable system of social provision, which must operate independently of political changes.

Despite extensive treatment of the topic in legal and economic literature, several issues remain unresolved. In particular, domestic scholarship has largely emphasised the declarative aspects of social policy, while practical organisational and legal mechanisms for the realisation of human social rights have not received adequate theoretical substantiation. Insufficient attention has been paid to delineating the powers of the state, local self-government bodies, and civil society institutions in the field of social provision, as well as to the challenges of implementing international social protection standards into Ukrainian national legislation.

The aim of this study is to analyse the principal approaches to defining the category of social state and to propose specific organisational and legal mechanisms for achieving its objectives.

The objectives of the research are as follows:

- To elucidate the essence and characteristics of a social state under contemporary conditions;
- To analyse organisational and legal forms of social policy implementation;
- To identify issues in current legislative regulation of social rights;
- To compare Ukrainian experience with international standards of social protection;
- To formulate proposals for improving the legal mechanisms of a social state, including the legislative enshrinement of a social budget.

The scientific novelty of this research lies in its attempt to systematically integrate doctrinal approaches, the provisions of the Constitution of Ukraine, and specialised legislation with international legal standards of social protection to determine practical mechanisms for the functioning of a social state. For the first time, the necessity of adopting a separate law on Social Policy and a law on the Social Budget is substantiated, aimed at consolidating the principles, institutional mechanisms, and financial foundations of the state's social function.

The research methodology is based on the analysis of scholarly sources by domestic and foreign authors, current Ukrainian legislation, and international instruments (including ILO documents, the European Social Charter, and the European Code of Social Security). Methods employed include systemic and comparative-legal analysis, as well as the formal-legal method to clarify the content of constitutional and legislative provisions concerning social rights.

## **2. The role of the state in the social sphere**

The state exists and operates in nearly all spheres of society, influencing the realisation of human and civil rights. It maintains constant interactions both with society as a whole and with various collectives or individuals, whose social behaviour it regulates. The state plays a significant role in the life of an individual, particularly in the social sphere, manifesting from birth (e.g., provision of birth-related assistance), throughout

life (e.g., support in cases of temporary incapacity or disability), and until death (e.g., provision of funeral assistance).

The state accompanies the individual throughout their life, ensuring access to free education and organising assistance in the event of occupational accidents or work-related illnesses leading to incapacity. It defines the mechanisms for granting pensions based on age, length of service, disability, or loss of a breadwinner. Moreover, the state establishes conditions and amounts of material support in cases of unemployment, temporary incapacity, and other life situations where an individual requires social protection and support from state institutions (Yakovyuk, 2000).

The state determines the content of fundamental human rights. It sustains a systematic dialogue between the executive authorities and the public, organising consultations concerning the rights, freedoms, and legitimate interests of citizens. The realisation of social rights is also facilitated by the state through social and legal policies it implements. As V. Selivanov argues, human rights and freedoms, both historically and normatively, shape the conditions and modes of human existence that are objectively necessary to ensure harmonious interaction among the individual, society, and the state (Kindratets, 2003). The existence of a particular conception of human rights represents a system of understanding of societal organisation, the individual's place within it, as well as the priorities for the functioning and development of the state, including the social benchmarks established by the authorities.

Addressing the primary tasks requires, first and foremost, clarifying the essence of the category of a social state. As P. M. Rabinovich rightly notes, a social state should be understood as a state that operates based on its social function, directing it towards the provision of societal welfare (Rabinovich, 1996). Similarly, Yu. M. Todika correctly asserts that a social state assumes responsibility for ensuring social justice, the well-being of its citizens, and their social protection, with its principal objective being the achievement of societal progress founded upon legally enshrined principles of social equality, general solidarity, and mutual responsibility (Todika, 1999). There is substantial ground to argue that the social state has become a reality, and the historical recognition of the state as social is closely linked to a societal shift in worldview regarding the organisation of life, the provision of dignified conditions for every citizen, and the protection by the state of the material and legal status of individuals.

The term social characterises the very essence of the state, indicating a deeper significance in the relations between the state and society, and between the state and the individual, confirming the actual and legal status of the person and citizen. In this context, M. Kopeichikov aptly observes that a social state should be distinguished by a fundamentally new approach to the system of human social rights in comparison with political rights, as social rights constitute a qualitatively new category of human and civil rights in terms of content and purpose (Kopeichikov, 2001). S. P. Nalyvaichenko (2001) rightly emphasises that state intervention in the economy is necessary where market mechanisms fail, particularly in transitional economies, where the state must assume the role of protector of citizens in the social sphere. V. V. Kapyltsova (2002), in exploring the provision of social guarantees during Ukraine's transformation into a market-type social state, argues that the social strategy aims, firstly, to eradicate poverty and ensure dynamic growth in living standards; secondly, to guarantee social stability and security; and thirdly, to socialise the structural components of the state's economic policy.

Thus, the idea of the social state brings to the fore the regulation of the social sphere through the law as an optimal combination of legal and other social factors, all of which are essential and beneficial for civilised human existence. In our view, D. O. Yermolenko takes a correct position in proposing to interpret the social state as a supra-class legal state based on the principles of social justice, equality, and freedom. It functions within a developed civil society and guarantees the comprehensive realisation of citizens' socio-economic rights, including the right to a decent minimum standard of

living, adequate social protection, and improvement of well-being, while ensuring the existence of an effective and accessible mechanism for their practical implementation and protection (Yermolenko, 2002). Therefore, the principal task of a social state is to ensure social security and the economic conditions for a free and dignified existence. This objective is realised through its main functions: social protection, provision of public goods, economic development, and so forth. From the classification of the primary directions of implementing these functions, it follows that the core purpose of the social state is to ensure a dignified existence for all citizens; the guiding principle is clear: the state exists for the individual, to protect their universally recognised rights and freedoms.

It is necessary to concur with I. V. Yakovyuk, who correctly stresses the unity of legal, democratic, and social categories when defining the essence of the state and human rights. As a social state, it recognises the individual as the highest societal value, provides assistance to persons with disabilities in difficult life circumstances, and guarantees each citizen a dignified standard of living. It redistributes economic benefits according to the principle of social justice and considers its primary purpose to be the maintenance of public peace and social cohesion. This scholar aptly defined the main principles of a social state, namely: (1) human dignity; (2) social justice; (3) social partnership or solidarity; (4) autonomy of social relations and processes; (5) subsidiarity; and (6) social obligations (Yakovyuk, 2000).

This position is also supported in the works of B. P. Hanba (2001), O. V. Skrypnyuk (2001), and other researchers. This approach should form the foundation for defining the essence of a social state as a condition for the realisation of the constitutional right to social protection.

### **3. Legal framework for social policy in Ukraine**

In the context of globalisation and integration, as Ukraine enters increasingly close social and humanitarian relations with other states, there has arisen a need to approximate national standards to the level and quality of life enshrined in the conventions and recommendations of the ILO, the European Social Charter, the European Code of Social Security, the Universal Declaration of Human Rights, and other international instruments.

It is noteworthy that the issue of social support for the population was actively discussed as early as the late nineteenth century. V. P. Lytvynov-Falinsky, in his arguments regarding the German 1881 draft law on Compulsory Workers' Insurance, emphasised that the state's concern for the needs of the most vulnerable citizens was coming to the fore. This obligation is not only moral, grounded in humaneness and Christian principles guiding state institutions, but also a political responsibility of the state itself. The state should cultivate trust among the poorer strata of society through an active social policy. Concerning the concept of the modern state, alongside the protection of the existing social order, the state has a duty to support all citizens who are most in need of assistance (Lytvynov-Falinsky, 1912).

The role of the social state is defined through its functions. V. V. Kopeichikov (1997) correctly observed that the functions of a social state should be understood as the main directions of its activity, through which the essence, tasks, and objectives of the state are concretely manifested. The argumentation of R. I. Kondratiev (2005) is particularly persuasive; he emphasised the growing role of the social function of the state, asserting that this function belongs to the state itself, rather than to commercial institutions or charitable foundations. Within this internal function, the state protects labour and health, establishes a guaranteed minimum wage, and provides support for families, motherhood, childhood, persons with disabilities, and the elderly. The state (when constitutionally defined as social) develops social service systems, sets pensions, benefits, and other guarantees of social protection.

It is important to underline the significance of fulfilling this function in the context

of achieving the economic and political objectives of a lawful state. Social support for certain population groups is aimed at mitigating and overcoming the negative effects of the transitional period, such as material deprivation, widening social inequality, and high unemployment. State social payments stabilise living standards and contribute to a more equitable distribution of economic burdens among different population groups. The stability and effectiveness of social rights implementation directly influence the development and consolidation of the social state.

The contemporary concept of the social state is based on the premise that its principal aim is to achieve the welfare of society and its members, ensuring dignified living conditions and opportunities for comprehensive personal development. The social state guarantees social protection for the population and promotes broad citizen participation in social development, ensuring the realisation of their rights and fundamental freedoms. The functions of the social state are defined as the key directions of its activity, reflecting its essence. From this, it can be concluded that the primary aim of the social state is to maximise the satisfaction of citizens' material and spiritual needs, which are constantly increasing; to consistently improve living standards and reduce social inequality; to ensure universal access to essential social goods, medical and social services, and the realisation of the right to social protection. In pursuing these objectives, the social state must refrain from any measures that could infringe upon the rights of other citizens, associations, or states.

In contemporary conditions, the state is the principal actor in social policy. In determining the directions of this policy, it must ensure the realisation of citizens' rights to social protection, implement a coherent social policy, enact laws and normative acts regulating social provision, define the organisational and legal forms of social protection, and create conditions for the effective functioning of the social security system. Legislatively, the state must define the conditions, procedures, and amounts of pensions, benefits, entitlements, and social services; establish compulsory insurance contributions and social insurance fund budgets; form insurance reserves to ensure timely social payments; review the types and amounts of payments to improve citizens' material circumstances; provide subsidies to social insurance funds and social provision from the state budget; and provide social support to certain categories of incapacitated persons. The state sets fundamental social standards (e.g., minimum consumer budget, subsistence minimum, minimum pension, minimum social assistance) and monitors compliance with social security legislation.

The legal basis of the social state consists not only of national legislative acts but also of international instruments, including the Universal Declaration of Human Rights, the European Social Code, the revised European Social Charter, and the International Covenant on Economic, Social and Cultural Rights.

An analysis of scholarly positions regarding the aims and functions of the social state suggests that establishing a social state is both a prerequisite for and a guarantee of citizens' constitutional right to social protection and allows for the identification of the essential characteristics of a social state. The main features reflecting its essence include: (a) the presence of legal regulation of the social sphere, based on universal moral principles of social justice, equality, and solidarity, aimed at creating conditions necessary for a dignified life and the free development of every individual; (b) a legislative basis enabling working individuals to secure a dignified standard of living for themselves and their families; (c) state mechanisms to support incapacitated persons and those unable to support themselves at a subsistence level; (d) state guarantees of a minimum standard of living, social protection, improvement of general welfare, and other socio-economic rights; a transparent and functioning mechanism for implementing social protection; comprehensive provision of legal and economic guarantees for the realisation of human social rights; and (e) measures to minimise socio-economic disparities among members of society and to strengthen social cohesion.

Thus, the social state is founded upon a socially oriented market economy and creates conditions for the realisation of economic and social human rights, ensuring an adequate level of material welfare for citizens and their families. It guarantees every individual a minimum standard of living for dignified existence and contributes to the consolidation of social cohesion in society.

#### **4. Comparative and international context of social policy**

The social state functions as a democratic state, implementing social protection through an active social policy integrated into domestic policy and realised in effective social programmes. It regulates social relations in the interests of the most vulnerable groups of the population on the principles of justice, social partnership, and solidarity, thereby ensuring the constitutional right of citizens to social protection.

It should be noted that the strategy of social policy in Western European countries, particularly European Union member states, has achieved significant success. This strategy is directed towards increasing employment levels, enhancing social protection, alleviating poverty, and developing new organisational and legal forms and types of social security, as emphasised by V. Skurativskiy (2002). This underscores the role of social security as a key component of the structure of the social state. Accordingly, the process of social and societal transformation in Ukraine is closely linked to its integration into the European economic and social-democratic space. The intensification of this process is a necessary condition for the development of the country's social potential, ensuring citizens' social security, strengthening the social sphere, and guaranteeing human rights.

It is therefore unsurprising that scholars consider the characteristics of contemporary social policy in relation to globalisation and comparative research in social policy. B. Deacon, M. Halls, and P. Stubbs (1999) emphasise that at the present stage of global development, any social policy—traditionally analysed and implemented within a single state—assumes a supranational and transnational character. They examine social policy in the context of economic globalisation according to the principle of “globalisation of social policy and socialisation of global policy.” Despite extensive discourse, the concept of “social policy” has yet to be legislatively defined, and its priorities and the role of social security within the broader social sphere remain unresolved. A range of pressing issues arises, including the legal definition of social policy, the delineation of its implementation mechanisms, and the specification of its content and principles.

Currently, there is a lack of comprehensive research on social policy; scholarly work predominantly addresses specific areas. For example, M. Koretskyi (2003) explores aspects of social policy in the agricultural sector, Y. Radysh examines social policy in healthcare (Radysh, 2002), T. V. Mashtaler and O. O. Voloshchuk analyse measures concerning citizens' incomes and support for real income levels, quality of life, and living standards (Mashtaler & Voloshchuk, 2003), while A. M. Shytko addresses aspects of social justice in the implementation of social policy (Shytko, 2003). Other studies focus on social policy in areas such as environmental protection, housing provision, socio-cultural initiatives, and the development of family and youth policy. From our perspective, theoretical research into social policy as a legal category, the principles guiding its implementation, and the development of its individual areas—particularly social security as a central element—is of paramount contemporary relevance. Components of social policy include living standards, quality of healthcare, education, science and culture, employment and unemployment reduction, wage levels, pension provision, social assistance, support for social services, and the mitigation of social tensions within society.

The legal definition of social policy is particularly important in the context of the state's aspiration to codify social legislation. Legal codification of social policy may serve as a foundation for completing this process. The scope of social policy encompasses

labour markets, employment, labour migration, social insurance programmes, pension protection, healthcare, education, culture, and other social spheres.

Legal scholars emphasise that the role of law in implementing the state's social policy must be strengthened. Given changes in economic development and the need to formulate a new concept of social policy, increasing attention has been devoted to the legal regulation of its implementation. N. Hrynychuk (2003) notes that in a market economy, new social risk factors emerge and analyses specific legal provisions of social policy. However, this analysis is largely limited to a list of individual legislative acts and does not specify the methods of legal regulation in this field.

In the most general sense, the state's activities to meet citizens' needs in the social sphere are defined as social policy. In contemporary conditions, the development of a Concept of Social Policy of Ukraine is particularly relevant. The active participation of all members of society in shaping the strategy and tactics of social development is a key factor in societal democratization. It should be noted that many provisions of normative acts are declarative and do not specify concrete mechanisms for the implementation of social policy.

An unresolved issue remains which entity should determine the directions of social policy and which body bears responsibility in the event of non-implementation or inadequate implementation of its provisions. Currently, these directions are partially determined by the Verkhovna Rada, partially by the Office of the President, and to some extent by the Ministry of Social Policy. However, no specific body or official has been formally designated to coordinate the development and implementation of social policy. In practice, these functions are currently exercised by the President of Ukraine. Furthermore, scientifically grounded priorities, content, implementation mechanisms, and competencies of state bodies in this field have not been established.

A substantial analysis of the legal regulation of social policy in Ukraine was conducted by V. V. Zhernakov, who noted that contemporary legal regulation does not comply with Articles 85 and 92 of the Constitution of Ukraine regarding the policy-making subject and the normative level of acts. He rightly emphasises the need to overcome the tendency for social policy principles to be defined solely within executive offices, which does not always take citizens' needs into account. Zhernakov's advocacy for enshrining social policy at the legislative level in the Verkhovna Rada merits full support (Zhernakov, 2005).

Such a law should clearly define the concept of social policy, its principles, aims, tasks, guarantees, implementation mechanisms, competencies of subjects, and sources of funding. Social policy can be defined as the aggregate of legal, organisational, and economic measures, and the organisational and legal forms of activity of socio-political actors aimed at satisfying social needs that reflect vital human and societal interests and ensure the realisation of constitutional social rights.

The goal of social policy is to achieve social harmony, stability, and justice within society. Despite numerous studies and proposals for social sector development, gaps remain in the theoretical and methodological understanding of the mechanisms underpinning the functioning of the social state, the legal definition of social policy, and the principles guiding its implementation. In this context, the Ukrainian budget plays a particularly important role, as its allocations not only reflect the orientation of social policy but also serve as a primary indicator of the social system's effectiveness.

The organisation of social processes—their content, duration, mechanism of development, and implementation—presents a complex challenge. It is necessary to substantiate not only the organisational and economic mechanisms for ensuring the social orientation of budgets at different levels but also methods for preparing the economic system to undertake social measures. An urgent task is the development of a new strategy for social policy and social protection as its key element.

The growth of social expenditures by the state, provision of social assistance from

the state budget and extrabudgetary funds necessitates a scientifically grounded definition of the concept of a social budget and its formation mechanism. At present, social expenditures are often residual, with priority given to other state spending. The introduction of a social budget can prevent this.

V. V. Zhernakov was among the first to propose the concept of a social budget, emphasising that effective state social policy should be based on careful socio-economic calculations and a reliable legal framework, rather than solely on the volume of funding (Zhernakov, 2005). He identified three key characteristics of a social budget: financial—as the totality of social needs and sources for their coverage; social—as a tool for assessing the provision of citizens' socio-economic rights; and administrative—as a governmental mechanism for preparing an optimal draft of the State Budget with social expenditures. On this basis, it is proposed to legislatively enshrine the concept of a social budget, its objectives, tasks, functions, development principles, responsible entities, formation and approval mechanisms, its relation to the State Budget, social standards, and sources of funding.

The social budget precedes the adoption of the State Budget and constitutes an essential mechanism for building a democratic and social state, prioritising guaranteed social protection and the realisation of citizens' socio-economic rights. The consolidated social budget should be defined as the balance of expenditure on social needs of the population, compiled by the government and approved by the Verkhovna Rada, in accordance with legislatively established forms and revenue sources for the upcoming fiscal period. Key indicators of the social budget are annually approved in the Budget Resolution and are binding in the preparation of the State Budget of Ukraine.

## **5. Conclusions**

The conducted analysis of the social state and its functions allows us to assert that the primary task of Ukraine as a social state is to ensure social security, a decent standard of living, and the realisation of citizens' economic and social rights. The Constitution of Ukraine contains a number of direct provisions guaranteeing these rights: Article 3 recognises the human being, their life, and dignity as the highest social value; Article 43 guarantees the right to work and protection against unlawful dismissal; Article 46 enshrines the right to social protection, including pensions, social benefits, and assistance; Article 48 guarantees the right to an adequate standard of living, while Article 49 guarantees the right to healthcare, medical assistance, and medical insurance.

At the same time, judicial and administrative practice demonstrates that a significant portion of these constitutional provisions remain declarative in nature. In particular, the provisions of Article 48 regarding the right of everyone to an adequate standard of living and Article 49 on guaranteed free medical care are not adequately ensured due to limited budgetary resources and the absence of clear mechanisms for their implementation. A similar situation is observed with the Law of Ukraine “On State Social Standards and State Social Guarantees”, which defines a framework approach but, in practice, does not provide sufficient funding to uphold the established standards.

Conversely, more effective in terms of practical implementation are the provisions of the Law of Ukraine “On Compulsory State Pension Insurance”, which establishes a functional mechanism for pension payments, and the Law of Ukraine “On Compulsory State Social Insurance”, which regulates payments in cases of temporary incapacity for work, unemployment, and workplace accidents. Such provisions are not merely declarative but operational, as they contain financial and organisational mechanisms for realisation.

Thus, a gap exists between constitutional guarantees and the practical instruments for their implementation. To bridge this gap, it is necessary to adopt a comprehensive law “On Social Policy”, which would define the concept, principles, aims, and objectives of social policy, its implementation mechanisms, and the responsibility of public

authorities for non-compliance with its provisions. An important instrument would also be the legislative establishment of a social budget, ensuring transparency, planning, and accountability in the sphere of social expenditures.

The introduction of such mechanisms would facilitate the transition from declarative provisions to the effective realisation of social rights, enhance citizens' living standards, reduce social inequality, and strengthen the democratic and legal foundations of Ukrainian society.

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