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PENSION AS FACTOR OF LEGAL INTERACTION BETWEEN CHILDREN AND PARENTS

The article forms the “public-patriarchal” theory of providing retirees as the first level of pension provision. It should replace the solidarity pension system. According to the “public-patriarchal” system of support, working children through the state mandatory social security system should pay pensions to elderly parents. We are offered the formula: the bigger children and the official salaries they receive, the elderly parents receive the higher pension. The deductions of employees at the first level of retirement benefits becomes personal and will be accumulated in the personal account of the insured person and paid to parents after reaching the retirement age. In case of death of one or both parents, pension contributions are not written off by the state, but distributed among the relatives. We have proven that the right to retirement of elderly people at the expense of working children should be recognized by the UN and become an absolute right for the world community.

At the beginning, the care for the disabled is one of the leading features that distinguish humankind from the animal world. One of the key elements in implementing this is pension. Without which it is difficult to imagine the functioning of modern society. The pension is a leading humanitarian dimension of Western civilization and one of the biggest social and financial problems at the same time. In the conditions of globalization, the WTO and overcoming the technological break of financial and economic competition, those countries and nations that are not concerned with the pension provision of the majority of citizens will win. Which leads to the defeat of the social legal countries in trade wars? As a result, there is a situation where cockpit members of the EU and the US are increasingly difficult to meet their social obligations to citizens.

The situation with pensions is difficult in all social states, but this problem is most clearly shown in Ukraine. We have the lowest pensions in Europe and the largest pension fund deficit in terms of GDP.

Furthermore, logical in this context is another pension reform, through the adoption by the Verkhovna Rada of Ukraine of the Law of Ukraine dated 10/03/2017 "On Amendments to Certain Legislative Acts of Ukraine on Pensions" (2017), which increased the requirements for retirement, and at the same time somewhat raised the size of pensions [1; 2; 3]. That will somewhat improve the payment balance of the pension fund. However, this reform does not really solve the problem of decent security, nor modern and future pensioners.

Since the seizure of social powers by overcrowding social obligations is the path to economic bankruptcy of the state. Modern business is extraterritorial,

capital flows into those countries where low taxes, the right of private property is inviolable [4, c. 134-136].

However, in the EU member states, it is impossible not to see a new qualitative negative deformation: first, the governments of these countries have lost the sense of the size and types of taxation of businesses and working citizens with taxes [5]; second, they brought up a whole class of people who do not want to work hard, but require a high standard of living from the state, which they are granted only for the purpose of belonging to a certain citizenship.

Thus, on the one hand, we see a dangerous tendency to violate the rights of commercially active citizens on the prosperous material and spiritual life, on the other hand - the existence of a large layer of social populists who formally have the right to secure their state at the expense of the first citizens with high social standards. At the same time, the number of the first decreases, while others increase. In Ukraine, the situation is even worse, since, in addition to official high taxes and fees, commercially-minded citizens are forced to pay corruption charges to law enforcement agencies.

Accordingly, the class nature of modern states has increased in recent years, for the Western powers it is the emergence of a new class of citizens who do not want to work hard on their own, but count on the support of the state - social populists. Most clearly this problem is traced in the area of pension provision. Practically in all countries of the European Union, (and not only in Ukraine), where high interest rates are deductible to social welfare funds, in one or another amount are paid in "envelopes".

Thus, from a psychological point of view, it happened because the workers do not feel that they are robbing their parents of pensioners. As the social and legal chain of transfer of funds under the control of the state from working children to unemployed parents, according to the current legislation, is absent. What is not natural, not just and socially dangerous phenomenon. Therefore, the problem of pensions, as a factor in the legal interaction between children and parents, is extremely relevant and required at the level of the theory of the right to an urgent solution.

Review of recent research. The problem of retirement provision for disabled people was drawn to the attention of practically all modern scholars and politicians T. Alekseyev, V. Andriyev, K. Bendukidze, Y. Bytiak, V. Groisman, I. Vetukhova, O. Holovashchenko, I. Derevyanko, Lee Kuan Yu, V. Zhernakov, M. Inchin, V. Melnychuk, I. Mikhailova, A. Movchan, P. Poroshenko, R. Reagan, I. Okelei, S. Silchenko, D. Siaoping, M. Techer, S. Tigibko, O. Tula, N. Shvets, M. Shumylo and others. The works of these scholars and the practical experience of politicians have made it possible for us to study as more general, special or adjacent sources, but they did not address directly the problem of the theory of public-patriarchal provision of the disabled at the first level of retirement provision.

The purpose of the article is to develop a state-legal theory of "public-patriarchal" provision of incapacitated persons at the first level of pension provision based on the theory of state and law, legislation, doctrinal provisions,

statistical materials, journalistic materials and successful practical experience of pension provision.

The main provisions. The Ukrainian Explanatory Dictionary determines that a pension is a monetary guarantee issued to citizens, usually monthly, in the cases established by law (in the case of old age, disability, etc.), as well as money received from such security. According to the British Encyclopedia, a pension is a series of periodic cash benefits to a person who is appointed due to age, disability or completion of an agreed term of service. Payments, as a rule, continue for the rest of the natural life of the recipient, and sometimes the widow or other relatives [6].

In our opinion, the social security of the disabled should, to the extent possible, be transferred to the private sector, to restore the traditional system of incapacitated maintenance. The state should be freed from it more, by legal and other social means, to impose the obligation to retain the elderly on their able-bodied children. The formula is very simple: the more children, the better is the old age. In addition, workers should have the additional opportunity to provide for themselves old age at the expense of dividends from the voluntary system of accumulative pension funds, all forms of ownership. This simultaneously solves two problems: first, it will be an incentive to increase fertility; and secondly, will relieve the business of excessive tax burden. It is clear that elderly people, who, due to certain circumstances, did not have children or accumulated funds in pension funds, should receive social assistance from the state in the minimum amount. However, such cases should be rare.

We do not criticize the state of affairs when states exercise at their expense the retention of their military heroes who have lost their health in defense of the Motherland, not a significant number of public figures who devoted their lives to non-nurturing children or business, but to a long-term civil service the people

In addition, we do not criticize the private (non-compulsory) pension system, when citizens voluntarily postpone part of their income to retirement or other funds without the threat of state sanctions.

We carry out a critical analysis of the public (solidarity) pension system. What is in Ukraine is the first level of pension provision, as a system of compulsory state pension insurance, based on solidarity principles and subsidies, and the payment of pensions and the provision of social services at the expense of the Pension Fund [7]. But we believe that the existing solidarity pension system is a negative factor for social progress, which breaks the natural chain between parents and children and leads to the degradation of entire nations, which in the present conditions are still considered to be developed and successful.

Thus, we put forward the hypothesis that a solidarity system of pensions is socially dangerous for the Man, the state and society as a whole in the long run.

In today's conditions it is indisputable that the highest value of the universe is the Man of her life, health, honor, dignity and inviolability. All other values are secondary, including state and law, so the first may be the embodiment of tyranny, and the law may not be legal [8]. The above human rights are inalienable. Thus,

someone who cannot help as a result of physical or mental inability to buy enough food, maintain satisfactory sanitary and hygienic conditions of living and have access to medical care. First of all it should be a family. Ideally, parents should keep young children, and older children of elderly parents. So it was hundreds of thousands of years, since on Earth about 200 thousand years ago appeared "Homo sapiens" (Homosapiens).

All without exception, the religion of the world devote its moral dogma to the relations of parents and children. Thus, in Buddhism it is undeniable that the wise father who knows his son is a wise son who knows his father [9]. Parents freely give children without thinking about everything they can give. Children do not think that they return to their good parents what they did for them, simply because they give love to them. So children give and parents give: returns are mutual (V.G. - emphasized by us). There is no exploitation or an agreement because the children should all return it to them later, give it, because it is so correct and natural (VG - italics ours) [10].

One of the commandments of the Jews and Christians states: "Honor thy father and thy mother, and be good unto thee, and live for a long time on the earth", which in particular means that we must love them, respect them, not offend, help them in labor, worry about them when they are in distress, and especially during illness and their old age [11]. The Qur'an of Muslims does not once call: "do well to parents, as well as to relatives, orphans and the poor" [12].

In this context, the Ukrainian people from ancient times respect their parents, to the elderly, condemned the ridicule of the cripple and the weak. Every Ukrainian family needs high moral education of children: caring for the sick and nature, respect for the elders, love for work and knowledge, aesthetic tastes and folk etiquette, respect for bread as the basis of everything and love for one's homeland [13].

Thus, all without exception, the religion and the traditions of peoples at the social level establish mutual respect and care, including material, parents regarding young children and able-bodied children with respect to elderly or sick parents.

Unfortunately, the natural traditional system of providing non-working, which was used by mankind almost 200 thousand years or 99.999% of its existence on the planet Earth, at the end of the nineteenth century, began to ruin in Europe. In 1889, Chancellor Bismarck created the first pension fund in Prussia. Pensions were financed from contributions of employees; the retirement age was set at 70. The average life expectancy in Germany then amounted to about 45 rubles. Few lived at that time to 70, so people have called such pensions "pensions for the dead". The meaning of pensions was clear - if a person does not survive the pension, then *children are not needed*, but if he lived - again, the *children are not needed* (VG - our italics). As the pensioner's retention is not already carried out by specific persons (children), but solidarity by all employees. Based on these positions, at that time, ten workers held one pensioner who did not ask a significant harm to society [14].

Such a system successfully provided social progress, while the number of workers was large and pensioners were insignificant. However, in the 1980s and 1990s, the situation in the European countries changed dramatically: the demographic transition to a family of 1-2 children was completed; life expectancy and the number of pensioners increased; the number of employees decreased [15]. At this time, it goes to the markets of market economy China, industrial products from which at the beginning of the XXI century began to gradually supplant manufactured in Europe and the United States. One of the factors behind the achievement of its low price was the absence of its cost of pension payments.

However, this is not the main one, which determines the social regress of the solidarity pension system of pensioners in the present. The primary factor of the social danger of the solidarity system of providing incapacitated persons is the gap between working children and elderly parents, when the level of provision of the latter in no way depends on the number and success of their children. This led to a number of negative aspects.

First, this is a reduction in the birth rate in countries where there is a solidarity system of pensions. Why give birth to children, to lose health, time, money, if the quality of life of elderly people does not depend on it in any way? On the contrary, large families have lower incomes in all developed countries than children without children or with one child. In other words, giving birth to children was not beneficial, from all possible material views.

Secondly, this leads to the competitiveness of the economies of countries that are totally enthusiastic about the joint responsibility for the disabled. As in the context of the reduction of working people, states are increasingly forced to raise the percentage deductions from their salaries. In the languages of the WTO, the free international circulation of goods, capital and technologies is won by those countries that do not use the public system of providing incapable (India), or they cover a small percentage of the population, such as China, Vietnam and other countries of Southeast Asia. In them, the burden on the payroll is much lower than in the EU and the US. All this together with the decrease of technological backlog leads to a decline, first of all the real sector of production, then to the financial independence of the last states. If the situation develops this way, then in a couple of decades, not only financial policy in the world, but also the political dominant will become China, and other countries that do not overpay public finances in pension payments.

Thirdly, it changes the mentality, thinking, philosophy of citizens (subjects) of states that receive adequate pensions for life. With each generation, they are less concerned about children, and they focus on their own person. Want to live in their own pleasure. More and more popular in the world is the social movement of Childfree. For example, in Ukraine spouses increasingly refuse to raise children. According to the results of the socio-demographic study "Family and Children" by the Institute for Demography and Social Studies. MV Ptukhi of the National Academy of Sciences of Ukraine, almost half a million Ukrainians do not want to have children at all, and only 17% of women do not give birth due to health

problems, the rest interferes with either economic instability or personal philosophy [16].

Proceeding from such philosophical views, an inverted system of values is formed, which is negative in relation to many families. Unfortunately, you can often hear at the household level about a family that has many children: "The beggars have begotten".

Fourthly, in the conditions of the existing solidarity system of ensuring the incapacity of many children, parents are doomed to receive minimum pensions, since they did not have time or opportunity to earn a living. What is not only not fair, but also a counterproductive approach, for example, the vast majority of pupils from large families has more than two children themselves seldom. What to say about those parents brought up in the family of one.

Thus, the joint pension system in the EU member states and Ukraine is socially dangerous for the person, the state and society in general for the following reasons:

- 1) it leads to a decrease in the birth rate, since it is unprofitable to give birth to children from a material point of view;
- 2) leads to a decline in the economy, in the geometric progression of the deteriorating export potential of States;
- 3) results in loss of financial independence of such states;
- 4) forms changes in the philosophy of thinking of citizens (subjects) who are less concerned about children, but focus on their own comfort;
- 5) an inverted system of values is formed, which is negative in relation to many families;
- 6) violates the principle of social justice: the more children raised their parents, the smaller they have a solidarity pension.

Consequently, the joint pension system of the EU and Ukraine in the countries participating in the EU and Ukraine is socially dangerous as it leads to a decrease in the birth rate, a decline in the economy, the loss of financial independence, forms the philosophy of a childfree family, a negative attitude towards many families and violates the principle of social justice in the provision of pensions for many children parents All this together leads to the decline of the classical social democratic, legal states endangering the existence of developed nations.

Our conclusion can be criticized, but the statistics thing is stubborn. All EU member states and Ukraine have a direct or hidden deficit of a solidarity system for providing incapacitated persons. No increase in the retirement age, or an increase in the requirements for the length of service of appointment of pensions, will no longer save the European countries from the collapse of the solidarity pension system of the disabled. According to V. Melnychuk, the above-mentioned measures have little to do with pension reform. They only temporarily alleviate the situation, but do not solve the problem in essence. The main problem in the system itself, which drove itself into a deadlock and from this angle "snaps for the feet of the living" [15].

Permanent increase in pension expenditures was conditioned by the political and economic logic of the pension system established in the late nineteenth and early twentieth centuries in the conditions of the active development of the industrial society and the then pyramidal demographic structure. But these costs became impossible to finance due to the increase of the pension tax rate, which reached its maximum, as well as the level of supporting transfers from the state budget. And in this, the deep contradiction between Bismarck's solidarity traditional pension system, the fundamental problem of the stability of such a social institution as the pension system [15].

Scientists and policymakers propose the following steps to exit the closed circle, namely the introduction of accumulative pension systems based on individual pension accounts of citizens, a drastic reduction, or even the elimination of the pension provision of the redistributive elements of the joint-stock system. In this case, the pension reform is aimed at radically strengthening the link between the amount of paid contributions to the pension system and pension rights of the person. It limits the role of public solidarity, distribution systems and increases the responsibility of employees and employers by encouraging private pension savings. Instead of burdensome solidarity pension systems, accumulative systems came in, becoming the main source of national investment [15].

However, in this case, the three-tier pension system continues to operate: the first level is the state mandatory system of social security of citizens, which operates at the expense of state taxes or fees; the second - a system of mandatory individual, personalized pension savings of employees. Pension contributions are compulsorily paid by employees (or employers for the benefit of employees), accrued in their accounts, invested in order to preserve and multiply; the third is the system of voluntary private pension savings. Pension contributions using the system of tax and other benefits are voluntarily paid by employees or employers in favor of workers to non-state pension funds, accumulate on their accounts, are invested (in shares, bonds, real estate, deposits, etc.) in order to preserve and increase [15].

In this triad, the second and third levels of pensions are not progressively progressive. However, at the first level in the countries experiencing the socio-economic crisis continues to serve the vast majority of pensioners, and this system is by its very nature solidary. If this is not to be changed, then such countries will be stagnant for a long time, and eventually they may lose their independence.

Conclusions. what should be changed in the state compulsory system of social security of citizens?

Firstly, within the boundaries of the state mandatory social security system of citizens to return to the traditional system of providing older people at the expense of deductions paid by their children. The formula has to work: the more children and official salaries get able-bodied children, the parents get their higher pension.

In other words, it's cruel to link the retirement pension to the deductions that their children make to the state mandatory social security system. If the elderly do

not have able-bodied children, or their deductions are not sufficient to pay the minimum pension, then the state will completely or partially offset the difference. At the same time, the pensioner clearly has a part of the pension paid to him at the expense of children, which is the compensation of the state;

Secondly, all citizens should be guaranteed a minimum pension without exception. Older people who do not have children or have unsuccessful children who will have to earn enough to receive all their pensions, according to the methodology of the solidarity system, or their part from the state;

Thirdly, based on the principle that "the law has no retroactive effect", we must be very balanced, fair and in accordance with the rule of law to change, the age of retirement and the method of its calculation.

What do we mean? Those persons (young people) who will be first insured in the state mandatory security system should be aware that retirement age will be a certain age (for example, 70 years), and the pension at the first level of social protection will depend solely on the number and success their children.

Compulsory retirement payments of their children up to the retirement age will be personalized and will be accumulated in their personal accounts and paid after reaching the retirement age. In case of death of one or both parents, pension contributions should not be written off, but they should be distributed among relatives according to a certain methodology taking into account the wishes of the insured person.

Fourthly, for a relatively long time (about 50 p.), There will be a transitional period when pensions will be charged on the old solidarity and "public-patriarchal" (lat. - publice patriarchalis) pension system. At the same time, the size of pensions of all persons cannot be less than those prescribed by the methodology of the solidarity system, and in respect of persons who have brought up several successful children, is not limited to anything other than the size of the contributions of their working children.

Fifthly, given the large volume of international labor migration, the UN should adopt an international legal instrument recommending that states pay pension taxes (contributions) to elderly persons who pay them regardless of their country of residence, citizenship (citizenship).

Consequently, the right to retirement of elderly people at the expense of working children should be recognized by the United Nations and become an absolute right for the entire world community. After all, it reflects the entire two hundred thousand year old system of maintenance is not workable tradition of mankind, the demographic crisis is solved and the principle of justice in relation to parents who have brought up successful children is implemented. In addition, after ratification of the proposed international legal instrument in the field of "public-patriarchal" provision of incapacitated persons, all economies of the states on this criterion will be on equal terms of competitiveness.

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