

The right to social security in legislation of the republic of Azerbaijan and international law: the state and prospects of development

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Abstract: In the article the features of the right to social security as a means benefits totally or partially lost working capacity, the relevant state benefits necessary to meet their material needs and to implement other measures of organizational-legal character, and as the most important conditions worthy of human life. This scientifically-grounded interpretation of social security as a real social phenomenon. The right to social security, history of development of this law, the formation of its general principles considered in the context of social rights, the classification of relations within his subject, analyzed the organization and functioning of the social security system. Analyzed standard-setting activities of the UN and the ILO, a specialized Agency and normative legal acts adopted by regional organizations (particularly the Council of Europe and EU). For example, Germany, France, great Britain and Denmark – a comparative analysis of the social legislation of these countries and a comprehensive classification practice of the organization and implementation of social security programs. In addition, the social welfare is studied on the basis of the case law of the European Court of justice, case examples of Court-related discrimination in the enjoyment of social benefits. The article analyses the modern state and tendencies of development of legislation of the Azerbaijan Republic in the field of social security, with special attention to the question of the place of the social security system in social-oriented policy of the Azerbaijani government, the problems existing in the field of social security, put forward specific proposals aimed at addressing these challenges.

Key words: System of social rights, Right to social security, History of social security, Organization of social security system

1. Introduction

Social policy of the Republic of Azerbaijan is aimed at the improvement and sustainable development social welfare and social infrastructure of the country (Aliyev, 2003; General Collective Agreement for 2001-2002). The assertion of democratic and legal state, the recognition of human rights and fundamental freedoms, the guarantee of these rights by the state is largely dependent on the quality and effectiveness of legislation on social security. The functioning of the social security system is an indicator of well-being and quality of life of citizens.

One of the most important steps taken in Azerbaijan to strengthen social security and improve the material situation of the social strata with low incomes, is the adoption of the relevant regulations, the implementation of successive social reforms and programs in this area (Aliyev, 2003; General Collective Agreement for 2001-2002). It should be borne in mind that the legislation of the Azerbaijan Republic on social security in general correspond to international legal norms in the field of social security. Active development of the processes of globalization and integration, the growing influence of international law on the domestic systems and

determine the need for full cooperation of states in the area of social security. This is, primarily, manifested in the development and adoption of various legal acts of this field, as well as in the harmonization of legislation in different countries on the solution of topical issues in the field of social security. The Republic of Azerbaijan joined the Council of Europe, it ratified the Convention on the protection of human rights and fundamental freedoms and the revised European social Charter. All these facts cause the necessity of formation of theoretical constructs in the field of human rights, including international standards in the field of social security.

One of the key factors that contribute to the urgency of this problem, is that still not actually carried out fundamental research on the regulation of the right to social security in the legislation of the Republic of Azerbaijan and international law, current state and prospects of development of this right. Taking into account that the work on bringing the legislation of the Azerbaijan Republic on social security, especially its law enforcement practices into compliance with international standards is conducted at an insufficiently high rate, as well as given the insufficient study of the role of

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international standards in domestic social security system, the relevance of the issue becomes apparent.

The proposed work represents the result of comparative analysis of international Treaty practice, in legislation of different states and the diversity of opinions existing in legal literature. In addition it is of great importance the results of the analysis of the relationships between international law and domestic law in matters of social security. Such analysis will contribute to further improvement of the international regulatory framework and domestic legislation on social security. The analysis of these problems can play an important role in the process of further improvement of the legislation on social security and its practical application in the development of interstate cooperation in the field of social security, including the issues of optimization-setting and enforcement activities in the field of social security.

Methodology the right to social security reflects the specifics of legal regulation of relations in the sphere of social security and includes the following features: 1. Social security is carried out by state bodies or enterprises within their authority. 2. Additional social security at the expense of means of private funds, including at the expense of the voluntary social insurance Fund. 3. The subjects of relations of social security are people, including families, as well as the bodies implementing social security.

Through the establishment of principles of market economy and under the influence of modern trends of development of economic relations has formed a solid basis for the improvement and modernization of the system of guarantees of social rights of citizens (Trebilcock, 2015; Tuckova, 1995). The right to social security was formed in the framework of social rights and implementation of the rights of people is one of the most important obligations for all states, which have chosen the path of democratic development. (Fleckenstein and Lee, 2014; Frolov et al., 2016; Parliamentary Assembly). The right to social security, which is an independent and relatively new sector of the system of public law, having become the indicator of state social policy, is designed to timely and adequately respond to all the social risks associated with the transition to a market economy.

The right to social security refers only to the system of natural rights. Natural law in general, and the right to social security, in particular, reflecting shared values, provides the basis for the formation of human personality. The absence of this destroys the identity (General Collective Agreement for 2001-2002). The implementation of the right to social security connected with the enjoyment of other rights, including the right to enforce standards of living, the right to assistance and protection of family, motherhood and children, as well as the right to achieve the highest level of physical and mental health (Gomien et al., 1998).

The demand for social security arose simultaneously with the appearance of human

society. In any society, whatever its political and economic structure, there are people, due to natural causes deprived of the opportunity to acquire the means of subsistence (The Council of Europe and Russia, 2004; The EU Charter of fundamental rights, 2001). In primitive society the provision of elderly and disabled was carried out in the usual manner.

In the slave society did not exist any form the life of slaves during aging of these people, or, in cases of the loss of the health. In Ancient Greece, the military veterans were provided with pension, and in Ancient Rome – were rewarded with land. The feudal era is characterized by the dominance of natural economy, when the responsibility for meeting the material needs of the elderly and disabled people relied on their family members (General Collective Agreement for 2001-2002).

At the end of the nineteenth century there comes a new stage of development of the social security system, namely social security for employees is set by the state on a legal basis. As the organizational basis of the social security system applies state social insurance of employees. The first laws on compulsory state insurance was adopted in Germany during the reign of Bismarck (Benington and Geddes, 2013).

By the middle of the twentieth century the process of institutionalization of social welfare is almost completed. By this time, on the one hand, social insurance is defined as the organizational-legal form of social security, and on the other hand, in countries with a market economy is the formation of the national social security system covering the whole population, and ensuring the provision of social assistance, regardless of the payment of insurance premiums (Benington and Geddes, 2013; The EU Charter of fundamental rights, 2001).

Thus the right to social security and social guarantees of the state have had a long history of development. The modern development of social guarantees and rights tends to increase social standards, as well as harmonization in accordance with international standards. In particular, it directed the policies of developing countries, which includes Azerbaijan as the factor of increase of social standards and material prosperity of the population.

2. Method

As a methodological framework was used scientific ore on philosophy, sociology, Economics, general theory of law. The study used the methods of logical and systemic analysis, historical-legal and comparative legal analysis of fundamental principles of the science of civil and labor law. As information sources, laws and other normative acts regulating social security, the domestic and foreign literature on the subject, the judgment of the European court.

3. Data, analysis, and results

The essence of the right to social security is that the state guarantees the allocation of sufficient funds

for citizens who, for objective reasons (age, due to illness, disability, loss of head of family in upbringing children and in other cases provided by law) wholly or partially deprived of the ability and opportunity to work and gain labor income, as well as opportunities to help the family in connection with the birth of children and in their education (Human rights, 2005; Benington and Geddes, 2013). Professor E. G. Tuchkova (1995), speaking about the realization of the right to social security, the provision of the right to a minimum standard of living, notes that the state in any case can not be released from the obligation to provide decent conditions of life of its citizens (Parliamentary Assembly, 2000). The most important features of social security at the present stage are: socially accepted legal procedure, the distribution of the social product by social security are determined by the state; the list of social risks, acting as grounds for granting of those or other types of social security, regulated by law; the range of persons enjoying the right to social security enshrined in the relevant legal documents or agreements; norms and standards for social security established by the state; the level and conditions of social welfare are enshrined in law.

In general, social security as a social phenomenon, needs to be scientifically grounded interpretation. In scientific literature there are different approaches to the concept of social security. This is because social security is an extremely complex phenomenon, therefore, give a universal definition that covers all important features of this concept are not possible.

The scope of the concept of "social security" does not correspond to its contents as a constitutional category, as in the corresponding constitutional norm we are talking only about financial support. Nevertheless, in reality, social security includes both Finance (pensions, benefits) and natural facilities (motorized carts, cars) and social services (medical assistance, vocational rehabilitation) (Human rights, 2005). G. V. Suleymanova (2004) characterizes social security, first, as a particular form of relations of distribution, and secondly as a function of the state, thirdly, as a category of law, which is the essence of subjective rights of citizens, fourth – as a system and form of state financial security in old age, in cases of loss of the breadwinner, including those with disability and in other cases, fifth – as a branch of law (Machulskaja, 1998).

Social security represents the totality of social relations in allocation of the share of budget funds of social insurance and state budget funds to meet the needs of individuals in the event of loss of labor or other income, including for lack of, on socially significant objective reasons, means of subsistence (Geyer, 2013). Social security is a form of expression of social policy, aimed at financial security of certain categories (Machulskaja, 1998). In addition, social security is regarded as a form of distribution of wealth created in society due to special funds on the basis of insurance, or funds allocated by the state in

cases stipulated by law and the relevant conditions in order to meet the essential individual needs of the sick, the elderly, the unemployed, children and the survivors, all members of society (Geyer, 2013).

Depending on the source of funds there are two types of social security: 1) state social security, at the expense of means of budgets of all levels, including at the expense of extra-budgetary social funds; 2) non-state social welfare by means of separate legal entities and (or) individuals (Machulskaja, 1998).

In scientific literature there are the following principles: the principle of community social welfare; a principle citizens of a number of types of social security in all cases of disability; the principle of mandatory contributions of social security funds extrabudgetary funds, state budget, non-state pension funds; the principle of matching size of benefits, pensions and other payments to citizens' needs (Geyer, 2013).

In accordance with these principles, under certain circumstances that occurred in the country's legislation, the state guarantees the right to social security all persons permanently residing on the territory of the country, that is, the right to social benefits and social services will have, as citizens of the country, and all other persons permanently residing on the territory of the state (e.g., foreigners, stateless persons, and others). In case of need is guaranteed to these persons of such types of social security, as various benefits, pensions, medical services, compensation, social assistance, etc. To the activities of non-state pension provision of the population include: the collection of pension payments, placement of pension reserves, registration of pension obligations of the Fund and payment of non-state pensions to participants of Fund. The Fund operates independently of the state pension provision of the population, sets the size of the subsistence minimum for the minimum size of old-age pensions, provision of state social assistance, including for determining rates of allowances and other social payments.

International legal regulation of social security expressed "in the development of international standards in the field of social security, including the harmonization and coordination of national legislation on the conservation of rights to social benefits acquired by a citizen in case of its direction in the course of employment from one country to another and on the conservation of specific rights to pensions or benefits in the event of a change of permanent residence" (Geyer, 2013). International legal regulation of social security is based on two key points: first, the accession to the conventions and (or) other acts of international organizations; second, on the basis of the government conclusion of bilateral or multilateral international legal agreements.

An important place among sources of international legal regulation of social security is a normative-legal acts of the UN and ILO, as well as American, African, European, middle Eastern and other regional associations. It should be noted the

special role of the UN in this area. In particular, in the UN Charter (paragraph 3 of rule 1 and rule 55) sets forth provisions relating to social security (The EU Charter of fundamental rights, 2001).

At the international level, the right to social security as human rights first recognized in the universal Declaration of human rights 1948. The right to social security enshrined in rules 22 and 25 of the universal Declaration. Rule 22 of the universal Declaration states that everyone, as a member of society, has the right to social security and the exercise necessary to maintain his dignity and the free development of his personality rights in the economic, social and cultural fields through national effort and international cooperation and in accordance with the structure and resources of each state. And in accordance with part 1 of rule 25 of the universal Declaration, everyone has the right to a standard of living, including food, clothing, housing and medical care and necessary social services, adequate for the health and well-being of himself and of his family, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other case of loss of livelihood does not depend on his circumstances (The European Court of human rights, 2001).

The right to social security enshrined in rule 9 of the International Covenant on economic, social and cultural rights: states parties to the present Covenant recognize the right of everyone to social security including social insurance (The European Court of human rights, 2001). Summary of rule 9 of the Covenant stipulates that the measures taken to provide social security cannot be interpreted in a narrow sense, and in any case, the human right to social security should be guaranteed at least a minimum level.

In addition, the right to social security enshrined in several instruments adopted in Europe, including in the framework of the Council of Europe (COE). Among these acts is one of the key places is the European social Charter (ESC). The ESC, as an international Treaty covering all aspects of social security, along with the right to social security, to guarantee the right to social and medical assistance, the right to use social services. In the Revised European Social Charter this specific expanded and added new rights, such as the right to protection against poverty and social violence. In accordance with rule 12 of the Charter, all workers and their dependents have the right to social security. According to this article, in order to ensure effective implementation of the right to social security of the European states undertake: to establish or maintain a social security system; to support such a social security system at a satisfactory level, at least at the level required for ratification of the European code of social security; to achieve a gradual recovery of social security to a higher level, etc. In accordance with the review of the Charter, social security provides benefits or pensions in connection with certain events or circumstances, such as illness, disability, pregnancy and childbirth, family expenses

for child support, unemployment, old age, death, widowhood, accidents at work and occupational diseases. The provision of specific pensions and benefits can be carried out on the basis of payment of insurance premiums, or independently, including can wear mixed. In some cases, the provision of pensions and other benefits may be due to the availability of appropriate resources. The social security system allows, in particular, applying to persons employed under this system, a single mode or special modes of operation depending on the category of employment (The European Court of human rights, 2001).

This system should cover a large part of the population and provide a certain level of pensions and benefits. In particular, according to the European Committee of social rights, the small size of pensions and benefits may cause doubt about compliance with the requirements of the Charter. The national reports of the member states of the Charter contains information on the areas of social security, including on the financing conditions of individuals covered by the system. The Committee of social rights notes that in recent times states are trying to limit the growth of expenditure allocated to social security, citing the growth of the elderly population and the specific downturn in the economy. The relevant facts were not classified as a violation of the Charter, but this trend was recognized exciting (Constitutional justice and the welfare state, 2003).

In a number of documents relevant to the issues of social security, in accordance with the standards of the Council of Europe, the principle of the inadmissibility. In accordance with paragraph 4 of rule 12 of the ESC, member states of the ESC needs to take steps, by the conclusion of appropriate bilateral and multilateral agreements or by other means, and subject to the conditions stipulated in these agreements, to ensure: equal treatment for its citizens and citizens of other Parties in respect of social security rights, including the conservation benefits provided by social security legislation, irrespective of any movement of the protected person between the territories of the Parties; and to ensure the provision, preservation and recovery of social security rights by such means as summation of periods of insurance or periods of work experience undertaken in accordance with the legislation of each of the Parties (Eur. Court, 1996).

These measures are aimed at ensuring labor mobility and protection of foreign workers. These provisions apply not only to persons residing in the territory of the Contracting Parties, but also to persons previously living in this country and entitled to a retirement pension. In accordance with the European Convention of 24 November 1977 on the legal status of migrant workers, states parties to the Convention undertake to supply on their territory of migrant workers and members of their families in social security the same treatment as their own citizens (paragraph 1 of rule 18) and shall endeavour to ensure that migrant workers and members of

their families the conservation of rights to benefits and privileges on the basis of appropriate agreements in the process of their acquisition and already acquired (paragraph 2 of rule 18) (Eur. Court, 1996). The main mechanisms in the field of social security within the European Union originate mainly from the European Agreement of 1957 concerning the social security of migrant workers. However, due to the fact that this Agreement has not entered into force, its provisions, at least partially, included in the texts of regulations No. 3 and 4 of the European Economic Community (EEC) (Eur. Court, 1996). In 1964, the Council of Europe developed the European code of social security. The Code and the annexed Additional protocols define the minimum level of protection to be provided by states not only in connection with illness, unemployment, work injury and occupational diseases, maternity protection, but in cases of old age, disability, loss of breadwinner, in connection with the maintenance of children. In the Code, along with the general provisions, the content of all traditional links of social security, including benefits for age, disability and survivor benefits.

In the European Convention on social security of 14 December 1972 mandated the protection of the rights aimed at achieving unity of national legislations on social security, its multilateral coordination concerning social protection of foreigners and immigrants, especially those already acquired or acquired rights, to ensure equality of those persons in relation to the citizens of the respective countries. The Convention enshrines the principles of equality of citizens of countries acceding to the agreement and stateless persons, as well as the principle of conservation of pensions to these persons, regardless of their place of residence, that is, the principles that form the basis of the principles of the ESC and a number of ILO conventions. The Convention also establishes rules of application of the legislation of the country enshrined the special rules governing the order of presentation to citizens of all core benefits and pensions (disability, old age, in cases of loss of a breadwinner, industrial injury and occupational diseases, death benefits, benefits for maternity protection, unemployment benefits and pensions, family allowances) (Frolov, 2016).

Among other important acts adopted by the Council of Europe should call the European Convention "On social and medical assistance", dated 11 December 1953 and "On the implementation of children's rights" from January 25, 1996. The creation of necessary conditions for the realization of the right to social security as a major policy priority of the Council of Europe in the socio-economic sphere are reflected in the recommendations of the parliamentary Assembly of the Council of Europe No. 1487 (2000) titled "the Development of new social system" (Trebilcock, 2015). In this document, a more active regulation of the market economy to enhance economic security

and improve the social welfare of the people noted as one of the most important tasks.

In the European Convention of 1950 on the protection of human rights and fundamental freedoms, considered one of the most important legal acts adopted by the Council of Europe, stipulates the right to social security. The European Commission and the European court of human rights in several decisions, has noticed that the Convention does not guarantee social rights, including the right to public financial assistance in order to ensure a certain standard of living, right to social security, the right to pension for old age (Suleymanova, 2004). However, these bodies have met with problems of social security arising out of a violation of rule 6 of the Convention (right to a fair trial) and rule 1 (right of property) of Protocol No. 1 (1952) to the Convention. Therefore, the requirement of a particular person about the provision of pensions and allowances under pension schemes and social insurance based on its individual share in the formation of the Fund and proposed contributions can be regarded as a property right. In addition, it is within the scope of rule 1 of Protocol No. 1 to the Convention (Huttman, 1981). In addition, the protection of the right to social assistance can be realized through the application of rule 3 of the Convention on the prohibition of the treatment degrading. The court has repeatedly affirmed that this paragraph (rule 3) may be applied to the complaints about the lack of pensions and other social benefits. For the first time this point has been reflected in the court's decision in the case of "air vs Ireland": according to the court, most civil and political rights enshrined in the Convention "On the protection of human rights and fundamental freedoms", "entails legal consequences social and economic nature." The court came to the unequivocal conclusion that "there is no border separating the area of economic and social rights from the sphere of influence of the Convention" (Eur. Commission, 1975). In addition, a recent judgment, the court "burdovavs of Russia" about the state's obligation to execute the court decision on the implementation of social payments in accordance with rule 6 clearly demonstrated the effectiveness of the application of rule 6 of the Convention in order to protect social rights.

An important place in the jurisprudence of the Court is the right not to be discriminated against in the sphere of social payments. Protocol No. 12 to the Convention prohibits discrimination. In accordance with paragraph 1 of rule 1 of the Protocol, the enjoyment of any right recognized by law shall be secured without any discrimination on grounds of sex, race, color, language, religion, political or other opinion, national or social origin, Association with a national minority, property, birth or any other status. And according to paragraph 2 of rule 1 no one shall be subjected to discrimination by any public authority on any ground referred to in paragraph 1 of rule 1 (Eur. Court, 1996). As an example, you can call the Court's decision in the case of "Gaygusuz V.

Austria" (The Council of Europe and Russia, 2004). Therefore, in this case, the Court confirmed that in relation to the Turkish citizen, who was denied the payment of unemployment benefits was discrimination. Under Austrian law, unemployment benefits are paid only to citizens of Austria. The court considered that the restriction of the rights of a person based on his nationality could be justified only if compelling reasons. Because the Respondent government could not indicate those grounds, the court held that "objective and compelling reasons" limits of the applicant's rights does not exist. Thus, the Court affirmed a violation of rule 14 of the Convention and paragraph 1 of the Protocol 1 to the Convention. During the execution of this decision, the Austrian Parliament has made a number of changes to the legislation under which each person who made payments to the Fund may obtain such assistance regardless of citizenship (Fleckenstein and Lee, 2014). Thus, with this flexible legal approach, including through the interpretation of the Convention "from the point of view of current conditions" made possible the application of the Convention to a wide range of social and economic spheres.

Rule 34 of the Charter of the European Union (EU) fundamental rights concerning the rights to social security and social protection. In accordance with paragraph 1 of rule 34 of the Charter, the Union recognises and respects the right to access to the system of social security benefits and social services that guarantee the protection in cases, such as pregnancy and child birth, disease, accidents in the workplace, finding a dependent or old age. Paragraph 2 of rule 34 of the Charter defines the circle of persons who can exercise the right to obtain social benefits. This right is granted to every person residing and moving legally within the Union, or who have chosen a new place of residence outside the borders of the Union. In paragraph 3 of rule 34, it is noted that in order to ensure a decent life as a means of combating homelessness and poverty, the European Union recognizes and respects the right to social assistance and assistance in the provision of housing designed to ensure a decent existence for all those who do not have sufficient funds (Report on pension provision, 2007).

As an example of how the system of social security in the EU include Germany. In this country is dominated by expenditure on social security. 34% of all government spending, 10% of all expenses of the Länder (Federal states), 21% of the total expenditure of the Communes (municipalities) allocated to the social security system. It is interesting to note that the share of the Federation in the total volume of financing social security (in current costs) is 63% and the share of the communes in the total amount of financing of measures of health - 75% (Benington, and Geddes, 2013). Depending on what the Fund and on what grounds are paid with funds of the German social security system can be divided into three main sectors. First sector: social contributions are paid by insurance

companies. The second sector: social contributions are paid by the state, given the investment of human labor, or depending on its belonging to a certain group of the population. Third sector: social benefits are considered from the point of view of care of the person, satisfying his needs regardless of his work of payment of insurance premiums, etc. Each sector has its own specific organizational structure (Benington, and Geddes, 2013).

In France the modern social security system has an extremely complex structure. This system combines more than 20 organizations dealing with payments to promote various social programs, and control over the use of allocated amounts. Benefits social security system apply to the entire population of the country, and all running the French contribute to the national social security system. It should be noted that it is the taxpayers' money are the main source of the French social security system. This means that all French people who work (including self-employed) and earn money through taxes to compensate for their social benefits. The determined amount of payment is withheld by the employer from the employee's salary and is reflected in its payroll. The French social security system is mandatory also helps to solve the problems arising in connection with the retirement, unemployment and benefits. Consumption of the amount allocated for financing of these spheres is under the control of the companies, workers and trade unions. The amount withheld from employees' salaries, is spent on payments every French unemployment benefits, basic health insurance, public pensions and family allowances (General Collective Agreement for 2001-2002).

In the UK there are four main categories of social benefits paid to citizens on the basis of data on income: retirement benefits, disability benefits, dependency allowances and allowances for loss of breadwinner. With regard to privileges, in England, they concern mainly the privilege of working citizens, they deserve at work. One of the characteristic features of the British social security system is that this system along with the official and common privileges, there are also informal privileges. It should be noted that these types of privileges is difficult to distinguish from the point of view of their effectiveness. To widespread types of official privileges that serve as supplements to the basic salary, include: ensuring the employee's company car, the right to purchase shares of the company at preferential prices, corporate discounts, regular medical examination, legal services and specialized medical personnel. These advantages, as a rule, according to its tax potential, highly valued by the authorities. In contrast to the official benefits frequently noted in the employment contract, informal privileges anywhere not marked. The most typical informal benefits include: providing employees the opportunity to buy goods at lower prices, the ability to use the balance of materials for private works employee the right to additional paid holidays in addition to annual paid leave, etc. of Such

additional benefits generally are not taxable (General Collective Agreement for 2001-2002).

A distinctive feature of the Danish welfare system compared to similar systems in other European countries, is that in this system, the society assumes greater responsibility for solving social problems. In this regard, the society plays a key role in demand management, aiming to adequate social security. The basis of this system consists of the following factors: the state social security system provides a high level of service categories of the population with low income and economic protection; almost all welfare services are financed by means of direct or indirect taxation; the state provides income transfers, that is, leveling them up through social benefits; within the legislation are measures of decentralization (transfer of certain functions of the Central authorities to local authorities) and monitoring; in recent years, the responsibility for the implementation of social policy Denmark the responsibility of the local authorities, with the main task of the Central authorities is the enactment and approval of legislation regarding the social security system; the equality of the powers of local authorities; more than half of local authorities of Denmark are in areas with a population less than 10 thousand people. The population served by the smallest administrative-territorial unit is 3 thousand people, and the population served by the largest administrative-territorial unit – 0.5 million. However, in the implementation of the national social policy in the regions, all local authorities entitled to equal rights (Frolovet et al., 2016). The social security system of Denmark is based on the principle that all groups should have a decent standard of living and all citizens should be guaranteed fundamental rights in case of unemployment, illness or old age. Over time, this principle was supplemented by the law on social services, social protection, and social benefits regardless of participation in the labour market. In Denmark, the expenditure on social protection accounted for 28% of the gross domestic product (GDP). The Danish social security system, unlike similar systems in other countries members of the European Union, is characterised by huge costs allocated by the government for social security system (Frolovet et al., 2016).

It is also necessary to note the important role of the International labour organization (ILO) in the establishment of the system of international legal regulation of social security. In scientific literature it is noted that the shown, most of the ILO conventions adopted in the framework of this organization since its creation, concerns the standards of social security (Geyer, 2013).

Law enforcement options social security has been clearly enshrined in the Philadelphia Declaration of the ILO in 1944. The Declaration states that one of the main tasks of the ILO is to strengthen social protection measures and health services to guarantee a basic income to everyone who needs social protection. In a statement to the International labour conference held in 2001 with the participation of representatives of governments,

employers and workers, it was stated that social security is one of the fundamental human rights and an important means of strengthening social cohesion. At the same time, the objective of extending social security was put forward as the main objectives of the ILO. The ILO has proposed to start a global campaign of social security covering the whole population. The conference confirmed that today, in connection with the development of globalization and the politics of structural reforms social security has become more necessary than ever before, so the first thing you need to pay attention to the policies and initiatives of social protection under social security to those who are currently deprived of such protection.

The value of conventions and recommendations the ILO in regard to international and national regulation of social security can be assessed from different points of view. First, these acts enshrined the social standards, the level of which, in theory, should comply with the laws of all countries. Secondly, conventions and ILO recommendations promote unification (of internationalization), the law on social welfare (Sharivkan et al., 2016).

All of the conventions and recommendations of ILO in the field of social security can be divided into two groups. The first group includes acts of universal value. First of all, it should be noted, the ILO Convention No. 102 concerning minimum standards of social security. This document contains basic rules about the types, amounts and terms of social security. The Convention lists the 9 types of social security: medical care, sickness benefit, unemployment benefit, old-age pensions, benefits in case of occupational accidents and diseases, family allowances, maternity, invalidity and survivors (Sharivkan et al., 2016).

The rules embodied in the Convention are monitored through the audit mechanism on the part of the ILO Committee of experts (hereinafter referred to as the Committee) periodically reviewing national reports. If the Committee decides that a government is not fulfilling its obligations properly, in this case, the Committee draws the attention of the government concerned on the facts and encourages him to take action to remedy the situation. In the most serious cases the Committee expresses the "reproaches" to the government (these omissions are published in the annual reports of the Committee), and in cases of less serious omissions or if the Committee has no sufficient information, apply the "direct appeal" to the government (Sharivkan et al., 2016). The annual reports of the Committee shall be taken by the conference of the ILO and are sent to governments.

Convention No. 117 of 1962 "On the main goals and principles of social policy" determines the level of social security designed to meet real-life needs of people. The Convention imposes on states the duty to provide independent producers and wage earners conditions for improving living standards, and support established by the official surveys of the subsistence minimum.

Convention No. 118 "About equality in social security" (1962) provides for the granting to foreign citizens and stateless persons equal rights with the nationals of the country in the field of social security. For this aggregate periods of insurance, employment or residence in order to preserve acquired rights.

A special place among the documents is the ILO recommendation No. 167 "On the establishment of an international system of rights in social security" (1983). Its main objective is to encourage the conclusion of bilateral and multilateral social security agreements between member states of the ILO on the principles of equality in providing social security, the preservation or restoration of the right to social security, coordination in the legal regulation of these matters by national legislation.

The second group of documents are the ILO conventions and recommendations concerning specific subjects and types of social security. Convention No. 128 "On disability benefits, old-age and survivor" (1967) defines the conditions for the granting of old age pensions, disability and survivor pensions, as well as their percentage of the earnings. Provision for medical care and the provision of benefits for temporary disability are regulated by Convention No. 130 "On medical care and sickness benefits" (1969). Rules on the provision of benefits in cases of employment injury, occupational diseases, and unemployment include Convention No. 121 "On benefits in case of occupational injuries" (1964) and the Convention №44 "About the benefits for persons unemployed through no fault of their circumstances" (1934) (Sharivkan et al., 2016).

The problems of ensuring labor rights and social protection of the elderly is governed by ILO Recommendation No. 162 "On older workers" (1980). In this document the importance is given to the situation of unemployed older workers, in whose interests it is recommended to provide them with unemployment benefits to pensions and retirement to carry out, if possible, using a flexible retirement age and providing early retirement.

We consider as necessary to mention Convention No. 103 "On maternity protection" (1952), which contains provisions on the protection of the rights of mothers and on the duty of the state to provide them with guarantees in the form of leave for the period of pregnancy and childbirth, maternity leave and cash benefits, recommended size not less than 2/3 of the previous earnings of the woman. The special character of the Convention No. 159 "On professional rehabilitation and employment of persons with disabilities" (1983), which involves a very important issue in the implementation of the disabilities law on social and professional rehabilitation, guarantees of employment of persons with disabilities.

4. Discussion

The Republic of Azerbaijan is a member of the ILO since 1992. During this time, we took important steps to bring existing legislation into line with

international standards. The number of ratified ILO Conventions Azerbaijan is one of the leading places in comparison with other countries. However, Azerbaijan has still not ratified most of the conventions of universal importance related to the field of social security (in particular, conventions nos 102, 117 and 157). However, in accordance with rule 25 of the General Collective Agreement, signed on 2 June 2001 between the Cabinet of Ministers of the Azerbaijan Republic, Confederation of trade Unions of the Republic and the National Confederation of entrepreneurs, an agreement was reached on accession to ILO conventions No. 102, 117 and 157 in the field of social security (Blakemore and Warwick-Booth, 2013)

Rule 38 of the Constitution of the Republic of Azerbaijan is called "the Right to social security". The first part of this article states that everyone has the right to social security. According to this article, everyone has the right to social security upon reaching the age prescribed by law, sickness, disability, loss of breadwinner, disability, unemployment and other cases prescribed by law.

The preamble to the Constitution of the Azerbaijan Republic, rules 12, 16 and 38 of the Constitution act as a guarantee for the enjoyment of the right to social security. In particular, the preamble to the Constitution declares the intention of the people of Azerbaijan and to ensure to all a decent standard of living in conformity with just economic and social order. In this regard, of particular importance are also rules 12 and 16 of section II of the Constitution (see "foundations of the state"). In addition, in the first part of rule 12 (rule "the ultimate goal of the state") the rights and freedoms of man and citizen declared the highest goal of the Azerbaijani state. In accordance with rule 16 of the Constitution (rule "Social development and the state"), the Azerbaijani state takes care about improvement of prosperity of all people and each citizen, their social protection and proper living conditions.

The second part of rule 7 of the Constitution is devoted to the limitations of state power in the country. In this paragraph it is noted that in the Republic of Azerbaijan, state power in foreign Affairs is limited only by the provisions of international treaties to which the Azerbaijan Republic.

In this context, important provisions are contained in section II of rule 12, section II of rule 148 and rule 151 of the Constitution. Therefore, the rights and freedoms of man and citizen listed in the present Constitution are implemented in accordance with the international treaties to which the Azerbaijan Republic (rule 12, part II). International treaties to which the Republic of Azerbaijan is declared to be an integral part of legislative system of the Azerbaijan Republic (rule 148, part II). When there is a conflict between normative legal acts included in legislation system of the Azerbaijan Republic (except Constitution of the Azerbaijan Republic and acts adopted through referendum) and interstate treaties to which the Azerbaijan Republic

shall apply the international treaties (rule 151). These provisions are enshrined in the Constitution, suggest that in the Republic of Azerbaijan protection of the right to social security as a human right, the constitutional guarantee (Geyer, 2013).

At the same time, it should be noted that almost the majority of provisions enshrined in international law, reflected in some normative-legal acts included in legislation system of the Azerbaijan Republic, for example, in chapters VII and VIII of rule 35, sections III, IV rule 38 of the Constitution, the Labour Code, laws and regulations, in particular, the Law of Azerbaijan Republic "On pension provision of citizens".

In addition, with all confidence we can say that our country has created a certain legal framework for the implementation of the right to social security. For example, the Laws of the Republic of Azerbaijan "On pension provision of citizens", "On employment", "On pension provision of civil servants", "On labor pensions", "On social allowances", "About prevention of disability, rehabilitation and social protection of disabled persons", "On status of citizens who took part in liquidation of consequences of the Chernobyl accident and victims of this accident", "On status of refugees and internally displaced persons", "On immortalizing the memory of martyrs and benefits granted to the families of martyrs," "the acquittal of the victims of political repressions", "On veterans" and other normative legal acts of the Republic of Azerbaijan, creating the country's citizens are able to access social security, especially pensions, are aimed at carrying out necessary reforms in the social security system, the establishment of flexible mechanisms, and meeting social requirements of the population, especially the poor, the creation of an interdependent system of legal, social and economic security, guaranteeing protection of the rights to social security.

The law of Azerbaijan Republic "On pension provision of citizens" dated 23 September 1992 is an important act in the field of social security. This Law, guaranteeing enshrined in the Constitution of Azerbaijan Republic the right of citizens to material security in old age, total or partial disability, and survivor benefits establishes a uniform system of state pensions.

In accordance with the law, and pensions for its intended purpose are divided into two groups: the first group of pensions are the main means of material support of unemployed pensioners. This group includes pensions, such as old age pensions and pensions for the disabled first and second groups. The second group of pensions is to provide people financial assistance, essential to Supplement their incomes. As a typical example of such pensions can be called pensions granted to invalids of the third group. Such pension shall be granted to persons whose working capacity is limited, but not completely lost. The purpose of this pension is fully or partially recover the wages lost in connection with the disability. This group also includes pensions

paid to children for the loss of a parent. In determining the amount of pension payable should be taken into account a number of circumstances, in particular equal responsibility of parents to maintain children, number of children, which shall be granted pensions, etc (Aliyev, 2003). In order to ensure delivery of funds intended for the poor to the right place, in 2006, work began on implementation of the special program of social assistance. The program covers many low-income countries. The main task of the state in the sphere of social assistance is to improve social protection for the most vulnerable populations in accordance with the principle of targeting. The basic purpose of reforms in the social assistance system is to ensure targeting and efficiency of social benefits, adapting the social assistance system to market conditions, raising the efficiency of social assistance through improving the system of management and administration.

To create a more perfect system of targeted social assistance was defined by six directions. All these areas have the same priority and be carried out almost simultaneously in the following sequence: 1) create an effective administrative structure; 2) creation of legal base necessary for targeted social assistance policy; 3) preparation of the document "Strategy of social assistance"; 4) development of mechanisms of targeting to identify the poorest and most vulnerable groups; 5) a system of appropriate compensation to protect poor from the burden of utility costs; 6) the establishment of a system of monitoring and evaluation for policy development and implementation in the field of social security (Gomien et al., 1998).

By order of the President of the Azerbaijan Republic dated 17 July 2001, approved the "Concept of reforming the pension system in Azerbaijan Republic". In accordance with the Concept, the main goal of the planned reforms in the pension system is to ensure reliable funding for the payment of pensions to citizens who move to the principle of individual registration, depending on the length of employment, wages (income) and paid mandatory payments of state social insurance with the aim of observing the principle of equity in the realization of the right to a pension and other social security rights, strengthening the role of the pension system in improving the welfare of the population by adapting it to the conditions of market economy, ensure collection in full and purposeful use of funds intended for payment of pensions and benefits, increasing the efficiency of the pension system by improving its management, the matching contributions for social insurance and pensions.

Problems of protection of rights of persons who are disabled, refugees and internally displaced persons, families of martyrs, as members of society who need more care and assistance, are among the most important challenges facing government in the field of social protection. In order to strengthen the legal framework for the solution of problems in this area have been adopted relevant documents. Another step forward in this field was the adoption

of "State Program on the prevention of disabilities and rehabilitation of persons with disabilities for 1999-2002" approved by the Decree of the President of the Republic of Azerbaijan dated 14 May 1999. Pursuant to the State Program, the country has consistently implemented measures for prevention of disability, issues of medical, social and vocational rehabilitation, employment, education, social protection and social integration of people with disabilities. Currently, there are no any serious problems in providing the population at the expense of public funds orthopedic products, wheelchairs and other rehabilitation devices (Gomien et al., 1998).

The stock at present in the Republic of Azerbaijan more than 1 million refugees and IDPs has had a negative impact on the development of socio-economic reforms in the country. According to experts, the economy of Azerbaijan suffered material damage amounting to 60 billion U.S. dollars (Gomien et al., 1998). In order to ensure social protection of the population by the Decree of the President of the Azerbaijan Republic "On preparation of the State Program on solving the problems of refugees and IDPs" dated July 1, 1998 was established the State Commission for refugees and IDPs, which aims to improve the situation of refugees and internally displaced persons, to facilitate the solution of their problems in the areas of education, health, employment, issues of domestic character, paying them benefits and other issues for improvement and coordination in this field, in order to strengthen the social protection of refugees and internally displaced persons.

As a good example of cooperation in the field of social security of Azerbaijan Republic has signed bilateral agreements with Russia, Georgia, Uzbekistan, Ukraine, Kazakhstan, Kyrgyzstan, Moldova, Turkey and other countries.

5. Conclusion

Despite Azerbaijan's achievements in the field of social security, to improve the quality of life of citizens and ensuring their normal life, relevant authorities should continue to take more serious steps. On the one hand, due to the fact that the Azerbaijani state budget is socially-oriented, and on the other hand, is seen as a social need of the society.

In this sense, when considering the legislation on social security it should be noted that, the existing system of legislation on social security should not be subjected to unnecessary changes and rash strains. In addition, frequent changes and additions in the legislation complicate enforcement. In this case, the lack of a complete legal framework leads to legal problems and contradictions, which does not allow citizens to fully realize their rights. In such circumstances it is necessary to determine the prospects of development of legislation and basic conceptual directions of this development. It seems appropriate for this work on the systematization and codification of legislation on social security,

enshrined in legislation the specific criteria and standards to determine more accurately the kinds and amounts of guaranteed social security, the further development of new, additional forms of social security.

In conclusion, we note that so far in the Republic of Azerbaijan no single fundamental legal act on social security. Of course, it is necessary to adopt a legal act, which clearly indicated the tasks of public authorities to identify social priorities and defining ways to implement them. In this regard, we think that the adoption of laws "On social security", "social policy" and "social security Code" that determine the structure of social relations in the social sphere, forms the basis of social policy. It is very important to implement in our country the social state model.

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