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## International standards of rights in the field of social security

### Міжнародні стандарти прав у сфері соціального забезпечення

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#### Abstract

International standards of rights in the field of social security are a set of norms established in various international legal acts. These standards define decent living conditions for people, ensure personal development and social security, and have a significant impact on national legislation in the field of social security. The implementation of standards established at the international level in national legislation is a tool for the development of national legislation towards implementing the rule of law, equality, and social justice. Therefore, this article examines international standards of rights in the field of social security and analyzes the direction of their influence on the sources of social security law. The purpose of this work is to study international social standards and their legal characteristics. The research methodology includes various methods such as the dialectical method, the systemic method, the genetic method, the logical method, the structural-functional method, the formal-legal method, and the comparative-legal and sociological-legal methods. The research results indicate that international standards in the field of social security play an important role, as they must be observed as the minimum criteria for the protection of rights in the sphere of social security. The guarantees provided by a number of ILO Conventions and other international legal acts have been thoroughly investigated, and norms in current

#### Анотація

Міжнародні стандарти прав у сфері соціального забезпечення є сукупністю норм, що закріплені в різних міжнародно-правових актах. Такі стандарти визначають гідні умови життєдіяльності людей, забезпечують розвиток особи та соціальну захищеність та мають значний вплив на національне законодавство у сфері соціального забезпечення. Імплементация стандартів, що закріплені на міжнародному рівні в національному законодавстві є інструментом розвитку національного законодавства у напрямку втілення верховенства права, рівності та соціальної справедливості. Тому, у статті досліджено міжнародні стандарти прав у сфері соціального забезпечення, а також проаналізовано напрями їх впливу на джерела права соціального забезпечення. Метою роботи є дослідження міжнародних соціальних стандартів та їх правовій характеристикі. Методологією дослідження є такі методи як діалектичний метод, системний метод, генетичний метод, логічний метод, структурно-функціональний метод, формально-юридичний метод, порівняльно-правовий, соціолого-правовий метод. Як висновок проведеного дослідження можна підсумувати, що міжнародні стандарти у сфері соціального забезпечення відіграють важливу роль, що полягає у їх обов'язковому дотриманню як мінімально можливих критеріїв щодо

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legislation that contradict international social standards have been identified. It is emphasized that it is necessary to consider these standards and create specific legal mechanisms that will enable the implementation of international norms and principles.

**Keywords:** international standards of rights, social security, social guarantees, European integration, adaptation of legislation.

## Introduction

In the modern conditions of the development of social relations, globalization trends affect social life and international processes. These circumstances actualize the issue of the implementation of international standards.

In particular, the political and economic processes taking place in Ukraine testify to the state's desire to integrate into the European and world economic space. In order to further enter the world market, an urgent task is to solve a number of problems, including the issue of harmonizing domestic law with the legal systems of leading economically developed countries, which can be solved with the help of the use of unified norms in national law-making and law enforcement.

The introduction of a single legal regime and the unification of material norms also contribute to the convergence of legal systems. In turn, it is important to gradually solve the complex issues of ensuring international standards of rights in the field of social security. Thus, the international legal regulation of relations in the field of social protection exerts a significant influence on the development of national legislation, on democratic transformations in the state, and on the development of the principle of social justice. The right to social security, as one of the basic rights recognized by the world community and recorded in basic international legal acts, is realized with the help of national efforts and international cooperation. International legal acts, which contain the standards of social and economic rights, are important considering the European strategic course of the state. At the same time, it is important to take into account in national legislation the standards established by international institutions of global importance, such as the United Nations (hereinafter – UN) and the International Labor Organization (hereinafter - ILO).

дотримання прав у сфері соціального забезпечення. Детально досліджені гарантії, що передбачені рядом Конвенцій МОП та інших міжнародно-правових актів, а також виявлені норми чинного законодавства, що суперечать міжнародним соціальним стандартам. Підкреслена необхідність урахування цих стандартів і створення конкретних правових механізмів, які дозволять реалізувати міжнародні норми і принципи.

**Ключові слова:** міжнародні стандарти прав, соціальне забезпечення, соціальні гарантії, євроінтеграція, адаптація законодавства.

In view of the above, the authors set themselves the goal of providing answers to such research questions as:

- 1) What is the essence of the international legal acts establishing standards of rights in the field of social security?
- 2) Is it possible to identify the problems of implementing international social standards into national legislation?
- 3) What are the ways of implementation of international legal acts in the legislation of Ukraine?

## Theoretical Framework or Literature Review

The article by Andrienko (2022) analyzes the international standards of social security law in the context of European integration processes in Ukraine. The author concluded that Ukraine's entry into the world community, and integration into European and world structures is impossible without ensuring an effective process of implementation of the norms of international law in the field of social protection using the generalized experience of European states. It was also concluded that the introduction of a system of social standards in Ukraine, which would really correspond to European standards and ensure a decent standard of living for the population, should involve the development of a single concept of social development that would correspond to the current period of economic transformations in the state and take into account their ultimate goal, and there is an urgent need to ratify the maximum possible number of provisions of the European Social Charter, which will allow establishing clear guidelines for further reforms in the social sphere, taking into account generally recognized international standards.

The concept and types of international standards of the right to social protection are considered by Borychenko (2019). The author determined that international standards in the field of social security law are a set of norms enshrined in international acts, which, as a result of their legalization in the domestic legislation of the state, become mandatory for implementation or are applied voluntarily and determine the minimum necessary content and scope of the right to social protection. The author also proposed different approaches to the classification of international standards.

The question of the essence of the social international standard was considered by Zapara (2011). Zinovatna (2018) analyzed the general provisions of international standards in the field of social security. In particular, the article examines international social standards, and their legal characteristics, as well as an analysis of the directions of their influence on the sources of social security law. The article also examines in detail the guarantees provided for by the ILO Convention on Minimum Standards of Social Security No. 102 and reveals the norms of current legislation that contradict international social standards. The need to take these standards into account is emphasized and the creation of specific legal mechanisms that will allow the implementation of international norms and principles.

Klymenko (2019) investigated the standards and guarantees of social security in the international legal and domestic context. Kostyuk (2018) paid attention to the analysis of European social standards in the context of the modern model of sources of social security law. Thus, the author revealed issues related to the legal characteristics of European social standards and the direction of their influence on the development of the latest model of sources of social security law. The peculiarities of the formation of social standards by the European Community are emphasized and the need to take into account European social standards in the formation of the system of sources of social security law, in particular in the process of codification of legislation in this area, is emphasized.

The ratification of the Convention of the International Labor Organization No. 102 as a vector for improving the social security system of Ukraine on the way to European integration became the object of research by Krasnov (2016).

Malyuga (2017) investigated the process of adapting national legislation in the social sphere to European standards as a component of the modernization of the social protection system of Ukraine. Moskalenko (2012) researched trends in the development of mandatory state social insurance and analyzed international acts on mandatory state social insurance.

Novoselska (2017) investigated the significance of international social standards in the legislation of Ukraine. Shumylo (2012) also carried out a detailed analysis of international standards in the field of social protection.

Kolomoiets, Tsybulnyk, Moroz, Prymachenko, & Khashev (2021) touch on the problem of ensuring human social rights in the event of violations in the fiscal sphere of the state, in particular – in the event of non-receipt of budget revenues due to the presence of schemes that allow tax evasion.

Certain aspects of ensuring the social rights of athletes are studied in the article «To the Peculiarities of Legal and Non-Legal Regulation of Social Relations in the Field of Sport» written by Kharytonov, Kharytonova, Kostruba, Tkalych, & Tolmachevska (2021).

### Methodology

The used research methods made it possible to solve the research tasks set by the authors, in particular – to analyze the essence of the international legal acts establishing standards of rights in the field of social security; to identify the problems of implementing international social standards into national legislation; to find out the ways of implementation of international legal acts in the legislation of Ukraine.

During the conducted research, the dialectical method was used in the study of international standards both from the general issues of the sphere of social security and from the practical aspects of the issues of international standards as a partial one. The specified stage plays a significant role in the development of the concept of international standards in the field of social security because of the task of generating new scientific knowledge, which can be solved by moving from the concrete to the abstract (the study of the elements problem allows to identify regularities that are formed with the help of abstraction from details. Therefore, the dialectical approach made it possible to characterize international social standards as a legal phenomenon, to determine the regularities

of their formation in social security law and international legislation on this issue, and to reveal the regularities of their implementation in national legislation.

The application of the system method made it possible to consider international social standards as a complex, versatile, multi-faceted phenomenon consisting of elements and connections between them that form its unchanging structure and ensure its integrity.

The genetic method made it possible to explain the reasons for the emergence of international standards in the field of social security and trace the process of their formation in international legal acts and the practice of international judicial institutions.

The use of the logical method, which involves the application of logical techniques (analysis and synthesis, generalization, comparison, abstraction, induction and deduction, analogy, modeling) and the laws of logic (identity, non-contradiction, exclusion of the third and sufficient basis), allowed to define the concept of international standards in the field of social security as a whole, as well as individual types of them in particular, and also classifying these standards according to various classification criteria.

The structural-functional method made it possible to establish the functional purpose of international standards for ensuring human rights and freedoms. The formal-legal method ensured the definition of the content of the norms of social legislation, which establish international standards for the protection and provision of human rights, including taking into account their interpretation in interpretative legal acts. The comparative legal method made it possible, on the one hand, to compare international standards as a legal phenomenon that existed in the law of social security of one legal system during different historical periods (diachronic comparison), which allows establishment patterns of their development, and on the other hand, to compare international standards as a legal phenomenon that exists in different legal systems during one historical period (synchronous comparison), which will allow to determine the positive experience of foreign countries in their application and to outline the directions of its consideration in domestic social security law.

The use of sociological and legal methods is aimed at establishing the effectiveness of the normative consolidation of the system of international standards for ensuring social rights in domestic legislation, as well as at identifying and eliminating existing shortcomings.

## Results and Discussion

Is it possible to identify the problems of implementing international social standards into national legislation?

What are the ways of implementation of international legal acts in the legislation of Ukraine?

The national legislation of Ukraine enshrines the provision that current international treaties, the binding consent of which has been given by the Verkhovna Rada of Ukraine, are part of the national legislation of Ukraine (Law No. 254k/96-VR, 1996).

This proves that international standards of human rights, which are enshrined in international legal acts and ratified by Ukraine, are part of national legislation.

So, what is the essence of the international legal acts establishing standards of rights in the field of social security?

Ukraine's implementation of international social standards is an effective component of our state's participation in international legal institutions and the fulfillment of its international legal obligations in this area. The existing system of international social legislation consists of legal norms, and social standards in the field of social protection of a person, which is decisive for the state social policy regarding the provision of human needs and are a criterion, a standard, and therefore must act constantly and everywhere.

However, today not all international legal acts containing standards in the field of social security law have been ratified by Ukraine. So, this is a big problem, concerning the implementation of international social standards into national legislation. However, we will try to find the ways of implementation of some provisions of the international legal acts in the legislation of Ukraine, analyzing the international standards of rights in the field of social security in more detail (Table 1).

**Table 1.**  
*International standards of social security rights*

Regulatory Act	Key provisions
The Universal Declaration of Human Rights	Proclaims the right of every person to social security and to the exercise of the rights necessary for maintaining his dignity and for the free development of his personality in the economic, social, and cultural spheres with the help of national efforts and international cooperation and in accordance with the structure and resources of each state. In addition, everyone has the right to such a standard of living, including food, clothing, housing, medical care, and necessary social services, as is necessary for the maintenance of the health and well-being of himself and his family, and the right to security in the event of unemployment, illness, disability, widowhood, old age or other loss of livelihood due to circumstances beyond his control (United Nations, 1948).
International Covenant on Economic, Social, and Cultural Rights	Recognizes that the family is subject to social protection, as the natural and main center of society. It should be given the widest possible protection and assistance, especially during its formation and while it is responsible for the care of dependent children and their upbringing. Special protection should be given to mothers during a reasonable period before and after childbirth. The Covenant also proclaims the right of everyone to an adequate standard of living for himself and his family, which includes adequate food, clothing, and shelter, the steady improvement of living conditions, and the right to the highest attainable level of physical and mental health (United Nations, 1966).
The Convention on Minimum Standards of Social Security	Defines minimum standards for medical assistance, assistance in case of illness, unemployment, old age, occupational disability or occupational disease, pregnancy and childbirth, disability, loss of the breadwinner, and family allowances (International Labour Organization, 1952)
Convention on Assistance in Cases of Industrial Injuries	Determines that the country's legislation on assistance in the event of industrial injuries must cover all employees and provides for such types of assistance as medical care and cash benefits (International Labour Organization, 1964).
The Convention on the Establishment of an International System of Protection of Rights in the Field of Social Security	The Convention applies to the following areas of social security: medical care; assistance in case of illness; maternity benefits; disability benefits; old age benefits; assistance in case of loss of breadwinner; assistance in case of occupational disability and occupational disease; unemployment benefits; family benefits At the same time, the effect of this Convention does not extend to social systems for employees, nor to special systems for war victims, nor to systems of social and medical assistance (International Labour Organization, 1982).
Convention on disability, old-age, and survivor benefits	According to the Convention, the following persons are subject to insurance: or all those who work for hire, including students; or defined categories of the self-employed population, which make up at least 75 percent of the entire self-employed population; or all residents or those residents whose funds for the period covered by the case do not exceed the limits established by the Convention. Disability benefits in accordance with Art. 10 of the Convention are provided in the form of periodic payments (International Labour Organization, 1967).
The Convention on the Equality of Citizens of the Country and Foreigners and Stateless Persons in the Field of Social Security	The Convention defines that any member of the Organization may undertake to fulfill the provisions of this Convention in relation to one or more spheres of social security: medical assistance; assistance in connection with illness; assistance in connection with pregnancy and childbirth; disability assistance; old age assistance; assistance in connection with the loss of a breadwinner; assistance in case of occupational disability and occupational disease; unemployment benefits; family benefits. In addition, each member of the Organization in respect of which this Convention is in force shall grant in its territory to the nationals of any other member of the Organization in respect of which this Convention is also in force the same rights as its own nationals, both as regards the extension of legislation to them, and as regards the right to assistance in each field of social security in respect of which he has undertaken the obligations arising from this Convention. With regard to survivorship benefits, equal rights apply to dependents of nationals of a member of the Organization in respect of which this Convention is in force, regardless of the nationality of such dependents (International Labour Organization, 1962).
The Convention on Medical Assistance and Assistance in Case of Illness	The terms "medical assistance" are defined, insurance cases are listed in connection with the occurrence of which medical assistance is provided, and the minimum standards of social security are established (International Labour Organization, 1969).
European Convention on Social and Medical Assistance	The member states undertake to provide social and medical assistance to citizens of other member states who are legally present on their territory and do not have sufficient funds (Council of Europe, 1953)
The European Social Charter	Provides general principles by which member states of the Council of Europe should be guided in public social policy and provides legal guarantees of socio-economic human rights. The European Social Charter establishes that the member states of the Council of Europe agreed to provide their population with rights in order to improve their standard of living and social well-being. The Charter mandates a common and coordinated approach to combating poverty and also defines areas of public life to which persons living in situations of material exclusion or poverty and their family members must have access. The following are recognized among the basic rights: the right to social security; the right to social and medical assistance; the right to receive services from the state; the right of the disabled to independence, social integration, and participation in public life; the right of the family to social, legal and economic protection; the right of children and adolescents to social, legal and economic protection; the right of migrant workers and their family members to protection and assistance; the right of the elderly to social protection; the right to protection from poverty and social exclusion; the right to housing (Council of Europe, 1996).

As a result of the analysis of the above-mentioned normative legal acts, it can be concluded that the specified normative legal acts establish:

- 1) general principles of construction, management, and financing of the national social security system, its organizational and legal forms;
- 2) types of social risks;
- 3) types of social security, sizes, scope, and conditions of their appointment.

Regarding Ukraine and its path to the implementation of social standards, it is worth noting that the Law of Ukraine "On the Approval of the Nationwide Program for the Adaptation of the Legislation of Ukraine to the Legislation of the European Union" defines the mechanism for Ukraine's compliance with the third Copenhagen and Madrid criteria for acquiring membership in the European Union, which includes the adaptation of legislation, formation of relevant institutions and other additional measures necessary for effective law-making and law enforcement (Law No. 1629 – IV, 2004).

Therefore, it is fair to note that the international legal regulation of relations in the field of social protection of citizens exerts a significant influence on the development of national legislation in our country. And the application and consideration in the national legislation of the standards defined by the UN and the ILO are important and necessary to ensure social guarantees in Ukraine.

### Conclusions

As a result of the conducted study of international standards of rights in the field of social security, the following was established:

1. Social standards in international normative legal acts do not lose their relevance, because the declaration of a state as a social one implies the creation of healthy and dignified living conditions for every person.
2. The main institutions creating minimum standards of social rights are the UN and the ILO. At the same time, the ILO Conventions usually do not have strict provisions regarding the organization of the national social security system, states are suggested to choose the most appropriate organizational and legal forms of social security depending on the level of economic development. At the same time, the UN and EU bodies determine the minimum

acceptable norms that must be fulfilled by the states.

3. European values of Ukraine and devotion to universal values can be realized only on the basis of consistent formation of democratic foundations of social development and adaptation of legislation in accordance with international standards.

This shows that the goal of the article has been achieved and analyzed both directly international legal acts and their impact on the national legal system, including problematic issues and positive developments.

Regarding further scientific research, we consider it necessary to analyze the issue of foreign experience in the implementation of international social standards into national legislation.

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