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THE DEVELOPMENT OF CONSTITUTIONAL-AXIOLOGICAL, SOCIAL AND ENVIRONMENTAL–LEGAL SAFETY IMPERATIVE IN UKRAINIAN LEGISLATION AND STRATEGIC DOCUMENTS

First, I would like to note that the term «*axiology*» is of Greek origin and it originates from the words «*axio*» – value and «*logos*» – study, meaning a study of a value [1, 22], i.e. it is a philosophical theory of universally significant principles that determine the directions of human activity, motivation of human behavior.

The above-mentioned imperative inscribed in Article 3 of the Constitution of Ukraine [2] determines that a human being, his or her life, and health, dignity, inviolability, and security are recognized in Ukraine as the highest social value; in my opinion, this is the basic and fundamental imperative for the functioning and activity of the state, its development as independent from other jurisdictions;

a democratic, socially-oriented and juridical country.

Therefore, it is logical that ensuring human rights and freedoms and human security is the main duty of the State in accordance with part two of article 3 of the Constitution of Ukraine, and according to article 16 of the Basic Law, such duty is imposed on the State to ensure environmental security and maintain ecological balance on the territory of Ukraine, to preserve the gene pool of the Ukrainian people, which is in line with the content of the Declaration on State Sovereignty of 16 July 1990 [3].

Given the above, the Law of Ukraine «On Environmental Protection» of June 25, 1991 [4] among its objectives predicted the provision of environmental

safety, prevention and elimination of the negative impact of economic and other activities on the environment, preservation of the genetic pool of living nature, etc., while the composition of the principles of this sphere of legislative regulation provides for the priority of requirements of environmental safety, ensuring an environmentally safe environment for the life and health of people, the proactive nature of environmental protection of the environment. (article 1, 3).

Article 5, paragraph 3, provides that the health and life of people shall be protected by the State against adverse environmental conditions and also declares the right of every citizen to an environment that is safe for life and health (art. 9), which was subsequently enshrined in the Constitution as everyone's right to an environment that is safe for life and health and to compensation for damages caused by violations of this right (Constitution, art. 50), while other environmental rights in this area are guaranteed.

However, as it follows from the content of the National Human Rights Strategy approved by the Decree of the President of Ukraine dated August 25, 2015 No. 501 [5] – its approval is conditioned by the necessity to improve the activity of the state on assertion and provision of human rights and freedoms, creation of an effective mechanism of protection of human rights and freedoms in Ukraine, solution of systemic problems in this sphere taking into account experience of human rights institutions of Ukraine, UN, Council of Europe, Organization for Security and Cooperation in Europe, practice of the European Court of Justice.

This applies, in particular, to ensuring the right to life, the right to a fair trial, the right to liberty and security of person, the right to health, work and social protection and security, and other categories of human and civil rights in Ukraine.

The National Human Rights Strategy notes that the existing problems in this area do not contribute to ensuring the right to life, in particular: the lack of an effective system of national notification of the population about the emergence of threats and emergencies; as a result, it is necessary to create an effective system that would ensure: counteraction to major acts against human life; compliance with international law for its protection in the temporarily occupied territory; compliance with the norms of international law for their protection within the temporarily occupied territory; compliance with international standards for the protection of the right to life; creation of prerequisites for reducing risks to life and health and ensuring access to medical care for vulnerable segments of the population, as well as ensuring quality care for persons with socially dangerous diseases.

The Law of Ukraine «On National Security of Ukraine» dated 21 June 2018 [6] defines it as the protection of state sovereignty, territorial integrity, democratic constitutional order, and other national interests from real and potential threats, i.e. this Law affirms the protection of the above mentioned legal values, although the realities show that this is not the case at all when Russia's jurisdiction is extended to the territory of Crimea,

part of Lugansk and Donetsk regions of Ukraine.

Thus, it is not a question of virtual, but of real protection of the above-mentioned values contained in the definition.

If security is guaranteed, then why the Concept of Security and Defense Sector Development, approved by the Decree of the President of Ukraine as of March 14, 2016, No. 92 [10], among its main tasks, focuses on protection of state sovereignty, territorial integrity, and inviolability, protection of state border, constitutional system, economic, scientific and technical, defense potential of Ukraine, legal interests of the state and rights of citizens from external and internal encroachments.

Other separate official documents in force in Ukraine refute that certain national interests and social values enshrined in the Basic Law of Ukraine remain unprotected by the social and legal order. For example, the Poverty Reduction Strategy approved by the Cabinet of Ministers of Ukraine on March 16, 2016 No 161 [7] states that the poverty level in Ukraine remains consistently high. In the first nine months of 2015, 23.8% of the population was below the relative poverty line in terms of expenditure.

There are many obstacles to the enforcement of the rights of people with disabilities, numbering 2.6 million people at the beginning of 2016. Therefore, there is a need to ensure the rights of people with disabilities in accordance with Ukraine's obligations under the UN Convention. It is obvious that the rights of these people are not protected as a

component of the national interests of the Ukrainian people.

In connection with the above, it is expedient to specify the definition of the national security of Ukraine as the state of development of public legal relations, in which the State of Ukraine directs its activities towards the implementation of sectors of the national policy of Ukraine regarding the implementation of the rights and freedoms of citizens in various spheres of socio-economic, ecological, scientific and technical sustainable development in accordance with Ukraine's international obligations, the implementation, and maintenance of constitutional and sectoral rights and freedoms of the citizens of Ukraine.

As noted in the Concept of Development of Public Health System approved by the Cabinet of Ministers of Ukraine on November 30, 2016, № 1002, [8] public health is one of the greatest values, a prerequisite for socio-economic development.

According to the Concept of Development of Public Health System the preservation of health and ensuring full life of people is one of the most important goals of the international community, reflected in the basis of the European policy "Health 2020: a European policy framework supporting action across government and society for health and well-being".

The current state of public health in Ukraine is critical owing to the socio-economic crisis, the unfavorable environmental situation, the high level of tobacco smoking, alcohol and drug use, the lack of physical exercise, unhealthy

nutrition and the impact of military aggression by the Russian Federation in eastern Ukraine.

Therefore, a comprehensive reform of the health-care system, including the public health sector, is becoming a pressing problem, providing for a system of measures, procedures, and tools to strengthen health care, prevent diseases, increase the length of active and working age and promote a healthy lifestyle by combining the efforts of society as a whole and the State.

In accordance with the provisions of the aforementioned Concept, the right to health and health care is a basic human right irrespective of race, color, political, religious and other beliefs, sex, age, sexual orientation, gender identity, ethnic and social origin, wealth, residence, language, and other characteristics, including health status.

The health of the population is one of the main factors of national security, the welfare of the State, and the state of individual and public health is a guarantee of harmonious relations in society.

It is therefore important to respect certain principles in this area:

1. the priority of public health preservation in all areas of activity of state bodies, which strengthens the responsibility of the Ministry of Health as a coordinating center for conducting and improving the system of health protection, preventing negative processes of impact on public health, in particular, the harmful impact of the environment on human health;

2. the principle of achieving health equity as a guarantee of the creation of

an enabling environment for everyone to enjoy the right to health, access to health care, healthy eating habits, physical education and economic opportunity; and the manifestation of the initiative of the Ministry of Health in introducing innovative approaches to decision-making processes with a positive impact on human health;

3. the principle of accountability and economic activity in managerial decision-making to improve public health and ensure citizens' right to health and its protection at present and in the future, taking into account international experience and best international practices for their effective economic support;

4. the principle of shared responsibility makes territorial communities, associations, and individuals mutually dependent, legitimate and responsible for actions (omission) to achieve and maintain high levels of health indicators.

Other principles provided for in the legislation of Ukraine (the comprehensive approach to health care and organizational and legal ideas for the formation of a public health system, legality, priority of measures, effectiveness of accountability, continuity, coordination of inter-sectoral cooperation, etc.) are to be implemented in order to achieve the goal of protecting the health of the population and the realization of the subjective rights of citizens to health and its protection.

To this end, a system of measures, mechanisms, and tools, in particular, organizational and legal support, is expected to be implemented:

1. strengthening of the powers of the Ministry of Health as a coordinating body

for the provision of health care, specifically to deal with the threats and consequences of emergencies and prevent their negative impact on public health;

2. harmonization with EU legislation on the implementation of citizens' right to health and its protection;

3. settlement of procedures for risk assessment and solving public health problems on these grounds;

4. introduction of organizational, legal and economic mechanisms to encourage those concerned to ensure a high level of protection of citizens' health at local and regional levels;

5. improving the existing legal framework in the field of public health protection, bringing the state policy in this field in line with the socio-medical, preventive, health care and treatment needs of the population;

6. bringing sanitary norms and regulations to the level of international legal regulation of the EU, and especially with regard to the safety of machines, mechanisms, equipment, foodstuffs, etc.;

7. introduction of normatively defined legal procedures for participation in the procurement of goods, provision of services, implementation of projects and programmes to ensure their high quality and safety, the involvement of a wide range of public.

The Sustainable Development Strategy «Ukraine 2020», approved by Presidential Decree No. 5 [9] of January 12, 2015, which aims to implement European standards of living in Ukraine and to bring Ukraine to the leading positions worldwide, provides for health care reform among other social reforms, as well

as the development of security vector in Ukraine.

In particular, the said Strategy stipulates that the goal of the state policy in the health care system is fundamental, systemic reform aimed at creating a patient-centric system capable of providing medical care to all citizens of Ukraine on par with developed European countries. The key directions are to increase citizens' personal responsibility for their own health, to ensure their free choice of medical service providers of appropriate quality, to provide targeted assistance to the most vulnerable segments of the population, to create a business-friendly environment in the health care market with a focus on the European Union program «European Health Strategy – 2020». However, the Strategy does not explicitly answer the question of what measures and sources of investment should be used to implement it, and this needs to be clarified in the relevant Action Plan for the implementation of the Strategy.

According to the Strategy, the security vector aims at ensuring the security of the state, business and citizens, investment and private property. Ensuring clean and unbiased justice, purification of power at all levels, effective anti-corruption measures, the safety of human life and health, protection of vulnerable segments of the population, safe environment, access to quality drinking water, safe and quality food and industrial goods should become the defining basis of security. We can only hope that the renewed authorities will translate the provisions mentioned in the paper into real activities for the benefit of Ukrainian citizens.

References

1. Сучасний тлумачний словник української мови. За ред. проф. В.В. Дубічського. Видавничий дім. “Школа”. – 2016. – 1008 с.
2. Відомості Верховної Ради України, 1996, – № 30. – Ст. 141.
3. Відомості Верховної Ради України, 1990, – № 31. – Ст. 429.
4. Відомості Верховної Ради України, 1991, – № 41. – Ст. 541.
5. Урядовий кур’єр, 2015. – 2 вересня № 160.
6. Урядовий кур’єр, 2018. – 18 липня № 132.
7. Урядовий кур’єр, 2016. – 8 квітня № 67.
8. Урядовий кур’єр, 2016. – 27 грудня № 245.
9. Урядовий кур’єр, 2015. – 15 січня № 6.
10. Урядовий кур’єр, 2016. – 18 березня № 52.

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