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FOUNDATIONS OF SOCIO-LEGAL TRENDS IN THE IMPROVEMENT OF LEGAL REGULATION OF SOCIAL PROTECTION OF CUSTOMS OFFICERS

Abstract. Purpose. The purpose of this article is to identify the foundations of socio-legal trends aimed at improving the legal regulation of social protection for customs officers.

Results. The article emphasizes that enabling customs officers to engage in continuous professional development, as a socio-legal trend in improving legislation on their social protection, is essential. This is because professionally developing employees are in a socially secure position for several reasons: first, they are able to exercise their right to a career, thereby enhancing their standard of living and job satisfaction; second, they are better equipped to perform their official duties in a professional manner, reducing the risk of situations that could endanger their own social security, as well as that of their colleagues and the public; third, they are more likely to exercise their freedom to work following the termination of employment in customs authorities, given their increased competitiveness in the labor market. Therefore, employment in customs authorities should not lead to professional degradation, but rather should contribute to strengthening the employee's labor potential. It is noted that the European integration process requires Ukrainian public authorities (in cooperation with civil society actors) to align their policies, regulations, and practices with the policies, legislation, and practices of the European Union. This alignment is necessary for potential EU membership or, at a minimum, for strengthening Ukraine's ties with the EU and its member states. **Conclusions.** The article concludes that the comprehensive improvement of the legal regulation of social protection for customs officers in Ukraine must take into account the identified key socio-legal trends in legislative support for employee protection, in accordance with the principle of relevance in legal regulation. Given the complexity of the socio-legal phenomenon of social security and the scale of the efforts required to ensure it, it is evident that legislators must base the law-making process on all the outlined socio-legal trends simultaneously, rather than prioritizing one or a few of them, in order to effectively achieve the goal of protecting customs officers.

Key words: legal regulation, social protection, customs officers.

1. Introduction

Compliance with the principle of relevance in the legal regulation of social protection for customs officers requires that such regulation be based on current socio-legal trends in the improvement of relevant legislation. In this context, socio-legal trends in the improvement of legal regulation are understood as prospective directions for enhancing the normative and legal framework for the social protection of customs officers, which take into account: first, the positive experience of foreign lawmakers in improving the framework for ensuring the social security of customs officers through social protection measures; second, current and potential challenges in ensuring the social protection of customs officers, arising from vari-

ous factors, such as the ongoing war in Ukraine; third, the development of scholarly thought regarding the contemporary content of social protection for employees in general and for customs officers in particular, including an understanding of the breadth and depth of issues in the current normative and legal framework for social protection, as well as the prospects for resolving these issues.

2. Foundations for the Improvement of Legislation on Social Protection

Before addressing the stated objective, it is necessary to emphasize that the effectiveness of incorporating relevant socio-legal trends into the normative and legal framework of social protection for customs officers largely depends on the contexts in which these trends are inter-

preted by legislators. In general, the following contexts for applying socio-legal trends in regulating the social protection of customs officers in Ukraine must be taken into account as part of a comprehensive improvement of the relevant legislation.

First, the context of Ukraine's European integration.

The European integration process requires Ukrainian public authorities (in cooperation with civil society actors) to harmonize their policies, regulations, and practices with those of the European Union in order to potentially gain membership or, at the very least, to strengthen ties between Ukraine and the EU as well as its member states. This integration process is multifaceted and has implications across various sectors, one of which is the legal regulation of social protection for customs officers. Accordingly, as a country pursuing European integration, Ukraine must consider the broader factors of legal Europeanization in improving the social protection framework for customs officers, including the following:

– **Social objectives of EU integration.**

A state seeking EU membership must meet certain social security standards, including in the customs sector, by establishing and maintaining effective systems of social protection for customs officers. Thus, the state is obligated to guarantee and strengthen labor and social rights, ensure decent working conditions, provide adequate remuneration, and introduce relevant benefits. In doing so, the state not only enhances its capacity as a welfare state and strengthens national security related to customs affairs but also demonstrates its commitment to creating working conditions for customs officers that comply with EU social standards (including those established by the International Labour Organization and the Council of Europe, which are also recognized within the EU).

– **EU values.**

Although the EU was initially formed as an economic union, it has evolved into a union of states that embody progressive civilizational values such as the rule of law, respect for human dignity and rights, freedom, democracy, equality, social responsibility, and social justice. Therefore, any state aspiring to join the EU must not only accept but also actively promote and implement these values. In the context of improving the legal regulation of customs officers' social protection, legislators must ensure the integration of these core values into the state's social policy (and, at the organizational level, into personnel and social policy), as well as into the practical implementation of legal norms concerning social protection. For instance, it is critically important to enshrine in

current legislation the prohibition of workplace discrimination, the obligation to promote equality, and the protection of the rights and dignity of customs officers.

– **Application of the principle of non-regression in social protection standards.**

This principle means that even if certain EU member states maintain lower social protection standards for customs officers, Ukraine should not adopt these as exemplary models in the process of harmonization. Rather, Ukraine must aim to maintain or exceed its existing higher standards of social protection. In other words, guided by EU values, lawmakers should take a critical approach to adapting national legislation to EU standards and avoid using lower or overly abstract European benchmarks as justification for weakening the substance or effectiveness of social protection frameworks for customs officers. By following this approach and embracing EU values in this context, Ukraine will not only demonstrate its aspiration for EU integration but also its commitment to ensuring a high level of social security for customs officers.

Thus, taking into account the socio-legal trends in the regulation of social protection for customs officers currently observed in Ukraine and in other social, legal, and democratic European states, it can be concluded that Ukraine, moving within the framework of the European integration process, must assume responsibility—primarily social responsibility—for aligning its legislation, social policy, and practices with the standards in place within the EU, particularly in relation to the social protection of customs officers. This clearly indicates that the Europeanization of legislation on the social protection of customs officers involves not merely the formal compliance with various technical requirements related to the creation, amendment, or repeal of legal and regulatory provisions, but also the substantive transformation of the legal framework in this area.

Second, the context of Ukraine's democratization.

In a democratic state such as Ukraine, the socio-legal trends in regulating the social protection of customs officers must be interpreted and implemented in light of the country's broader democratization processes. Democratization, as a defining feature of a modern state, entails a transformation during which a country adopts democratic principles such as freedom of expression, transparent governance, and citizen participation in decision-making processes, including those concerning the regulation of social protection. A democratic society cultivates values such as social equality, social responsibility, and social solidarity; thus, in Ukraine, these principles must play a central role

in shaping the legal regulation of social protection for customs officers. Doing so ensures that the normative framework reflects the broader social transformation and is not merely a superficial expression of the state's social function with respect to this group of public servants.

Hence, the democratization context implies that the legal regulation of social protection for customs officers must involve the **genuine** participation of civil society actors (and not their symbolic or token involvement) in relevant law-making processes. This point cannot be overstated, since for laws and regulations to genuinely reflect societal values and the interests of specific social groups, the state must facilitate the **authentic** participation of all relevant stakeholders. Failing to do so may result in the adoption of legal norms that do not actually serve the interests of customs officers.

In emphasizing the importance of real participation by civil society actors in the processes of legal regulation, it is necessary to highlight that such actors should primarily include organizations that directly represent the interests of customs officers or their specific groups. This refers particularly to trade unions and other labor organizations, as they are most familiar with the social risks, challenges, needs, and aspirations of this group of working citizens and can thus contribute substantively to the regulatory process concerning social protection.

At the same time, it is important to acknowledge the concerns expressed by scholars regarding the declining authority and influence of certain civil society institutions, such as trade unions.

Consequently, in the midst of Ukraine's democratization—complicated and intensified by the full-scale war—the need to involve civil society actors (including trade unions, labor organizations, human rights groups, and advocates for vulnerable populations who may exercise their right to work in customs bodies) in the legal regulation of social protection for customs officers becomes increasingly urgent. Ignoring this necessity could undermine the potential benefits of socio-legal trends and distort them in practice. For example, if legislation concerning gender equality standards or mechanisms for preventing sexual harassment in customs authorities is adopted without the participation of women's organizations, such regulations risk becoming declarative, ineffective, or even producing new social risks for female customs employees. This, in turn, would jeopardize the effective functioning of the system of social protection for customs officers.

Third, the context of the rule of law in Ukraine.

The failure of lawmakers to properly ensure compliance with the principle of legal

certainty in the area of social protection for employees clearly poses a risk to the implementation of the rule of law and, consequently, threatens the legal order of the state. This, in turn, increases the social risks associated with the performance of official duties by customs officers. As evidenced by the first and second sections of this study, the current legislation governing the social protection of this category of employees contains numerous shortcomings, starting with the fact that, to this day, even the goals and core objectives of the social protection of customs officers are not clearly defined in legislation or subordinate legal acts.

Fourth, the context of ensuring the effectiveness of the legal mechanism for the social protection of customs officers.

The legal regulation mechanism of social protection for customs officers in Ukraine is an integral structural component of the socio-legal regime that ensures their social security. It must be recognized that the effectiveness of this legal regulation mechanism directly affects the functioning of another key component of the socio-legal regime—namely, the legal mechanism of social protection itself.

Accordingly, the improvement of legal regulation in the sphere of social protection for customs officers—within the framework of contemporary socio-legal trends aimed at safeguarding workers' social security—should be guided by the following criteria of effective law-making:

1. **Comprehensiveness** of legal regulation, which demands that all aspects of social protection for customs officers be taken into account, based on the understanding that no element of ensuring social security for employees may be ignored or underestimated, and that all real and potential social risks associated with working in customs authorities must be anticipated and addressed.

2. **Clarity and precision** of legal norms, ensuring that laws are not drafted in vague or overly broad terms that could result in misinterpretation or inconsistent application in practice.

3. **Consistency** of legal regulation with the principles of law, existing legislation, Ukraine's European integration policy, and the evolving body of academic research on the social security of customs officers and their families.

4. **Adaptability** of legal regulation, reflecting the need for sufficient flexibility in legislative and regulatory acts to allow their adjustment to dynamic real-world circumstances that affect the social security of customs officers.

5. **Guaranteeing the operation** of a legal mechanism for the protection and restoration of customs officers' right to social protection—this involves creating and improving legislation

that establishes clear and effective forms, methods, and means of legal protection for this group of employees when their right to social protection is violated.

6. **Ensuring participation** in the law-making process of civil society actors (including academic experts) who are concerned with the implementation of the legal mechanism of social protection for customs officers or its specific target groups (e.g., war veterans, women, persons with disabilities, individuals with special family responsibilities).

7. **Timely revision and improvement** of existing legislation regulating the social protection of customs officers.

8. **Implementation of a monitoring mechanism** to ensure compliance with legislation on the social protection of customs officers, as well as the establishment of channels for feedback from customs employees regarding the adequacy of normative and legal safeguards for their social protection.

3. Socio-Legal Trends in the Legal Regulation of Social Protection for Customs Officers

Taking into account the above considerations, the following socio-legal trends in the legal regulation of the social protection of customs officers can be identified:

1. Ensuring social security for war veterans and persons with disabilities resulting from war (as well as persons with disabilities in general) who are employed by customs authorities. This trend is driven by the growing number of able-bodied citizens in Ukraine who hold the status of war veterans or have acquired war-related disabilities as a result of the full-scale invasion of the country. The risks of general population disability are also increasing. Therefore, current legislation must respond to these realities by legally ensuring socially secure conditions for the initiation, continuation, suspension, and termination of employment (or service) relations in customs authorities involving individuals from these population groups.

2. Advancing gender equality and preventing gender-based discrimination, gender-based violence, abuse, and sexual harassment in the workplace within customs authorities.

The social security of customs officers depends on a range of state measures aimed at neutralizing the negative effects of various social risks. Among these measures, particular attention must be given to promoting gender equality, which serves both as an instrument of social justice within customs authority teams and as a means of integrating these collectives into an inclusive society (Shkoda, 2023).

This influence manifests itself in several key ways:

– **First**, customs officers should not be exposed to social risks stemming from gender discrimination while performing their professional duties. Achieving such a level of social security relies on enabling all employees, regardless of gender, to hold positions, carry out responsibilities, realize their professional potential, and cultivate social capital. This allows individuals to exercise their right to work in a socially secure environment that respects career advancement, while also fostering an inclusive and healthy workplace. As a result, employees of all genders can fully realize their rights to various forms of social protection, feel valued and respected, and remain free from gender-biased treatment, sexual harassment, or any form of social injustice rooted in gender stereotypes.

– **Second**, the state's efforts to mitigate the negative effects of gender-based social risks are also reflected in the ability of male and female customs officers to fully realize their professional potential while maintaining a proper work-life balance (Shkoda, 2023). This is particularly important in the Ukrainian context, where entrenched societal traditions often impose dual burdens on women, requiring them to perform both professional duties at work and caregiving responsibilities at home—tasks not necessarily shared by male partners. Consequently, there is a pressing need for gender-sensitive measures to counteract the impact of social risks on the protection of women's rights in the workplace. For example, customs employees should have access to flexible work schedules or parental leave for childcare and other personal needs.

– **Third**, state-level mitigation of the negative effects of gender discrimination also includes cultivating a workplace culture of diversity and inclusivity within customs authorities. This approach fosters a mindset of tolerance, solidarity, and humanism among staff members and management. In this sense, equal respect for the dignity of men and women affirms the value of diversity in modern society and nurtures a culture of respect and tolerance—both toward gender equality and toward persons with disabilities, newcomers to the profession, and others (Shkoda, 2023).

In light of the above, it becomes clear that embedding the principle of gender equality in existing legislation—and implementing these legislative provisions at the organizational level—is essential for ensuring adequate social protection for customs officers of all genders.

3. Ensuring social security for individuals with special family responsibilities who are employees of customs authorities.

In the process of legally regulating the social protection of this category of employees,

the legislator must be aware of the current challenges faced by workers who additionally bear special family obligations. Therefore, it is essential to guarantee them a socially secure status that enables them to fully exercise their freedom to work (build a professional career) and fulfill an important social role expressed through their family responsibilities.

4. Ensuring social security for employees belonging to critical age groups (youth and individuals of pre-retirement age).

Employment in Ukraine's customs authorities should not only be socially secure but also provide a platform where every able-bodied citizen with the appropriate level of professional capacity (potential), regardless of age, has the opportunity to fully realize the right to work. This means that legislation should establish conditions that motivate young professionals to engage in long-term employment within customs authorities, where they can gain the necessary experience and skills, build a career, and earn a salary that allows them to lead a full and dignified social life. These conditions will help address youth unemployment and prevent staffing shortages in public service institutions.

Furthermore, the following issues must be considered in the legal regulation process.

First, the emergence of a **pension crisis**. This crisis is driven by demographic and cultural shifts, improved living conditions, and the desire of able-bodied individuals of retirement age to retire in order to preserve their health—aligned with recommendations from international organizations, such as the WHO (Arbuz, 2013). Not only in Ukraine but throughout Europe, policymakers are increasingly emphasizing the need to raise the retirement age as a solution to the pension crisis, which arises from the disproportion between the working and non-working population and contributes to staff shortages (Bilan démographique, 2022).

Second, legal regulation should address the **socially risky status of pre-retirement workers**, which manifests in two ways: on the one hand, these individuals may feel demotivated regarding professional development while also fearing job loss, knowing that age discrimination may hinder future employment opportunities. On the other hand, such risks are exacerbated when customs authorities' leadership exhibits age-based bias, deliberately avoiding the employment of individuals from this demographic group, even when they meet all necessary professional criteria.

5. Creating a healthy psychological climate and aligning working conditions in customs authorities with decent work standards.

Improving current legislation—especially

provisions related to medical and labor-law aspects of social protection—must reflect the clear need to create and maintain conditions under which customs officers work in environments consistent with international standards of decent work. This also includes ensuring that leadership within customs authorities pays special attention to the physical and psychological health and well-being of their employees. Accordingly, the legislation should guarantee a real balance between work and personal life, as well as the possibility of exercising the right to leave in cases of professional burnout, among other factors.

6. Development and implementation of health protection protocols and occupational safety measures that consider the specifics of customs service work.

Current legislation requires comprehensive improvement to ensure genuine—not merely formal—health and safety protection for customs officers. This includes providing a working environment that is safe for life and health and eliminating occupational hazards specific to customs service work.

7. Ensuring a socially secure process of the establishment, course, and termination of labor relations with customs authorities' employees, taking into account the requirements of harmonious stability of labor relations.

Based on the concept of the harmonious stability of labor relations (Shvets, 2020), it is concluded that this approach should serve as the primary normative principle in regulating the sphere of labor and employment, as well as adjacent areas influencing the stability of the initiation, development, and termination of labor relations with customs officers.

9. Strengthening public trust in customs authorities and respect for positions within these governmental bodies.

10. In the process of legally regulating the social protection of customs officials, it is necessary to enhance the transparency and accountability of customs work, as well as the ethical standards and integrity of customs personnel. This is important because:

- Firstly, these conditions will mitigate factors that may render employees socially vulnerable;

- Secondly, under such conditions, society will show greater respect toward customs officials and have more trust in their work, thereby fostering social solidarity—particularly in matters concerning the social security of customs workers and their families.

9. Ensuring opportunities for continuous professional development of customs officers.

This socio-legal trend in improving legislation on the social protection of customs employees is

crucial because professional development contributes to their socially secure status. Specifically:

- Firstly, it enables them to realize their right to career growth, thereby improving their quality of life and job satisfaction;

- Secondly, it ensures they can perform their official duties with higher competence, avoiding situations that might threaten their own social security or that of their colleagues and surroundings;

- Thirdly, it allows them to exercise their freedom to work after leaving customs service, as they remain competitive in the labor market. Therefore, employment in customs authorities should not lead to professional degradation but should contribute to strengthening the labor potential of employees.

11. Ensuring the social security of whistleblowers and informant employees who report misconduct by their colleagues within customs authorities.

12. The development of legislation on the social protection of customs employees must continuously evolve in line with this socio-legal trend due to the importance of ensuring anti-corruption security for employees. This type of security is already being conceptualized by Ukrainian scholars (Hladkyi, 2022) as a factor in achieving social security for workers. This is especially relevant because:

- Firstly, corruption has long been a systemic issue in Ukraine;

- Secondly, corruption creates conditions under which customs officers may find themselves in a socially vulnerable position;

- Thirdly, customs officers' involvement in the socially significant mission of preventing corruption should not result in circumstances that compromise their own social security.

4. Conclusions

In conclusion, it should be emphasized that the comprehensive improvement of the legal regulation of the social protection of cus-

toms authorities' employees in Ukraine must take into account the outlined key socio-legal trends in the regulatory and legal framework for social protection, thereby aligning with the principle of relevance in legal regulation. Given the complexity of such a socio-legal phenomenon as social security, as well as the scale of efforts required to ensure it, it is evident that legislators, in the law-making process, should consider all of the aforementioned socio-legal trends simultaneously. Preference should not be given to only one or several of them if the ultimate goal is to effectively ensure the social protection of customs officers.

References:

1. Arbuz, G. (2013). Le départ à la retraite: perceptions et accompagnement. *Retraite et société*. № 65 (2). P. 168-178. doi:10.3917/rs.065.0168. (In French).
2. Bilan démographique 2022: L'espérance de vie stagne en 2022 et reste inférieure à celle de 2019. Insee Première. 2023. № 1935. URL: https://www.insee.fr/fr/statistiques/fichier/6687000/donnees_insee_premiere_n1935.xlsx (In French).
3. Hladkyi, V.V. (2022). Osnovni typy form realizatsii prava pratsivnyka na antykoruptsiinu bezpeku [Main types of forms of implementation of the employee's right to anti-corruption security]. *Sotsialne pravo*. № 1. pp. 73-81 (in Ukrainian).
4. Shkoda, V.M. (2023). Vplyv zabezpechennia hendernoi rivnosti pratsivnykiv mytnykh orhaniv na yikh sotsialnu bezpeku [The impact of ensuring gender equality of customs officers on their social security]. *Suchasni tendentsii zabezpechennia hendernoho balansu v umovakh Yevrointehratsii*. № 1. pp. 66-70 (in Ukrainian).
5. Shvets, V.O. (2020). Zabezpechennia stabilnosti trudovykh pravovidnosyn v umovakh poshyrennia koronavirusnoi khvorozy v Ukraini [Ensuring the stability of labor relations in the conditions of the spread of coronavirus disease in Ukraine]. *Naukovyi visnyk publichnoho ta pryvatnoho prava*. № 4. pp. 55-59 (in Ukrainian).

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ЗАСАДИ СОЦІАЛЬНО-ПРАВОВИХ ТЕНДЕНЦІЙ УДОСКОНАЛЕННЯ ПРАВОВОГО РЕГУЛЮВАННЯ СОЦІАЛЬНОГО ЗАХИСТУ ПРАЦІВНИКІВ МИТНИХ ОРГАНІВ

Анотація. Метою статті є з'ясування засад соціально-правових тенденцій удосконалення правового регулювання соціального захисту працівників митних органів. **Результати.** В статті наголошено, що забезпечення можливостей працівників митних органів щодо постійного професійного розвитку, як соціально-правова тенденція удосконалення законодавства про соціальний захист працівників митних органів важлива з огляду на те, що працівники, які професійним чином розвиваються, перебувають у соціально безпечному стані, оскільки: по-перше, мають змогу реалізувати право

на службову кар'єру, покращуючи рівень свого життя та задоволення від роботи; по-друге, можуть більш професійно виконувати свої службові обов'язки, не створюючи ситуацій, які загрожуватимуть власній соціальній безпеці та безпеці колег по роботі, оточуючих; по-третє, можуть реалізувати свободу праці після припинення роботи в митних органах, оскільки будуть конкурентоздатними на ринку праці. Отже, робота в митних органах не повинна призводити до професійної деградації, а сприяти посиленню трудового потенціалу працівника. З'ясовано, що процес європейської інтеграції передбачає, що українські суб'єкти владних повноважень (разом із суб'єктами громадянського суспільства) повинні працювати над узгодженням своєї політики, нормативних актів і практики з політикою, законодавством і практикою Європейського Союзу, щоб потенційно стати державою-членом або принаймні ще більш посилити зв'язки України з ЄС та його державами-членами.

Висновки. Зроблено висновок, що комплексне удосконалення правового регулювання соціального захисту працівників митних органів в Україні має враховувати окреслені ключові соціально-правові тренди нормативно-правового забезпечення соціального захисту працівників, відповідаючи вимогам принципу актуальності правового регулювання. При цьому зазначимо, що, враховуючи складність такого соціально-правового явища, як соціальна безпека, а також масштабність справи її забезпечення, цілком очевидно, що нормотворці повинні виходити в процесі нормотворення одразу з усіх перелічених соціально-правових трендів, а не віддавати перевагу одному чи декільком з них, бажаючи таким чином досягти мети соціального захисту працівників митних органів.

Ключові слова: правове регулювання, соціальний захист, працівники митних органів.