# SOCIAL SECURITY BENEFIT WITHIN LEGAL MATTER OF THE WESTERN WORLD: DEGRADATION FACTORS AND OPTIMIZATION PRINCIPLES

### BENEFÍCIO PREVIDENCIÁRIO NA MATÉRIA JURÍDICA DO MUNDO OCIDENTAL: FATORES DE DEGRADAÇÃO E PRINCÍPIOS DE OTIMIZAÇÃO

#### Valentyn Halunko

Doctor of Law, Professor, Professor of Kyiv University of Intellectual Property and Law, Head Academy of Administrative and Legal Sciences (Kyiv, Ukraine) arshm@ukr.net

#### Vira Halunko

Doctor of science of Law, Professor, The vice dean of Kherson Faculty of Odesa State University of Internal Affairs vera.galunko.00@gmail.com

#### Andriy Halunko

Ph.D. in Law, Police officer of the Department of Police in the Kherson region (Kherson, Ukraine) <a href="mailto:armiyaandi@ukr.net">armiyaandi@ukr.net</a>

#### Alexander Halunko

Student Ph.D. in Law, Scientific Institute of Public Law (Kyiv, Ukraine) aleksandrhalunko@i.ua

#### Valentyn Halunko

Assistant of Kyiv University of Intellectual Property and Law, (Kyiv, Ukraine) valentinvalentin0987@gmail.com

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Corresponding author: <a href="mailto:arshm@ukr.net">arshm@ukr.net</a>



Abstract: The authors of the article have revealed the principles of justice of the author's traditional and public pension system. The authors have accomplished a critical analysis of the existing pension systems of the Western world, primarily the Bismarck one. The existing factors of pension provision, which lead to the loss of economic competition by democratic, legal states to some authoritarian states, have been clarified. It has been concluded that the Bismarck joint pension system cannot be effectively reformed. It should be gradually abandoned. It has been defined that the principles of the traditional and public pension system are based on the inextricable relationship between the financial situation of working children and their non-working parents. It has been proved that this social relationship must be protected by the norms of public law under the legal guarantees of the state.

**Keywords:** Parents. Degradation. Democracy. Children. Business competition. Legal guarantees.

Resumo: Os autores do artigo revelaram os princípios de justiça do sistema previdenciário tradicional e público do autor. Os autores realizaram uma análise crítica dos sistemas previdenciários existentes no mundo principalmente o de Bismarck. Os fatores existentes de provisão de pensões, que levam à perda de competição econômica por parte de estados democráticos e legais para alguns estados autoritários, foram esclarecidos. Concluiu-se que o sistema previdenciário conjunto de Bismarck não pode ser efetivamente reformado. Deve ser gradualmente abandonado. Foi definido que os princípios do sistema previdenciário tradicional e público são baseados na relação inextricável entre a situação financeira dos filhos trabalhadores e de seus pais não trabalhadores. Ficou provado que esta relação social deve ser protegida pelas normas de direito público sob as garantias legais do Estado.

Palavras-chave: Parentes. Degradação. Democracia. Crianças. Concorrência empresarial. Garantias legais.

#### 1. Introduction

Caring about the disabled is one of the main features that distinguish humanity from the animal world. One of the leading elements of this implementation is social security benefit, without which it is impossible to imagine the existence of modern society. Social security benefit is the leading humanitarian invention of the Western world and one of the biggest social and financial problems. In terms of globalization, when the majority of countries are members of the World Trade Organization, the technological backwardness of various countries is being overcome. When there are equal technological conditions in financial and economic competition, those states that are not overloaded with pension payments will win. As a result, this leads to the defeat of legal democratic, social states within international financial competition compared to authoritarian ones, which are not burdened with social concerns.

Thus, Stewart Paterson in his famous work on China, trade and power tries to answer the question on the reason why the West's economic interaction with China has failed. The reason that led to a drop in real incomes for many citizens of Western countries. It casts doubt on the superiority of the liberal market economy. He cites China's accession to the WTO as one of the key reasons for this (Paterson, 2019). We do not agree that it is the main reason. Although we should note that China wins in the balance of foreign trade under the terms of the WTO. According to the European Statistical Office, the EU constantly recorded a trade deficit with China in the period from 2011 to 2021, which was increased from 129 billion euros in 2011 to a peak value of 249 billion euros in 2021. The average annual growth rate of imports from China during this period was 6% (Eurostat, 2022).

In our opinion, the experience of China in recent decades clearly shows the advantages of such international institution as the WTO. Another thing is that the Western countries were not able to use those advantages. Therefore, the adoption of developing countries in the WTO is not the cause of negative consequences for Western countries. The WTO mechanisms are equalization of the rules of international trade between different states. In our opinion, internal populist policies and outdated financial and economic principles of keeping the disabled are the reasons for the financial lag of Western countries from some Eastern ones.

As a result, there is a situation when Western states, which are all inherently legal democratic and social, have strong difficulties to ensure their social obligations to citizens. The situation with social security benefits is difficult in almost all of them. For example, the pension deficit in France in 2022 was approximately 10 billion euros (Nurdin, 2022). Solving it by raising

the tax burden is unpromising, and raising the retirement age is not very effective. Herewith, modern business is extraterritorial, capital is invested into those countries where taxes are low (we consider public mandatory deductions for pension provision as a type of taxes), and the right to private property is inviolable. If the second criterion for attracting investment in Western countries is well provided, then there are big problems with the first criterion. For example, approximately €300 billion or 15% of household GDP in high-tax France is held outside the state in tax terminals (Capital, 2027). Raising the retirement age will to some extent improve the balance of payments of the pension fund. However, this method of reforming pension provision does not significantly solve the problem of decent provision of either current or future pensioners. Since, this does not lead to proper, and most importantly fair provision of the financial needs of the majority of disabled citizens (HASSAN, 2023).

At the same time, there are certain negative deformations in EU Member States that directly affect the problem of pension provision: taxes are high. It is practically not rational to increase them. Accordingly, they have been recently somewhat reduced in most EU Member States (Enache, 2022); a layer of people in the countries of the Western world, who do not want to work in non-prestigious jobs hoping for state social support has been brought up (Boschman et al., 2021); a large number of married couples believe in childfree values. For example, the number of such persons in the USA, according to researchers, is more than one-fifth (21.64%) of the population (P.Nel&W.Nel, 2022).

Therefore, the current system of providing support for the disabled in the countries of the Western world leads to a number of negative tendencies in the social and economic spheres:

a) the specific weight of working citizens compared to the unemployed has critically decreased;

b) public pension funds, in many cases are unable to fulfill their obligations to pensioners without state assistance; c) there is a stratum of citizens, who do not want to work on "non-prestigious" jobs; d) pensions of unemployed persons do not depend in any way on the number and success of their working children. Practically, these tendencies in aggregate have a direct negative impact on ensuring the national security of the states of the Western world. Therefore, the pension system of the countries of the Western world should be reformed on the basis of traditional and public values of justice.

#### 2. Methodology

The article is based on statistical materials that characterize the current state of pension provision in the countries of the Western world. The shortcomings of joint and other existing pension provision systems have been identified while analyzing the state of pension provision in the countries of the Western world. The solution of the set tasks became possible due to the processing of materials published in the legal and other literature of the countries of the Western world. The basis of the research were regulatory legal acts of the states of the Western world, pension programs, analytical materials on these issues. The solution of the set tasks is possible by using the system of general scientific and special methods of scientific cognition by the authors of the article. Thus, the application of the system analysis method made it possible to identify the basic shortcomings of the existing pension systems. The axiological method assisted to reveal the significance of social security benefits for the modern humanitarian world. The dialectical method made it possible to form the principles of the traditional and public pension system. The forecasting method was used to determine the areas for improving pension provision.

#### 3. Results

## 3.1. Caring about the disabled as one of the main humanitarian values of humanity

Values are the main attitudes of people, which are distinguished by their special firmness, conviction in correctness and emotional basis (Frischhut, 2019). The Western world is based on the values of the rule of law, equality, respect for human dignity, respect for human rights, freedom and democracy (Halunko et al., 2023). Their foundation is that the highest value of the universe is a Person – his life, health, honor, dignity and inviolability. All other values are secondary, including the state and the law. Thus, the first can be the embodiment of tyranny, and the law can be illegal (Academy of Administrative and Legal Sciences, 2017). The abovementioned human rights are inalienable. Someone should help those people who, due to physical or mental incapacity, cannot buy enough food for themselves, maintain satisfactory sanitary and hygienic living conditions and have access to medical care. First of all, it should be the family. Ideally, parents should support young children, and adult children should support elderly parents. This situation has been for hundreds of thousands years, since the time when "Homo sapiens"

appeared on the Earth about 200,000 years ago. All world religions, without exception, devote their moral dogmas to the relationship between parents and children. Thus, it is undeniable thought in Buddhism that the father who knows his son is wise and the son who knows his father is wise (Windhorse Pubns, 2022). Parents freely give everything to their children without thinking about what they are able to give. Children do not think that they repay their good parents for what they have done for them, they simply give because they love them. Thus, children give and parents give, and this giving is mutual. There is no exploitation, no agreement that the children have to return everything in the future – they give because it is right and natural (Windhorse Publications, 2020).

One of the commandments of the Jews and Christians requires: honor your father and your mother, and it will be good for you, and you will live long on earth, and, in particular, it means that you must love them, treat them with respect, not offend them, help them in their work, take care about them when they are in trouble, and especially during illness and their old age (TWINKL, 2022).

The Quran repeatedly exhorts Muslims to do good to parents, as well as to relatives, orphans, and the poor people (Khattab, 2022). In this context, people from ancient times treated their parents and elders with respect, and condemned mockery of the crippled and the weak. High moral upbringing of children is necessary in every family – care for the sick people and nature, respect for elders, love for work and knowledge, aesthetic tastes and folk etiquette, respect for bread as the basis of everything and love for own Motherland (Alekseeva, 2002).

Thus, all religions and traditions of peoples without exception affirm at the social level mutual respect and care, in particular financial, parental for minor children and ablebodied children – related to elderly or sick parents. Unfortunately, the natural traditional system of maintaining the disabled, which mankind has used for almost 200,000 years or 99% of its existence on the Earth, began to collapse in Europe at the end of the XIX century. Chancellor of Germany Bismarck created the first solidarity pension fund in Prussia in 1889. Pensions were financed from deductions of the employees, while the retirement age was set at 70. The average life expectancy in Germany at that time was about 45 years. Few people could live to the age of 70. People nicknamed such pensions as pensions for the dead (Melik et al., 2010). The meaning of pensions was clear – if a person did not live until being retired, then children were not needed, and if he / she could live – again children were not needed. The last thesis, in our opinion, contains the biggest problem of the modern Western pension system, when successful ablebodied children are not needed for a secure old age.

#### 3.2. Justice as a principle for optimizing the pension system

It is undeniable in the Western world that the fundamental principle of the rule of law operates in all spheres of public legal life. Its main component is the principle of justice. Addressing to the theory of justice John Rawls proves that every person has inviolability based on justice, which cannot be outbalanced even by the welfare of society in the whole. On this basis each person, first of all, should have an equal right to the broadest basic freedom, compatible with the same freedom for others. Secondly, social and economic inequalities must be organized in such a way that (a) they can reasonably be expected to benefit all and (b) be attached to positions and positions open to all. John Rawls defines injustice as inequality that does not benefit everyone (Rawls, 1999).

The leading principle within the modern theory of pension provision is that the level of pension provision of a person depends on three main factors: (a) on the status of a person, which he / she occupied during the employment period. For example, retired judges and soldiers of the armed forces receive increased pensions, which are calculated according to special legislation; b) length of service, during which pension contributions were paid; c) the amount of contributions to mandatory pension funds.

Is this approach of calculating the monthly pension amount fair? At first glance, yes. Herewith, it encourages citizens to work long hours and at jobs with a high level of wages. This, in turn, stimulates people to get an education, career growth in terms of competition. In other words, strive for social inequality that benefits everyone. However, such a basic scheme is aimed at the past in relation to the payer of the pension contribution. After all, according to such a scheme, he / she does not maintain oneself in the future, but current pensioners in an impersonal form. This, in turn, will lead to negative consequences for the payer of the pension contribution in the future. This person will have the right to a pension. However, his / her funds have already been spent. In order to provide him with pension payments in old age, new people will be needed who work and pay pension contributions. Nothing else is inherently necessary. There is no need for numbers in the computer about the length of service of the insured person. No need for confirmed special position in the past. Amounts paid in total to the pension fund in the past are also not needed. A secure old age requires only working brains and hands that pay taxes, provide social and household services, produce goods and services and carry out public administration. And if there is a shortage of such people, then such a hardworking person

cannot rely on any secure old age in the future. His pension guarantees are reduced to mere numbers in a computer, unsupported by labor and capital. It is fully applied to public savings and private pension systems. Their "accumulation" of numbers in the computer of pension funds will become nothing more than statistics that will reflect a person's success in the past. If there there are no working brains and hands at the time when the person will lose working capacity.

Therefore, the current pension system is not fair in relation to current bona fide employees who fully and timely pay their pension contributions, because it is backward-oriented and does not guarantee a person a decent life after becoming disabled in the future.

Let's consider another example. An example of multi-member families. Although the average number of children in a family in developed countries is now two children, a significant number of children are still being brought up in large families. For example, almost every fifth child in the US and the UK and every fourth in Ireland currently live in families with four or more children. Studies conducted in a number of European countries have found out that large family size is a risk of poverty for children. The European Commission recognized that multimember families are one of the most economically vulnerable categories of citizens (Wiley Online Library, 2023). According to the studies of British researchers the level of poverty increases among families with three or more children. According to their correct opinion, there are two reasons why families with a large number of children suffer: they have higher consumption needs, which are not reflected in wages; greater time expenditure and childcare responsibilities, which limits their ability to work effectively in making a career (Stewart et al., 2021). It should be added that mothers with many children objectively have more health problems (Compassion, 2019). At the same time, despite the large number of problems, parents, who have many children and raise them decently as able-bodied members of society, as a rule, have low pensions. Their children after the beginning of their working life should provide pensions not directly for their parents, but to everyone equally through the joint pension system, including those people who did not have children, but lived for their own pleasure.

Is it fair that parents who gave birth (adopted) and raised many successful children receive pension benefits in the less amount than elderly people who had few or no children in their productive years? The unequivocal answer, in our opinion, it is unfair!

Therefore, joint, accumulative and private pension systems are unfair to parents who raised successful and many children. Since, they are doomed to receive lower pensions than their contemporaries who did not have children or had few of them. Persons who raised many children did not have the opportunity to work effectively, receive high salaries, and accumulate

significant resources in the joint and private pension system. However, the work of their already adult children in specific gravity is aimed at maintaining those elderly people who did not want to have children, because they have better numbers in the pension computer. This is unfair.

#### 3.3. Criticism of the existing pension system of the Western world

According to the Encyclopedia Britannica, a pension is a series of periodic cash payments to a person made in connection with age, disability or the completion of an agreed period of service. Payments usually continue for the rest of the recipient's natural life and sometimes to the widow or other relatives (The Economic Times, 2021).

The modern maintenance system in the countries of the Western world, as a rule, is four-level. Its lower level is social pensions, which are paid to citizens who have reached retirement age, but do not have the appropriate experience to receive a pension from the solidarity pension system. Often such persons are parents who raised many children and did not have the opportunity to work fully. The social pension is the lowest.

The second level of pension provision is the solidarity system. When the working generation collectively accumulate funds for the older generation that has already retired. Almost all politicians and subjects of authoritative power in the countries of the Western world are concerned about the crisis of the solidarity pension system (CNDC, 2022). Herewith, the majority of recipients are not satisfied with the amount of pension payments, and the funds collected by public pension funds are insufficient even for the existing low pension amounts.

The well-being of modern social states is built on one or another form of national solidarity. However, they are increasingly faced with fiscal problems of costs control. As a result, the analysis of the welfare state has shifted from expansion to contraction. In other words, the boundaries of the welfare state are being reduced. Since, the competition in commodity markets has increased, which limits the possibilities for expanding social security programs, which are financed by social contributions from wages. The higher the maturity of the pension system, the greater the number of people who have acquired significant benefits and who are likely against the reduction in benefits. Reduction of social support, even if it is justified from the point of view of fiscal or economic issues, is a very unpopular measure. Therefore, Martin, Schludi concludes, neither maintaining the status quo nor radical abolition of existing pension rights is a

politically feasible option for modern pension policy developers in those countries that use the Bismarck's pension system (Schludi, 2005).

Therefore, we believe that the current joint pension system is a negative factor of social progress, which breaks the natural relationship between parents and children and leads to the degradation of entire nations that in today's conditions are still considered developed and successful. The accumulative and private pension systems have positively proven themselves in times of rising incomes of citizens of the Western world. However, state governments and a significant number of employees can no longer allow the deduction of part of the income to the joint and private pension system after the financial crisis of 2008 (Springer Link, 2009). In terms of protecting citizens from the COVID-19 coronavirus this problem has become even more acute (OECD, 2020). Effective, reliable socio-legal mechanisms for solving this problem have not been identified in legal and other literature.

A fundamental factor in the social danger of the current system of supporting the disabled is the gap between able-bodied children and elderly parents, when the level of support for the latter does not in any way depend on the number and success of their children. It led to a number of negative aspects. First, the birth rate has decreased in countries with a joint pension system. Why should one give birth to children, spend health, time, money, if the quality of life of the elderly does not depend on it in any way? On the contrary, couples with many children in all developed countries have a lower income level than childless or single-child couples. In other words, it has become unprofitable from all possible material points of view to give birth to children. Secondly, it leads to the non-competitiveness of the economy of countries that have taken joint responsibility for the disabled, because in terms of a decrease in the number of employees, the states are increasingly forced to raise the percentage of deductions from their salaries. In terms of the WTO, free international circulation of goods, capital and technology, those countries will benefit that do not use a public system of maintaining the disabled (for example, India) or cover a small percentage of the population (for example, China, Vietnam and other countries of Southeast Asia). They have a much lower burden on the wage fund than in the EU Member States and the USA. All this together with the reduction of technological backwardness leads to the decline of the first real sector of production, then leads to the financial non-independence of states. If the situation develops in this way, in a couple of decades, not only financial, but also social policy in the world will be dictated by China and other countries that do not overburden public finances with pension payments. Thirdly, the very mentality, thinking and philosophy of citizens (subjects) of states that receive pensions sufficient

for life are changing. They care less and less about their children with each generation and focus on their own person – they want to live to their own satisfaction. The childfree social movement is gaining more and more popularity (Reynolds, 2022).

Therefore, all existing pension systems reflect the disconnection between successful children who already work and their parents who are unable to work. Their action is backward-oriented. They inherently lead to the degradation of the social materia of humanity. Since, the pension of the elderly does not depend in any way on the amount of pension deductions from their children to the pension funds. As we have already proved in the previous paragraph, it is both unfair and a destructive factor that leads to the degradation of the financial and economic potential of the Western world and democratic legal states in the whole.

#### 3.4. Principles of the traditional and public pension system

In our opinion, the joint pension system of maintaining pensioners should be carefully and gradually eliminated. The state should be freed from the burden of direct maintenance of pensioners to a greater extent, and become an effective legal guarantor of maintenance of elderly people by their able-bodied children. The formula is very simple: the more successful children a couple has raised, the better their old age is secured. That should be protected by sanctions and other stimulating factors of public law norms. Besides, working people should have an additional opportunity to maintain their old age at the expense of dividends from the voluntary system of accumulative pension funds of all forms of ownership. This simultaneously solves two problems: first, it will be an incentive to increase the birth rate; secondly, it will relieve business from excessive tax burden.

It is clear that elderly people who due to certain circumstances did not have children or accumulated funds in pension funds should receive social pensions from the state. However, such cases should be rare.

It is an axiom that states are obliged, at the expense of the state budget, to maintain at a high level the parents of heroes who died while performing their duties to the state and soldiers who lost their health during the defense of the state and a small number of public figures who dedicated their lives not raising children or doing business, but long-term public service for the benefit of the people. We also do not criticize the private (non-mandatory) pension system, when citizens voluntarily, without the threat of state sanctions, save part of their income to pension or other funds.

First of all, we carry out a critical analysis of the public solidarity system of maintaining pensioners. We offer the following principles of its optimization to the scientific community for discussion:

First, it is worth returning to the elements of the traditional system of maintaining the elderly through deductions paid by their children within the framework of the state mandatory social security system of citizens. The formula should work: the more children and the higher the official salaries of working children, the higher pension receive their elderly parents. In other words, the pension of the elderly should be related to the deductions to the state mandatory social security system made by their children. If the elderly do not have working children or their deductions are not enough to pay the minimum pension, then the state fully or partially compensates the difference in the amount of the pension assigned according to the rules of the solidarity system. At the same time, it is clearly explained to the pensioner which part of the pension is paid to him at the expense of the children, and which part is compensation from the state. Public debt accumulates for working children whose parents' pensions are paid by the state. The debt, in particular, can be charged from them in case of inheritance after the death of the parents.

Secondly, all citizens without exception should be guaranteed a minimum social pension. Elderly people who do not have children or have unsuccessful children earning insufficient funds should receive a pension assigned according to the methodology of the solidarity system or part of it from the state.

Thirdly, based on the principle "the law has no retroactive effect", it is necessary to change the age of retirement and the method of calculating it very carefully, fairly and in accordance with the rule of law principle. What do we mean? Those persons (youth) who will be insured in the state mandatory security system for the first time should know that the retirement date will be a certain age (for example, 70 years) and the pension at the first level of social protection will solely depend on the number and success of their children. Mandatory pension payments of their children until reaching retirement age will be personalized and will be accumulated in their personal account and paid out after reaching retirement age. In case of the death of one or both parents, pension contributions should not be written off, but should be distributed among relatives according to a certain method, taking into account the wishes of the insured person.

Fourthly, a transition period, when pensions are calculated according to the old joint and traditional public pension system will exist for a relatively long time (about 50 years). At the same

time, the amount of pensions of all persons cannot be less than that prescribed by the method of the solidarity system, and for persons who have raised several successful children, it is not limited by anything, except for the amount of contributions of their working children.

Fifth, taking into account the significant volume of international labor migration, the international community should adopt an international and legal act, which recommends the states to transfer pension taxes (contributions) to elderly parents of persons who pay them regardless of the country of residence, citizenship (nationality) (Halunko, 2017).

#### 4. Discussion

The right to social security benefit for the elderly at the expense of working children should be recognized by the international community and become an absolute right. After all, it reflects the entire two-hundred-thousand-year-old tradition of humanity regarding the maintenance of the disabled, solves the demographic crisis and implements the principle of justice in relation to parents who raised successful children. Besides, all economies of the states will be in equal conditions of competitiveness according to this criterion after the ratification of the offered international and legal act in the field of the traditional and public system of maintaining the disabled persons.

We discussed the specified principles at several international scientific and practical conferences. In particular, it was proved to the European community at the International Scientific and Practical Conference in Berlin in 2021 that if the European community wants to preserve its genepool, it must change the concept of keeping disabled elderly people. The principle is very simple, the well-being in old age for the majority of elderly people should directly depend on the level of deductions to public social funds by their working children. The more well-educated, trained and successful children they have, the more their personal pension in old age should be. This will stimulate most of the citizens of the European community Member States to give birth (adopt), raise and educate their children. Their rich and happy old age will directly depend on them (Science & Culture, 2021).

#### 5. Conclusions

Thus, the authors of this article offer to the scientific community to critically discuss the following fundamental provisions regarding pension provision without claiming to be the truth

in the last instance: the pension provision systems (joint, accumulative and private) existing in the current conditions are such that slow down social and economic progress in the countries of the Western world. This leads to the gradual decline of democratic rule-of-law states with a liberal market economy. Which, in turn, leads to the successful attack of authoritarian regimes on democratic ones. That is unacceptable. In order to correct these negative tendencies, we suggested for scientific discussion the traditional and public pension system of maintaining the disabled elderly people. The principles of that system are the inextricable relationship between the financial situation of working children and their elderly unemployed parents protected by public legal guarantees of the state.

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