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**DEMOGRAPHIC FUNCTION OF
SOCIAL MAINTANENCE LAW:
PROBLEMS OF REALIZATION**

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ABSTRACT

Research is aimed to learning of elements, influencing demographic function of social maintenance law in the country. Moreover, trends and forecasts have been analysed. As a result, two key factors have been defined: population aging and migration.

Research also contains offers for improvement of state demography and divides it into two blocs (Bloc 1 - population aging and Bloc 2 - migration), which will stimulate social policy correction and legislation changes. Authors draw attention to improvement of demography and note that it is possible to do by budget funding of fertility care programmes, social maintenance of people, taking care after children under 6 years old, population health anxiety. Aforesaid development approaches have been worked out in detail in this article. In

addition, improvement of migration situation has been offered by atypical forms of employment development and local infrastructure growth (with detailed approaches). Authors have given concrete offers to amend national legislation in social protection.

Keywords: demography, function, migration, population aging, pension.

INTRODUCTION

Demography research is usually carried out by sociologists. However, this topic is not less relevant for lawyers as well, in social protection namely, as types and amount of social maintenance, which government can guarantee, are influenced by state financial capacity (also formed by taxpayers and welfare contribution payers) and balance between taxpayers, welfare contribution payers and receivers of social maintenance. While the legislative drafting it is important to pay attention to research results of other branches of science and international experience, taking into account patterns and forecasts for forming qualitative legal basis of social maintenance.

Ukraine, as the most countries of Europe, has a population aging problem, which influence the state demography; migration and its dynamics in Ukraine as well.

Analysing the demographic function of social maintenance law, we have determined the mission to define the ways to overcome the negative results (minimize negative results, alternative variants for compensation) such factors as population aging and migration and to form relevant offers for legislation.

1. LITERATURE REVIEW

One of the state functions is a social function, which is realized through social maintenance including. Social maintenance law is characterized by different functions, one of them is demographic function.

Meaning of social maintenance in social life is determined by the factor, which functions it has, which basic social problems can solve (Vyshnovetska and Novoselska, 2009)

Demographic function of social maintenance law provides influence of social maintenance on demographic transition in society. Condition of social maintenance depends on demographic structure of population, character of demographic transition. This in turn would provide active positive influence on demographic transition. Demographic function content includes financial stimulation of family creation, its development and strengthening, increase of birth rate and so on (Sinova, 2019).

Demographic function realizes as a consequences of influence on different demographic processes – life expectancy, reproduction of the population, fertility stimulation, etc. (Vyshnovetska and Novoselska, 2009).

Vladimira Zhofchynava divides social maintenance impacts into external (influence of foreign systems, experience, globalization and migration processes) and internal (demographic structure of inhabitants, economic and political situation etc.). Author draws attention to demographic element, namely demographic aging, which is a key factor of provision of social services (Zhofchynova, 2019)

Population aging in Western Europe countries is a reflexion of success, reached while human development and it happens as a result of mortality rate reduction (increase of life expectancy). Demography in Ukraine is paradoxical: Ukraine has secured one of the last spots in life expectancy ranking and simultaneously is considered to be one of the “oldest” countries of the world. The basic population aging factors in Ukraine are: low birth rate, high mortality rate level. Ukraine is ranked fifth in the world for the lowest number of children per woman (1,22) and seventeenth in the world regarding the mortality rate. According to the World Bank forecasts, the number of older persons by 2051 would constitute the thirty-third position (Sinova, 2016).

System of social maintenance has to be an objective need and cover a lot of aspects of human life: family welfare provision, fertility stimulation, protection of older persons, disabled persons, pensioners, high-quality condition of health protection and environment, labour market regulation, education stimulation and consumer protection, etc.

Specificity of demography in Ukraine during its independence lies in combining of large-scale depopulation with worsening certain qualitative characteristics of population (particularly its health), which gives reason to treat it as a long-term demographic crisis. Comparing to developed European countries, Ukraine suffers from unfavourable indicator values: birth rate is lower, than middle birth rate in Europe and high mortality rate, which stimulates magnitude and stability of depopulation. Despite the full reduction of intensity and scope of depopulation of Ukraine in 2007-2009, it remains to be the country with high intensity of natural decrease in population (next to Bulgaria, Latvia, Hungary our country has one of the highest rate of natural population decrease within the European community) (Kurylo, 2019).

Although, declining birth rate in modern world is possible to consider to be the universal process, which is common to all countries, moving to industrial or post-industrial stage of development. Experience of other countries proves, that improve the well-being of citizens, in itself, doesn't influence the level of birth rate. Nowadays, the meaning of summary rate of birth is lower the level of simple reduction in third of all world countries. And among the post-Soviet countries only three countries: Tajikistan, Uzbekistan and Kyrgyzstan continue to save the regime of expanded reproduction (Makarova, 2019)

Weinberg, D. H., Friedman, J., & Mayo, S. K. draw attention that natural and social influence the population changes: "the changes in the population of a region are affected by both natural and social factors. Natural factors include the difference between the number of newborns and deaths. Social factors comprise the difference between the numbers of those moving in and those moving out. Since the

decision to move consists of many tangible (e.g., moving expenses, relocation loss, brokerage fees, and tax) and intangible (e.g. the loss of current neighbourhood networks, and re-adapting to a new environment) costs, it is without doubt a very costly family decision” (Weinberg, Friedman, Mayo, 1981).

Ciarniene and Kumpikaite identify pull factors and stimulating factors: “pull factors: higher incomes, lower taxes, better availability of employment, better weather, political stability, better education facilities, better medical facilities, national prestige, better behaviour among people, religious tolerance, and family reasons. Push factors: war or other armed conflict, famine or drought, poverty, political corruption, disagreement with politics, religious fundamentalism or religious intolerance, lack of employment opportunities, lack of various rights, natural disasters, goal of spreading one's own culture and religion” (Ciarniene and Kumpikaite, 2011).

Demographic crisis can turn into demographic catastrophe, when social mechanism of reproduction of the nation gets total ruining, and all the social life structure loses its special system (emergent) characteristic, that is, ability to save measure of reproduction of concrete historic population as a unity of reached quality and quantity. Loss of number of children – is a general tendency of demographic dynamics of economically developed countries. But there is a limit (border of non-reproduction), which can't be crossed, as it carries loss of preconditions of favourable demographic country perspectives. This line is a combination of two children or tree children in a family, which provide more extended reproduction of the population. Ukraine has crossed this line long time ago and numbers of completed fertility and distribution of born in turn of receiving (Voropaiev, 2019).

Emigration also influences demography and the first also needs certain research.

M.I. Inshyn has classified the problems of labour emigration and divided them into several types, using following criteria: 1) by subjects: a) problems of labour migrants; b) problems of migrants' families; c) problems of the state as a functioning subject as consequence of departure of a part of citizens abroad; 2) by consequences: a) economical; b) social; d) legal; e) organizational and material; 3) depending on reasons of strengthening of Ukrainian labour migration: a) economical; b) social; c) psychological; in this case migration can be voluntary, forced (violent eviction of indigenous people from their land base by government) or conditionally voluntary (that is a person makes decision about voluntary migration under the influence of certain circumstances – for instance hunger, war, etc.) (Inshyn, 2018).

E. Libanova asserts, that external migration in modern Ukraine fulfils the function of upward mobility, and the intentions of migrants to leave the country have become widespread models of behaviour. The author distinguishes the main factor – difference between salary in Ukraine and potential remuneration in the country of destination, however, raising wages can't stop external migration because of traditionally high mobility of the Ukrainians (Libanova, 2019).

In addition, there is a science concept of circular migration, connected with phenomena of transnationalism; persons, who stay in a distant physical, social and cultural area for a long-term period or can develop connection in both directions on a recurring basis. On the one hand, there is no need to develop relations with the country of origin, on the other, new links can develop towards the accepting country (Imola Sekh Papp and Bilan, 2018).

Antonio Mihi-Ramirez, Vilmante Kumpikaite have determined that students' migration depends on economic reasons, such as: "as bigger salary expectations (70 percent), better job (23 percent), and less living costs (7 percent)" (Mihi-Ramirez, Kumpikaite, 2014).

Dontsov A.I.a, Zotova O.Y. distinguished three blocks of migration motives: economic (improvement of life standards and financial position); bound to self-realization (a desire to get education in Russia, a chance to start a new life); family reasons (Dontsov and Zotova, 2013).

Unemployment stimulates emigration, that's why government must support a person and display employment assistant. Government employment assistant should be aimed to job placement on favourable for employee conditions, unemployment assistance payment is a temporary financial support during the job-search period and is not considered to be the main government support for unemployed.

S.I. Dvornyk focuses on nowadays European experience, proving its transfer to such unemployment policy, where priority of investments into development of competitiveness of labour potential instead of spending on unemployment assistance, remains the basic characteristic (Dvornyk , 2017).

It is important to develop atypical forms of employment at the legislative level as well, which would be interesting for both employees and employers.

A.V. Fedorchuk considers, that distant employment should be treated as atypical form of employment, which is based on flexible working hours and is carried out outside the workplace, using information and telecommunication technologies (Fedorchuk, 2019). Distant work has following features: a) work is carried out outside the employer's office; b) information technologies are used for communication with colleagues and administration (Aveskulov, 2017).

M.I. Inshyn notes, that essence of distant employment of workers lies in presence of all conditions, needed for qualitative carrying out labour obligations, created outside the office, which makes it possible for workers not to attend office daily and obligatory (Inshyn, 2014). Positive features of distant work are: fall in unemployment, economy stabilization; raise living standards; employer's cut spending (office rent, workplace organization, energy, service personnel, etc.);

economy of time, energy and means of employee, taking into account absence transport problems; independent employee's management of his working hours; increase work productivity while its organization by a worker independently, according to individual requests; some categories of population (people with disabilities, women with young children and others) receive an opportunity to work not leaving home) etc. (Studenets, 2017).

V.M. Andriiv has determined three basic elements, stimulating labour migration: demographic changes and needs of labour market in most industrially developed countries and established inter-state, family, cultural and historic links (Andriiv, 2017).

S.I. Dvornyk has drawn attention to the fact, that one of the reason of downsizing of number of insured in the system of mandatory state social insurance is an illegal (shadow) employment, covering approximately 4,7 millions of people or 23,1 percent of number of people, employed in economy. Increase in budget funds of all levels and mandatory state social insurance funds is impossible due to widespread practice of proceeds concealment by payment of shadow salary and minimization of obligations of employers, concerning payment of relevant contributions (Dvornyk, 2017).

Different factors influence the level of social maintenance. In this article we are going to learn the demographic function of social maintenance law and its key factors: population aging and migration.

CHAPTER 2.1. RESEARCH. DATA AND METHODOLOGY

All European and developed countries other world regions suffers from a big problem – population decline as a result of depopulation and associated acceleration the process of ageing. Unlike 20th “century of growth”, most of modern population projections proves 21st century to be the “century of aging”. Segment of the population, reached “first old age threshold” (60 y.o.) in the world, ranges 11%, over 64 years of age – approximately 8%. The main region with the biggest segment of older persons is nowadays Europe (almost 22% of population are persons over 60, 16% - persons over 65 years old). Thus, mainstreams cause strengthening of world demographic asymmetry: imbalance in composition (territorial, racial, ethnical, cultural) and in distribution of the world population, and also demonstrate increasing of irregularity and other specific features of demographic development within big territorial entities (continents, part of world) (Kurylo, 2019).

Essential characteristic of demography in Ukraine is a combination of birth crisis with serious deterioration of people’s health, including reproductive, increased mortality and decline in life expectancy. Therefore, another factor of declining fertility in between 1990-2000 is deterioration in reproductive health, increased female mortality in reproductive years (Makarova, 2019).

Foreign countries experience proves the best living standards for older people to be in Norway, Sweden and Switzerland. These countries are recognized to be the most comfortable for elderly. This is confirmed by the results of Global Age Watch Index 2014 ranking, as written in “Європейська правда”. Top 10 countries rank contains Germany and Holland. Ukraine has descended in ranking from 62 position to 82, which is the worst indicator among the countries of Eastern Europe. Health indicators of older people in Ukraine have tremendously worsened. Generally, 96

countries have become the part of the list, and the research has covered 89% of elderly in the world (Sinova, 2016).

Population aging is estimated by the balance of working age population to people, unable to work (pensioners) and the less number of infants born, the older population becomes, and this leads to situation, when there are more receivers of social maintenance, then tax payers and welfare contribution payers. These tendencies make government reduce funding for social programme, allocate less to the social benefits. However, one of the Constitutional guarantee is observance of social standards.

European Court of Human Rights draws attention to legitimacy of legal expectations, guaranteeing of automatic receiving of appropriate benefits and social justice to all people.

Scientists propose improvement of valuation of justice, based on combined index, which is possible by integrating of fundamental principles of theory of justice and advanced tools for evaluating its separate factors. Thus, components of this index are determined by understanding of justice (including observance of main human rights as a minimal social standards, which guarantee quality of life, and with regard to the fact, that social and economic development leads to commitment to a better standard of living and justice, it is necessary to use index as second component, which would estimate the current level of justice in the processes of allocation, regarding the rates of the more prosperous and better countries) (Mishchuk, Samoliuk, Bilan, 2019).

One of the tasks of demographic function is reduction of depopulation, which can be realized by stimulating to childbearing (creating more favourable climate for childbirth). Moreover, it is necessary to take measures for stimulating longevity and decline mortality among population.

Although, population growth of the size of working population doesn't solve all problems, as other factor, which worsens demography, is emigration of working age population.

According to statistical information of State Migration Service (Derzhavna mihratsiina sluzhba, 2021) number of persons, left Ukraine to take up permanent residence in other countries far exceeds number of persons, who returned to Ukraine. This data is given in table.

Table 1.

Population migration indicators 2014-2020

| Reporting years | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Submitted documents for taking up permanent residence outside Ukraine (number of persons) | 8932 | 11345 | 13621 | 9191 | 8551 | 11311 | 3889 |
| Returned to Ukraine (number of persons) | 2366 | 1687 | 1958 | 1871 | 1634 | 1996 | 1519 |
| Balance of number of | 26,49 | 14,87 | 14,38 | 20,36 | 19,11 | 17,6 | 39,05 |



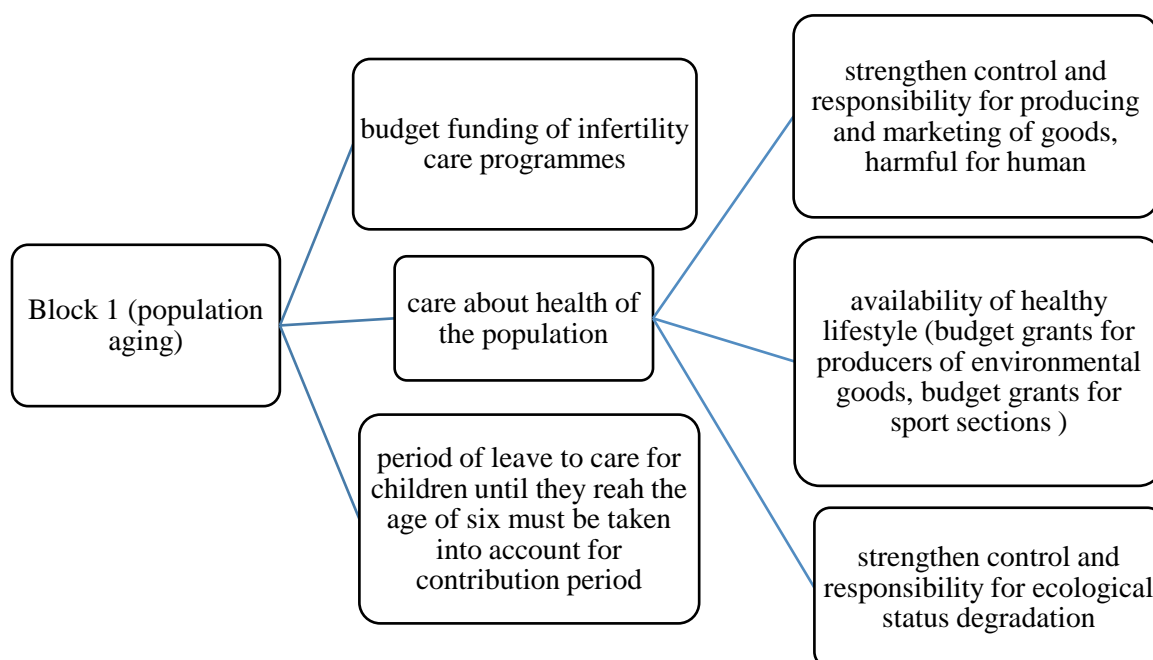
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|--|--|-----------|-----------|-------|------|-----------|-------|
| people, who returned to number of persons, who left Ukraine in the reporting year (%) (number of persons) | | | | | | | |
| Dynamics of number of people, who left Ukraine in the preceding year (number of persons) | | +241 3 | +227 6 | -4430 | -640 | +276 0 | -7422 |

Simultaneously, a number of developed countries of Western and Southern Europe, which have reached remarkable success in reduction of mortality, has extremely low level of fertility. This has caused to population decline already or its expectation in perspective. In Greece and Austria population is stable but it is going to be less very soon. Because of low development level migration has become a remarkable factor of population growth in majority of developed regions (namely developed European countries). If it wasn't for the positive net balance, European population would decline in 1995 already. United Nations estimates that growth of migration in the first half of past decade provided $\frac{3}{4}$ of general growth of population in developed countries. In case of these trends maintaining to 2030, population growth in developed countries would be possible due to migration, in so

doing, projected migrant’s growth will hardly be able to compensate expected exceed mortality over births in these regions (Derzhavna mihratsiina sluzhba,2019).

2.2. RESULTS

We offer two blocks of propositions, aimed to improvement of state demography, based on fulfilled analysis.



These propositions are relevant for different countries to varying degrees and it is necessary to revise national legislation to implement them.

For implementation of offered measures we propose to amend the national legislation.

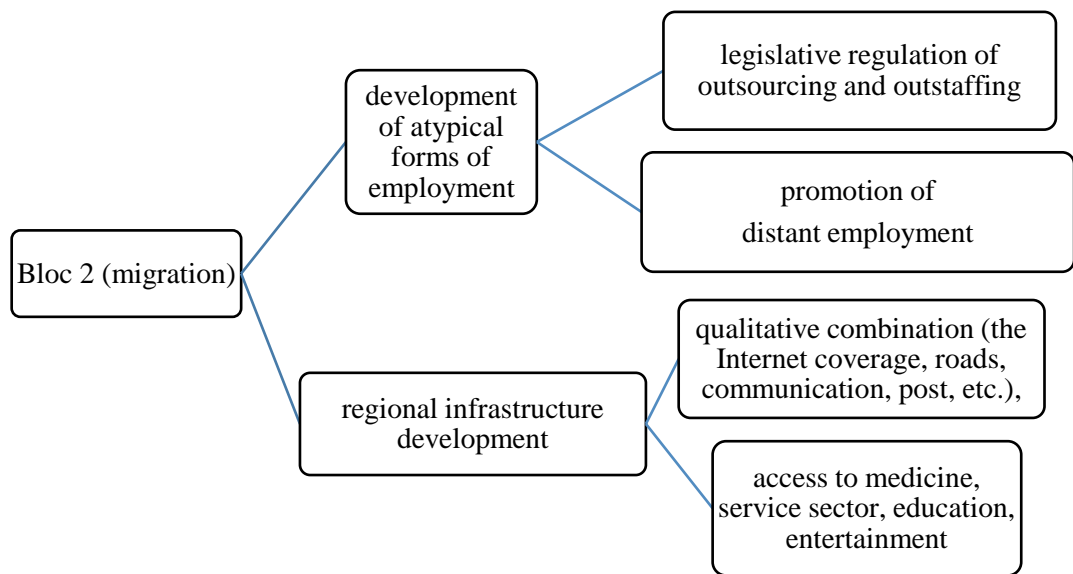
Chapter 5, Section II Code of Ukraine about Administrative Offenses must be added with paragraph 42⁵ by following context: “Producing, distribution, marketing of goods, production, containing substance, which may cause harm for human

health, - are punishable by a fine on nationals of 1 to 10 thousand times the individual income tax for each fact of violation with seizure of goods, production and their utilization, financed from perpetrator.

When the same actions are committed more than once during one year after imposition of an administrative penalty for violations, provided by the part 1 of this paragraph, - are punishable by a fine on nationals of 50 thousand times the individual income tax for each fact of violation with seizure of goods, production and their utilization, financed from perpetrator”.

Item 5 of part 1 of paragraph 11 of the Law of Ukraine “About mandatory state pension insurance” must be added by a phrase: “and/or being in leave to care for children until they reach the age of three or six without conservation of salary”;

Some scientists rightly note that it raising salary is not enough to improve migration (retaining workers, able to build up economy in the country). For agrarian countries like Ukraine, availability of suitable accommodations for citizens of small towns is very important. But even big cities have sanitation problems, problems with resettlement of lounge zones and these problems can stimulate search of better conditions in other countries. Different factors in conjunction influence the choice of place of residence in other countries, job and, paying taxes, accordingly. Therefore, it is important to consider development vectors comprehensively by state authorities: from wage increase and creating workplaces to timely recycling and criminality improvement.



3. CONCLUSIONS

In recent years public health in Ukraine has remarkable worsen because of unfavourable social and economic factors, ecological crisis, deteriorated by Chernobyl disaster, psychological factors, connected with social stress due to Anti-terroristic operation on the East of Ukraine; alcoholism, drug abuse, substance abuse, instability of criminality are spreading; sometimes failure to take real measures by state authorities, dangerous infectious diseases prove about critical situation in Ukraine by the World Health Organization. Health – is an important element of state safety. Healthy population is a base of effective economy. If we don't take measures for health improvement today, we won't have people to restore destroyed economy tomorrow. Forecasts for 2020-2040 prove this. All these factors influence population figures.

It is necessary to note that among basic tasks of the state are: 1) improvement of public health and standard of living; 2) competency in health issues; 3) healthy

lifestyle; 4) creation and realization of policy, reaching health for everybody; 5) recovery of environment; 6) reduction of psychological and mental disabilities and suicides; 7) effective social service of older persons; 8) enhancing the role of the family and fertility; 9) creation of employment (for our employees to get back to motherland); 10) available programmes and systems of professional training and retraining, professional orientation; 11) adaptation of older persons to modern living standards; 12) decline of depth of poverty among all the categories of population; 13) accordance to international standards in mentioned area.

Only under these conditions development of social relations in social maintenance law is possible and social protection to those, who need it as well.

It is necessary to mention that such natural rights like the right to life and health are emphasized among all rights and freedoms. Every civilized state has to create effective mechanism for protection of rights and freedoms of a person for society development. However, any right loses its sense if the legislative mechanism is not created.

Results, offered in article, will stimulate improvement of demography in the country and this, in turn, will lead to increase of working population, filling of the budget for social benefits.

As funding of social programmes is relevant for states with different levels of economy (the better standards of living in country, the higher bar for minimal social standards), determined development vectors of improvement of demography in the state to varying degrees will be interesting not only for Ukraine and will stimulate for revision of according norms of national legislation.

Moreover, proposed amends to Ukrainian legislation will improve demography in Ukraine.

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