The Institutional and Legal Provision of Human Social Security Under the War

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Abstract: Theoretical approaches to the essence of human social security and the study of ideas about social security among residents of the southern and eastern regions of Ukraine are considered. It made it possible to formulate the essence of human social security under the war conditions. The institutional provision of human social security and its components were studied: in the field of economic relations, in the field of institutionalization of employment relations, in the field of the organizational mechanism for regulating the labor market, in the field of migration. An analysis of foreign experience in ensuring human social security made it possible to single out American, European and Ukrainian models. Since Ukraine has chosen the European integration course, it is advisable to consider the European model of social security and the possibilities of its application in Ukraine. At the same time, the American model has its own characteristics that may be useful for Ukraine. The recommendations for improving the institutional and legal provision of human social security under the war include the following: at the state level, it is necessary to ensure the integration of the social component in the strategy for implementing socio-economic reforms; anticipate the norms of public democratic control in legislative and regulatory documents; a modern system of public administration to ensure the social security of Ukraine can be based on how to maintain the development of the economy, take in accordance with specific principles for the implementation of the national social system.

1 INTRODUCTION

In the context of a complex and unpredictable military-political situation in Ukraine, caused by a deep full-scale Russian military invasion of Ukraine, the problem of human social security deserves special attention, which directly affects the effectiveness of changes in all spheres of public life.

War is an extreme manifestation of social danger, which is an extreme form of aggravation of social relations – social, economic, political, religious, interstate. This is a very acute form of resolving conflicts between states, groups of people using modern means of destruction and accompanied by violence, large-

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scale destruction, death of people, components of nature, technology.

According to the UN High Commissioner for Human Rights, since the beginning of the large-scale invasion of Russian troops into Ukraine, more than 2,000 civilians have been killed, about 3,000 people have been injured, and more than 15,000 have gone missing since the start of Russia's war against Ukraine. Hundreds of cases of rape by Russian invaders in Ukraine have already been recorded, including underage girls, children and even a baby.

During two months of the war, about 5 million people left Ukraine – mostly women and children, and another 7 million Ukrainians became internally displaced persons. This necessitates further steps to find ways to improve the institutional and legal support of human social security.

Given the relevance of the study, the purpose of this paper is to analyze the institutional and legal provision of human social security under the war, re-

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search foreign experience and develop recommendations for its improvement in Ukraine. The object of the research is the institutional and legal provision for ensuring human social security; the subject is a set of theoretical and practical aspects of institutional and legal provision for ensuring human social security under the war. In recent years, a number of informative analytical studies have been published by domestic and foreign experts, which examine the goals, mechanisms, technologies and means of Russian aggression in Ukraine and Europe.

2 RESEARCH METHODS

Human social security is the foundation of the fundamental research methodology. Systematic approach was used in order to determine the mechanism, types and indicators of human social security (Halytsa and Hetman, 2017; Kharazishvili and Grishnova, 2018). Methods of theoretical generalisation were applied to study and systematise types of social security and public policy concepts for ensuring social security (Libanova and Paliy, 2004; Krokhtina, 2004).

Some authors used conceptual approaches to the essence of human social security (Nikolaev, 2011; Varnalii et al., 2022a). Groupings and tabular method were used to characterize types of institutional risks and treats in human social security (Iliash, 2011; Kharazishvili and Grishnova, 2018), study information and analytical systems of social protection of the population in different countries (Kharazishvili et al., 2020; Lebanidze, 2017; Yasutis, 2017), analyze state policy of ensuring human social security (nsa, 2018; Sydorchuk, 2019; Varnalii et al., 2022b). Scientific and methodical approach was used to develop strategic directions for improving human social security (Yasutis, 2017; nsa, 2018; Sydorchuk, 2019; Varnalii et al., 2022b).

Research data show that the problems of the institutional and legal provision of human social security under the war are not sufficiently studied.

To achieve the goal of this paper, we used general scientific and special methods, such as:

 the structural-functional method (for disclosure the treats of human social security). Thus, we used this method for revealing the influence mechanism of treats on main indicators of human social security. First, we identified main groups of threats to human social security and their components, revealed their interconnection within one system. Having identified the treats of human social security, we defined the directions for developing recommendations to prevent treats and minimize related risks;

2) the comparison method (for comparing the legislation for ensuring human social security between Ukraine and other countries). In turn, it gives impetus to the formation of directions for ensuring human social security under the war.

3 THEORETICAL APPROACHES TO THE ESSENCE OF HUMAN SOCIAL SECURITY

The concept of "social security" in the scientific literature began to take shape in the late 90s of the last century. This category was declared in the Copenhagen Declaration on Social Development (United Nations, 1995), which touched upon the social aspects of sustainable development, designed to ensure social security in the world.

An important issue is the formation of appropriate conditions for the implementation of one of the fundamental human needs – the need for security. Back in 1994, a proposal appeared in the practice of the UN to consider such components of security as political, economic, personal, food, health, community and environmental security (UNDP (United Nations Development Programme), 1994). And if in the past it was believed that because of security at the state level, it is possible to ensure the security of an individual, today it works the other way around: the center of the new concept of security is not the state, but the person.

The term "social security" first found its concrete expression in an international document – the Copenhagen Declaration on Social Development adopted by the World Summit for Social Development in 1995.

In a democratic society, the interests of the social security of a person and the state should generally correlate and be harmoniously balanced. In the legal field of Ukraine there is no official definition of the category "social security", and the term "social security" has recently entered the scientific and political circulation.

Consequently, the individual, not the state, is in the center of the new concept of security. An increasing number of factors testify that if we start with human security and build state policy and the work of non-governmental actors around this, then the life of society becomes more predictable and integrated. Moreover, society's ability to resist both internal and external threats will gradually increase.

Human social security is the ability and readiness of the state, society and individual to protect themselves from dangers and threats to life, health, basic social values – human rights and freedoms.

In modern democracies, the concept of "human security" is gaining momentum. In fact, this is a kind of transition from a very narrow to a broad understanding of security. The absence of war or other threats to the life and health of citizens, the low level of crime does not mean a safe environment in the modern world. First, it is formed at different levels: from personal security, security of life in a particular community to the national and international level. Secondly, security is decomposed into various components, and only their totality determines how safe the citizen's environment is.

Libanova and Paliy (Libanova and Paliy, 2004), when revealing the essence of social security, also holds the opinion that the state of human security, is the result of the implementation of a social protection policy. At the same time, she describes social security as one of the components of state security, interpreting it as a state of protection from threats to social interests. According to Krokhtina (Krokhtina, 2004), social security is formed in the system of legal and social guarantees that allow a person to function most effectively within a certain socio-political formation.

In our opinion, human social security should be understood as the degree of protection of the vital socio-economic interests of a person, his rights, freedoms and values from internal and external, real and potential threats. It is associated with the observance of the most important social standards: overcoming poverty, the growth of human potential (life expectancy and level of education), increasing the purchasing power of the population, the quality of working life, the protection of the family, motherhood and childhood; health services; environmental standards, etc.

4 CURRENT SOCIO-ECONOMIC SITUATIONS OF THE POPULATION

According to the research of the sociological group "Rating" in the framework of the project "Ukraine in the conditions of war" (sur, 2022), among Ukrainians who worked before the war, half of them (53%) do not work today. 22% of them work as usual, 21% of them work remotely or partially, and only 2% of them have found a new job. This is an indicator of not only economic problems, but also social and psychological ones. Work is not only an economy, it is a habitual way of life, communication and interaction with oth-

ers. A significant proportion of citizens have lost such support and are more likely to have received a higher level of maladaptation. Most of all, this affected residents of the east (74%), young people under 35 years old (60%) and those who left their city (66%).

- The economic situation as a result of the war did not change only for 18% of citizens, for 52% of them it deteriorated significantly, for 28% of them it rather deteriorated. Income "closes" the basic needs of a person, gives security and reduces anxiety in front of an uncertain future.
- 40% of respondents believe that their savings will be enough only for a month. However, the COVID-19 pandemic taught Ukrainians how to save money and the percentage of those who increased their material security during the crisis increased (during the first quarantine, 55% of them believed that they would only have enough savings for a month). Therefore, given the socioeconomic and psychological importance of employment, it is now very important to resume work as much as possible.

Scientists from the Institute of Industrial Economics of NAS of Ukraine (nsa, 2018) have researched, that human social security is manifested mainly in favorable and safe living conditions (63,8%), while a healthy lifestyle occupies the lowest position at 1,9% (figure 1).



Figure 1: Assessment of external and internal factors of manifestation of human social security (% to the number of experts) (nsa, 2018; Sydorchuk, 2019).

It is important to note that even in the conditions of war, security in the minds of people does not focus solely on ending the war or establishing law and order, but covers various areas of their lives. Thus, in 2020, Heinrich Böll Foundation conducted a study of security perceptions among residents of four southern and eastern regions of Ukraine. The key task of the researchers was to find out: what do the citizens themselves in the front-line areas think about security, what does it mean for them, and, most importantly, what does it consist of?

It could be assumed that this part of the population, like no other, would be inclined to a narrow view of security, since along with war, the local population directly or indirectly suffers from the consequences of the conflict. However, the study showed very different results. Yes, citizens imagine security in the broadest sense, that is, precisely as human security. Security, in their opinion, implies a set of conditions, circumstances and opportunities under which various spheres of public life fully function and create comfort and a sense of security among citizens (Mikheieva et al., 2020).

Thus, for the inhabitants of these regions, security primarily consists of the following components: physical, financial security, health security, proper work of law enforcement agencies, freedom of political or civil views, safety of movement in their locality, and a number of others. This means that even in the immediate vicinity of an area of long-term conflict, citizens understand security as a big jigsaw puzzle that spans various areas of their lives and does not focus solely on the concepts of ending the war.

SCIENCE AND TE

5 THE INSTITUTIONAL PROVISION OF HUMAN SOCIAL SECURITY AND ITS COMPONENTS

Today, the current state of the social sphere is a crisis and threatens human social security, produces labor poverty, a decrease in the economic activity of the able-bodied population and the expansion of economically forced labor, the stratification of the population, the imbalance of the labor market, and, accordingly, reduces the efficiency of the functioning of the complex of social institutions.

The disadvantages of institutional support for the development of the human social security system are as follows:

 lack of prerequisites for ensuring expanded reproduction of high-quality and competitive labor force through the formation and implementation of national demographic, migration, career guidance and educational strategies;

- low level of functioning of the social partnership system, the role of trade unions in resolving conflicts between organizations representing different interests in society through negotiations and reaching compromises with the participation of local executive authorities;
- excessive regulation of labor relations at the micro level, which limits the resilience of social institutions at the regional and national levels;
- the imperfection of the mechanisms of state support for the entrepreneurial initiative of citizens; low level of economic activity of the population;
- the imperfection of the activities of state authorities to address the problem of illegal labor migration of citizens of Ukraine outside the country;
- the unresolved problem of organizing a unified national system of social, medical and pension insurance for the population;
- lack of experience in carrying out structural reform of the labor market by local government bodies;
- insufficient level of autonomy of local executive authorities and local governments in decisionmaking on the development of social infrastructure.

In general, the existing system of social security is characterized by a high level and significant scale of institutional threats, which leads to the development of directions for its strengthening (figure 2):



Figure 2: Threats to human social security (Iliash, 2011).

- in the field of economic relations:
 - increasing the efficiency of the motivational component of the shadowing of labor, which consists in further reducing the tax burden,

simplifying tax legislation and regulating economic activity, along with improving the quality of public services.

- the introduction of effective methods of attracting workers to various forms of economic activity, which will allow the legalization of hired labor under an employment agreement;
- development of a regional sectoral program for creating and maintaining jobs in the agroindustrial complex, the implementation by regional employment centers and local governments of social expertise of all investment and other regional targeted programs in terms of their impact on the creation and preservation of jobs in the rural economy; in the field of institutionalization of employment relations:
- a decrease in the number of forcedly created informal jobs due to a revision of the monetary and non-monetary costs of employers associated with the hiring and dismissal of the workforce;
- active informing the public through the media about social vulnerability in case of nonregistration of labor relations with the employer officially, as well as the main articles of the current legislation to which employees are entitled.
- in the field of the organizational mechanism for regulating the labor market:
- strengthening state supervision and control over compliance with the requirements of labor legislation
 - the creation of a regional system of labor courts, the activities of which will allow employees to assert their rights easier and faster, eliminate excessive red tape in the consideration of cases, and ensure their prompt and impartial consideration;
 - introducing specialists into the circle of social partners who could offer an adequate methodology for calculating the tariff scale, taking into account the characteristics of types of economic activity and individual enterprises, taking into account the differentiation of levels of regional development;
 - the creation by the state and regional authorities of appropriate initial conditions for the legalization of virtual labor capital, which will increase the opportunities for the development of the economy of border regions, significantly increase the competition of specialists in the field of intellectual and information services;
- in the field of migration:

- ensuring a high level of employment of the population through the formation of a "flexible" labor market in Ukraine through the development of a joint action plan for the allocation by individual EU members of a quota for the employment of citizens of Ukraine;
- ensuring legal protection of domestic workers abroad by intensifying work in this direction by the Ministry of Foreign Affairs. If the introduction of such control is recognized, consider creating a specialized body of state administration (State Agency), whose competence included issues related to the employment of Ukrainian citizens in the EU member states;
- strengthening legal protection and providing social guarantees to labor migrants during their stay abroad, subject to return to their homeland; providing assistance at the state level to protect the interests of labor migrants in resolving labor conflicts with foreign employers.

6 THE LEGAL PROVISION OF HUMAN SOCIAL SECURITY

According to article 25 of the Universal Declaration of Human Rights, "everyone has the right to such essential things as food, clothing, housing, medical care and social services" (Con, 1996). The Universal Declaration of Human Rights, international covenants on civil and political, economic, socio-cultural rights legally guarantee citizens the right to life, inviolability of the person, social protection, freedom of opinion and belief, education and protection of social status (Dec, 1948). The rights, freedoms and duties of citizens are a necessary condition for the effective functioning of society and are subject to its cultural, material and spiritual norms.

A person, his life and health, honor and dignity, inviolability and security, in accordance with Article 3 of the Constitution, are recognized as the highest social value (Con, 1996). That is why social security is given special attention. It plays a key role in the entire system of national security. As a social state, Ukraine recognizes a person as the highest social value, distributes public wealth in accordance with the principle of social justice and takes care of strengthening civil harmony in society. According to part 4 of article 13 of the Constitution of Ukraine, the state ensures the social orientation of the economy, which is the basis for the realization of social rights of citizens, in particular to social protection and an adequate standard of living. Ukraine seeks to implement the constitutional provisions that define it as a social and legal state. Citizens of Ukraine, in accordance with Article 46 of the Constitution of Ukraine, "have the right to social protection, including the right to be provided for them in case of complete, partial or temporary disability, loss of a breadwinner, ... in old age". This right is guaranteed by compulsory state social insurance (Con, 1996).

7 FOREIGN EXPERIENCES IN ENSURING HUMAN SOCIAL SECURITY

The social security of a person presupposes the presence of three models: European, American and domestic. According to the Association Agreement between Ukraine and the EU, Ukraine has chosen the European integration course, that's why it is advisable to consider the European model of social security and the possibilities of its application in Ukraine. At the same time, the American model has its own characteristics that may be useful for Ukraine (figure 3):



Figure 3: Models for ensuring human social security (Halytsa and Hetman, 2017).

1. European model of ensuring social security is characterized by high minimum living standards; flexibility in defining the "parameters" of social security; gender neutrality; contains a wide range of protective measures in the event of social threats; has an extensive list of unforeseen social circumstances, significant institutional support for socially unprotected segments of the population.

Taking into account the experience of other countries, we believe that Ukraine should pay attention to the following issues:

(a) Including the norm of public democratic control in all adopted documents. A democratic political system and democratic control of the armed forces play an important role in preparing for NATO membership. For example, Lithuania fully complied with all the requirements, and this was legally proven. The norms of public democratic control are indicated in all adopted documents (Fundamentals of Lithuanian National Security, the Law on the Organization of National Defense and Military Service, the Military Defense Strategy, the National Security Strategy, the Military Strategy).

- (b) The importance of the socio-economic development of national security is recognized in all strategic documents. In Georgia, the attentiveness of the socio-economic development of national security is recognized in all strategic documents. Thus, the National Security Concept of Ukraine (President of Ukraine, 2021) notes that sustainable economic development is a key condition for ensuring the country's national security. The National Security Concept of Ukraine notes the threats regarding low employment and economic backwardness, namely: social stratification, the absence of a middle class, an increase in the crime rate. Thus, improving the socio-economic living conditions of the population has become a key component of Georgia's security (Lebanidze, 2017; Sydorchuk, 2019).
- 2. American model of ensuring social security is based on the predominant financing of the provision of unforeseen threats; has fixed social security "parameters" and clearly defined social contingencies; characterized by the alternative choice of the social model of protection.
- 3. Ukrainian model of ensuring social security is fragmented: from a legal point of view, it is systemic and complex from the point of view of the regulatory framework, and in fact, it is ineffective due to the bureaucracy of procedures for providing social assistance to all categories, the lack of the necessary amount of funds for social assistance through demographic and migration imbalances and imbalances in the labor market, reinforced by an unformed social infrastructure.
- 4. The genesis of the mechanism for ensuring social security in the European and American models is characterized by the sequence: "social guarantees → social obligations → social security → social security", and the genesis of the mechanism for ensuring social security in the domestic model occurs in the opposite direction (Halytsa and Hetman, 2017).

The European Code of Social Security is the main normative document of the Council of Europe in the field of social security (ECS, 2022a). Although the Code was approved in 1964, it is a valuable tool in defining common European social standards that can be used in the process of reforms that are taking place today in many European countries (especially in Central and Eastern Europe). The main idea of these legal instruments is to create a social security model based on social justice that is unique for all European countries. According to this model, the socially unprotected strata (those who cannot earn a living due to illness, old age, unemployment, work injury, occupational diseases, pregnancy and childbirth, disability or death of the breadwinner) should be guaranteed by the state a decent standard of living and support from society.

According to this code, the right to social security is enshrined in one of the main human rights documents of the Council of Europe – the European Social Charter (ECS, 2022b). The ratifying states are obliged to maintain the social security system at a satisfactory level. Thus, the promotion of the European Code of Social Security is the main task of the Council of Europe to create common values for the social orientation of its member countries.

Unfortunately, war is always associated with various forms of violence against women and girls. When seeking refuge during conflicts, women and girls become even more vulnerable to violence, sexual harassment and rape. Women and girls who are moving out of conflict need special support and protection. The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) (Ist, 2011) therefore complements the 1951 Geneva Convention relating to the Status of Refugees (UNHCR, 2022) and requires its 35 member states to develop reception procedures and support services for asylum seekers. At present, the process of ratification of the Istanbul Convention must continue.

8 FEATURES OF THE INSTITUTIONAL AND LEGAL PROVISION OF HUMAN SOCIAL SECURITY IN CONDITIONS OF THE WAR

First, it is advisable to note the priority areas of the state's activities to ensure social security according to a survey of respondents (table 1).

Therefore, the state's top priorities are to prevent and minimize external and internal threats, as well as to implement a strategic course for the development of a social state.

Table 1: Measures taken by the state to ensure social	secu-
rity (nsa, 2018; Sydorchuk, 2019)).	

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The events of recent years have shown a serious crisis in the system of not only social, but also international security due to Russia's external interference in the internal affairs of independent states, attempts to destabilize their political systems and direct forceful seizure of foreign territories. The hybrid war that began in 2014 provided for a diverse and longterm destabilization of the socio-economic and political situation in Ukraine. Unfortunately, almost all international security guarantees for Ukraine turned out to be incapacitated in conditions where one of the guarantors acted as the aggressor. The social dimension of the occupation of part of the Donbass and the annexation of Crimea formed a number of new social problems: the protection of human rights and countering racial discrimination against the population of the occupied Autonomous Republic of Crimea, internally displaced persons (about 1,5 million), organization of their residence, employment, assignment of social benefits to them, pensions, administrative recognition of documents, issues of "political prisoners" and missing persons and their families, the procedure for admission to higher education institutions of applicants from the temporarily occupied territories, provision of ATO participants and others.

On June 19, 2020, the UN General Assembly approved Resolution 74/168 "Situation of human rights in the Autonomous Republic of Crimea and the city of

Sevastopol, Ukraine" (Sit, 2020), which condemned the temporary occupation by the Russian Federation of part of the territory of Ukraine – the Autonomous Republic of Crimea and the city of Sevastopol, confirmed the non-recognition of its annexation The war in the East of Ukraine and the annexation of Crimea negatively affected the social security of a person and requires the adaptation of the social policy of the state and the improvement of the mechanism for its implementation, taking into account the socio-economic state of the regions of Ukraine.

A new challenge for social security was the largescale war of Russia against Ukraine, which began on February 24, 2022 (Hamaniuk et al., 2022). Thus, with the increase in the scale and duration of aggressive hostilities, an increasing number of threats arise related to the observance of the necessary social security, society suffers heavy losses in the form of human casualties, material damage, environmental destruction and the threat of an ecological catastrophe. Social security cannot meet the principles of social solidarity, responsibility and partnership, resist external and internal existing and potential threats and provide social protection and conditions for improving the quality of life. The main prerequisite for observing human social security is to strengthen the power of the Armed Forces of Ukraine. Ukraine continues to follow the course of Euro-Atlantic integration and membership in NATO, strives to become in the future an element of a new European security architecture, where its vital interests will be ensured collectively with the direct participation of Ukraine itself. Without joining the North Atlantic Alliance - a system of collective security, Ukraine will not have effective levers of influence on decision-making in the future, taking into account its national interests.

9 DISCUSSION AND LIMITATIONS

9.1 Discussion

On the one hand, since the beginning of Russia's fullscale invasion of Ukraine, a significant amount of research using statistics and survey data has already been done. At the same time, not all information is significant, because under the information warfare affecting the quality of the received information, it is impossible to make a complete exhaustive assessment of the current situation in the country. Therefore, many aspects of human social security are debatable.

9.2 Limitations

Data for analysis is limited for a number of reasons: firstly, insufficient statistical data (some information is not available due to the fact that some official websites with information about the state of affairs of the government are closed due to cyber-attacks); secondly, not all people are willing to participate in the survey because of the psychological effects of war and post-traumatic stress disorder. In turn, this does not make it possible to conduct a comprehensive empirical study.

10 CONCLUSIONS

In our opinion, the current legislation on ensuring social security in Ukraine is ineffective and has a predominantly declarative nature. In the context of a deep socio-economic and political crisis, exacerbated by the instability and uncertainty of the situation in the East of the country, an increase in the level of well-being of the population, and even more so – the standard of living, strengthening social standards on the European model in the context of the "defensive" orientation of the budget and the galloping shadow economy, it seems difficult. However, these recommendations may include the following:

- 1. At the state level, it is necessary to ensure the integration of the social component into the strategy for implementing socio-economic reforms. The challenges of the time dictate the latest conditions for the formation of information support for management in the field of merit in the social security of the country.
- 2. Anticipate the norms of public democratic control in legislative and regulatory documents. The considered foreign experience allows us to take into account that in Lithuania the norms of public democratic control are indicated in all adopted documents, including the latest ones. In particular, according to the 2016 Military Strategy, democratic public control is a fundamental principle in the implementation of the military strategy, which notes that democratically elected civilian authorities make decisions on Lithuanian defense policy, the expansion of military potential and its use.
- The modern system of public administration to ensure the social security of Ukraine should be based on and meet the Sustainable Development Goals, take into account the relevant conceptual

principles for the implementation of an appropriate national security system. At the same time, one should take into account the latest technological innovations in the developed countries of the world, European standards of social development. In this aspect, it is advisable to develop public immunity to military, economic, political, medical, and informational challenges in Ukraine. The long-term unresolved social problems in the vast majority of society acts as one of the main factors in the emergence and development of a number of threats in various segments of national security.

4. In today's conditions, Ukraine's movement towards the European model of ensuring social security is obvious. We consider it necessary to use predominantly the scientific achievements of domestic scientists to build the constituent subsystems of the existing mechanism for ensuring social security in order to restore the logical chain of the course of events in the sequence system: "social guarantees → social obligations → social security → social security".

11 RECOMMENDATIONS FOR FURTHER RESEARCH

Future research should include a comprehensive empirical study of human social security and ways for its improvement under the war. It is required to study the area of institutional and legal support of human social security in developed and developing countries. The matter is that we need the experience of developing countries to build a medium-term strategy for ensuring human social security, and developed countries for a long-term strategy. Moreover, it is important to take into account the various situations that have appeared in the context of economic difficulties (financial and economic crises, pandemics and wars).

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