

Social Benefits in Wartime: Judicial Control and Administrative Procedure in the Supreme Court's Case-Law

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Abstract

The present stage in the development of administrative justice, particularly in the context of the legal regulation of public finances under martial law, requires a rethinking of the standards for the protection of fundamental human rights. The issue of securing social guarantees for citizens who, as a result of armed aggression, have found themselves outside Ukraine is directly correlated with the effectiveness of the allocation of budgetary resources and with the State's capacity to fulfil its financial obligations. In this regard, the case-law of the Cassation Administrative Court within the Supreme Court (hereinafter, the CAC SC) plays a decisive role in transforming formal procedures into a real mechanism for the protection of pecuniary rights, where a pension, as a pecuniary right, by its legal nature meets the characteristics of a possession, and its unlawful deprivation constitutes a violation of the guarantees enshrined in Article 41 of the Constitution of Ukraine and Article 1 of Protocol No. 1 to the Convention.

In this context, the question arises of forming an effective model of judicial control over the implementation of the State's social and financial obligations, especially in cases where their fulfilment is complicated by the circumstances of martial law and by citizens' presence outside Ukraine.

Judicial Control in the Public Finance System

The effectiveness of budgetary expenditure in the social sphere is substantially reduced if a court judgment awarding payment of arrears is executed only nominally. In present-day realities, the institution of judicial control provided for in Article 382 of the Code of Administrative Procedure of Ukraine (hereinafter, the CAP of Ukraine) must serve as a safeguard against unlawful inaction by the relevant public authorities. As demonstrated by the legal position of the Supreme Court in case No. 160/5259/20, a court judgment cannot be regarded as executed unless it has resulted in the actual restoration of the person's pecuniary position.

The Court emphasises that, in legal relations with bodies of the Pension Fund of Ukraine (hereinafter, the PFU), particularly where funds are paid to foreign bank accounts, the relevant authority may not shift responsibility for technical or banking errors exclusively onto the pensioner. If the funds were accrued but were not credited because of a discrepancy in the payment details, the PFU is obliged to identify the real obstacles to the enforcement of the judgment and to take additional measures to remove them. This approach is based on the constitutional guarantee of the binding force of court judgments and on the State's duty to care for its citizens irrespective of their whereabouts (Article 25(3) of the Constitution of Ukraine).

Administrative Procedure in the Sphere of Social Benefits

The entry into force of the Law of Ukraine “On Administrative Procedure” (hereinafter, the LAP) establishes a new normative basis for the application of law in the activities of public authorities, including in the implementation of social benefits. In its judgment in case No. 420/13975/24, the Supreme Court draws attention to the principle of officiality (Article 9 of the LAP), which fundamentally changes the role of the PFU. The pension authority acts not only as a manager of budgetary funds, but also as an administrative body entrusted with the duty actively to ascertain the circumstances of the case.

In cases where the payment of a pension abroad is blocked because of incorrect IBAN data or discrepancies in the surname, given name and patronymic, the PFU may not confine itself to formal correspondence. In accordance with the requirements of the Procedure for the Submission and Processing of Documents for the Award (Recalculation) of Pensions under the Law of Ukraine “On Compulsory State Pension Insurance”, approved by Resolution No. 22-1 of the Board of the PFU of 25 November 2005, the authority is obliged to notify the person of the deficiencies, request updated documents, and adopt a reasoned decision (administrative act) following consideration of the application. An authority’s abstention from performing the actions prescribed by law may be classified as unlawful inaction by a public authority.

The Dynamics of Social Rights: Indexation and Compensation

An important financial-law aspect is the preservation of the real value of social benefits. The Court consistently states that the reinstatement of a pension pursuant to a court judgment does not mean that its amount remains unchanged. Citizens abroad are entitled to all automatic recalculations and indexations (Article 42 of the Law of Ukraine “On Compulsory State Pension Insurance”) on an equal footing with residents of Ukraine. Any discrimination on the ground of place of residence in the allocation of public finances is impermissible.

These approaches are consistent with scholarly research in the field of relations between the State and public finances, which emphasises the need to combine budgetary stability with the effective protection of human rights [3; 4; 5].

Conclusions

The case-law of the CAC SC in cases concerning social benefits indicates the emergence of a new model for the application of law in the field of public finances under martial law, combining the instruments of judicial control and modern administrative procedure. Judicial control over the enforcement of court judgments, provided for in Article 382 of the CAP of Ukraine, assumes the significance of an effective mechanism for ensuring the real restoration of a person’s pecuniary rights, while the introduction of the LAP establishes new standards for the activities of public authorities, obliging them actively to ascertain the circumstances of the case and to facilitate the exercise of citizens’ social rights, including in cases where payments are received outside Ukraine.

The established case-law also confirms the dynamic nature of social rights, which entails the application of indexation and other mechanisms for preserving the real value of social benefits. Taken together, these approaches reflect the contemporary paradigm of the legal regulation of public finances in the social sphere, according to which the State’s financial constraints cannot justify a formalistic approach to the fulfilment of its social obligations, while judicial control and proper administrative procedure serve as key guarantees of the effective protection of human pecuniary rights in wartime.

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