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Section 1. Civil law

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RESTRICTIONS ON THE FREEDOM OF CONTRACT BY CATEGORIES "INTERESTS OF THE STATE AND SOCIETY" AND "MORAL FOUNDATIONS OF SOCIETY" IN THE CIVIL LEGISLATION OF UKRAINE

Abstract: Restrictions on the principle of freedom of contract with the purpose of protection of state interests and standards of public morality are common for many continental civil orders. At the same time, such restrictions raise many questions both in the theory of civil law and in the practice of their legal enforcement, considering the evaluative nature of the categories "interests of the state and society" and "moral foundations of society". The purpose of this article is to identify the main approaches to identifying agreements the content of which violates the interests of the state and society and its moral foundations in the civil legislation of Ukraine.

Keywords: civil law, agreements, interests of the state, public morality.

The overwhelming majority of the continental civil laws are aware of the statutory concepts of restrictions on the freedom of contractual activity with the purpose of protection of the interests of the state or the standards of public morality. In particular, these may include the provisions of Art. 6 of the French Civil Code that prohibit departing from the laws relating to public order by the conclusion of separate agreements. Paragraph 138 of the German Civil Code states that an agreement that violates good intentions is null and void. Article 169 of the Civil Code of the Russian Federation according to which an agreement concluded with the purpose that knowingly conflicts with the principles of law and order is null and void. In its turn, the Civil Law of Ukraine also contains relevant provisions, namely, the provisions of Art. 203 of the Civil Code of Ukraine establish that the content of an agreement may not conflict with this Code, other acts of civil legislation, as well as the interests of the state and society and its moral principles. According to Art. 228 of the Civil Code of Ukraine, such agreements may be declared in a judicial proceeding as invalid. The given group of agreements received the name of antisocial and, accordingly, anti-moral in the civil legislation of Ukraine.

The practical application of the civil law provisions on anti-social agreements raises many questions that are (primarily) connected with the uncertainty of the content of the legal categories "interests of the state and society" and "moral foundations of society". In particular, the current civil legislation of Ukraine does not contain a specific legal definition of the above categories, therefore the content of the

latter is filled in depending on how they are interpreted by the parties to civil transactions and judicial practice.

Problematic issues regarding the restriction of the freedom of contract by the interests of the state and society and its moral foundations have repeatedly been the subject of scientific research. In particular, such native scholars as Dzera O. V., Kuznetsova N. S., Bychkova S. S., and others dedicated their works to these issues.

Thus, during his investigation of the legal consequences of the conclusion of anti-social agreements, Dzera O. V. drew attention to the imbalance of civil legislation provisions which determine the list of agreements that violate public order and establish legal consequences of agreements the content of which conflicts with the interests of the state and society and its moral principles. In connection with this, the scientist suggested to carry out a legislative review of the relevant rules in order to harmonize them and introduce specific types of violations into their text [1, p. 96].

During her investigation of anti-social agreements and the consequences of their conclusion, Kuznetsova N. S. also concluded that the relevant provisions of the civil legislation of Ukraine were not balanced and noted that the provisions of Art. 228 of the Civil Code of Ukraine raise many questions not only in terms of the content but also from the perspective of legal writing [2, p. 67].

In her turn, during her investigation of the consequences of conclusion of agreements with the purpose that conflicts with the interests of the state and society, Bychkova S. S. drew attention to the various consequences of conclusion of an agreement that violates public order (restitution) and an agreement that violates the interests of the state and society (confiscation). In particular, according to the scholar, there should be established identical legal consequences for an agreement that violates public order as well as for an act that conflicts with the interests of the state and society and its moral principles [3].

However, despite the existence of the above scientific researches, as of today the topic of anti-social and anti-moral agreements remains relevant.

As mentioned above, the main problem of legal enforcement of the categories "interests of the state and society" and "moral foundations of society" in the context of the invalidity of agreements is their legislative uncertainty. In particular, the civil legislation of Ukraine lacks provisions that would allow to find out what is covered by the categories "interests of the state and society" and "moral foundations of society". We believe that in this case, it is necessary to pay attention to the provisions of Part 1 of Art. 203 of the Civil Code of Ukraine, according to which the content of the agreement may not conflict with: (1) the Civil Code and other acts of civil legislation; (2) the interests of the state and society; (3) its moral principles. Based on the complex legal analysis of the aforementioned regulation it appears that the legislator does not identify the provisions of civil legislation, the interests of the state and society, and the social morality with each other. Accordingly, the question arises whether the interests of the state and society and its moral principles are covered by legislative regulations or not?

While answering the above question it is necessary to pay attention to the Decision of the Constitutional Court of Ukraine as of April 08, 1999, No. 3-rp/99 in the case concerning the representation of the interests of the state in the arbitration court by the Prosecutor's Office of Ukraine. In particular, in the mentioned decision (paragraph 3), the Constitutional Court specified that: public interests are interests related to the need for the implementation of nation-wide actions, programs aimed at protecting sovereignty, territorial integrity, and state control of Ukraine, guaranteeing its state, economic, informational, and ecological safety, protection of land as national wealth, protection of the rights of all subjects of property rights and economic management, etc. [4].

In its turn, the retrospective analysis of the category "interests of the state and society" indicates that

the latter was first secured in the Civil Code of the Ukrainian Soviet Socialist Republic in 1963. Thus, the provisions of Art. 49 of the Central Committee of the Ukrainian SSR established the invalidity of an agreement concluded with the purpose that conflicts with the interests of the state and society. At the same time, Art. 49 of the Central Committee of the Ukrainian SSR did not define anti-social agreements, but only established the consequences arising as a result of the conclusion of such agreements. While determining such agreements, it was necessary to focus on judicial practice. In particular, in paragraph 6 of the Resolution of the Plenum of the Supreme Court of Ukraine "On judicial practice in cases on invalidation of agreements" as of April 28, 1978, it was stated that the action of Art. 49 of the Central Committee of the USSR is applicable to the agreements that violate the general principles of the existing social order. These include, in particular, agreements aimed at using collective, state or private property with a mercenary motive and notwithstanding the law, receiving by the citizens of unearned income, using property owned or used by them against the interests of society, illegal alienation of land or illegal land use, and disposition or acquisition against the established rules of items withdrawn from circulation or limited in circulation. When satisfying the claim in such a case, the court should indicate in the decision what exactly was knowingly contrary to the interests of the state and society about the purpose of the conclusion of the agreement and which of its participants had the intention to achieve this purpose [5]. Later on, the list of anti-social agreements contained in the resolution was expanded, in particular, the agreements on tax avoidance were added to the latter [6].

Consequently, based on the above mentioned it appears that the interests of the state and society are actually covered by public interests and the violation of the latter allows talking about the anti-sociality of an agreement. The above mentioned gives grounds for asserting the identity of the categories "public order" and "interests of the state and society". After all, based on the aforementioned juridical practice, it appears that the main objective of consolidation in the civil legislation of Ukraine of the category "interests of the state and society" is the protection of public interests. Accordingly, the violation of the interests of the state and society is an action that simultaneously violates public order. This is confirmed by the judicial practice that proceeds from the fact that a contract concluded with the purpose that knowingly conflicts with the interests of the state and society is at the same time one that violates public order, and, therefore, is null and void [7].

Taking into consideration the above, it appears that under agreements the content of which conflicts the interests of the state and society in the sense of Part 1 of Art. 203 of the Civil Code of Ukraine it is necessary to understand those that violate public interests. That said it is necessary to proceed from the fact that the violation of the interests of the state and society is at the same time the violation of "public order". In our opinion, this viewpoint is logical in the context of the provisions of Part 1 of Art. 203 of the Civil Code of Ukraine that restrict the freedom of contractual activity by the requirements of private law. Such a wording leaves beyond the cited article in the cases when the content of the agreement conflicts with the public interests enshrined primarily in the provisions of public law. In particular, we believe that the provisions of Art. 203 of the Civil Code of Ukraine regarding the interests of the state and society should apply to the cases when the rules of public law condemn one or other agreement without establishing its nullity. Obviously, in most cases, such agreements would be instruments for committing a criminal offence or administrative violation.

As mentioned above, Part 1 of Art. 203 of the Civil Code of Ukraine restricts the freedom of contractual activity by such a civil law category as "moral foundations of society". It should be noted that in the Civil Code of Ukraine the moral foundations of society are limited to the exercise of civil rights, the principle of the freedom of contract, property rights, the right to

self-defence, publication of works, terms and provisions of the will, etc. However, despite such a repeated recourse by the legislator to the category "moral foundations of society", he does not provide a specific definition of the latter. The only definition of public morality is given in Art. 1 of the Law of Ukraine "On Protection of Public Morality", according to which public morality is a system of ethical standards and rules of conduct that prevail in a society on the basis of traditional spiritual and cultural values, concepts of goodness, honour, dignity, public duty, conscience, and justice. At the same time, it should be considered that the above definition of public morality is given in the context of the aforementioned law, the scope of which is rather narrow and does not apply to all legal relations without exception.

In scientific and practical comments to Art. 203 of the Civil Code of Ukraine it is stated that the provision of the latter on the obligatory compliance of the content of the agreement with the moral foundations of society cannot be called successful since it will constantly receive different interpretations both in science and in judicial practice. Indeed, in this case, the category of moral foundations of society does not contain sufficient legal characteristics for its unambiguous understanding [8, p. 157]. In view of the above, it is necessary to avoid broad interpretation of the category "moral foundations of society" as this may lead to the arbitrary invalidation of an agreement in which the conduct of its participants does not contain any signs of significant danger to the public. In such circumstances, an agreement that conflicts with the moral foundations of a society should be considered invalid if these moral principles have expressly or generally found their normative consolidation, for example, as stipulated in the Constitution of Ukraine, the Law of Ukraine "On Protection of Public Morality" [9].

Thus, in civil law there is an item in which it is proposed to restrict the category "moral foundations of society" solely by legislative regulations. In our opinion, such an approach cannot be justified, because in this case, the question arises: why did the legislator separate the category "moral foundations of society" along with the provisions of civil legislation in Part 1 of Art. 203 of the Civil Code of Ukraine? As a matter of fact, if we proceed from the viewpoint of identifying the moral foundations of society with the civil law regulations, then there is no sense in separating the standards of social morality into a separate category. Under such conditions, the legislative regulations alone are sufficient for restriction of the freedom of contractual activity. Obviously, under the standards of morality, the legislator understands something different from the provisions of civil law. To a certain extent, the Constitutional Court of Ukraine answered this question in its decision as of November 02, 2004 in the case No. 1–33/2004 on the constitutional petition of the Supreme Court of Ukraine regarding the compliance of the Constitution of Ukraine (constitutionality) with the provisions of Art. 69 of the Criminal Code of Ukraine (case on the appointment by a court of a lenient punishment). In particular, the Court drew attention to the fact that one of the manifestations of the supremacy of law is the unrestrictedness of the law by the legislation alone as one of its forms, but it also includes other social regulators, in particular, standards of morality, traditions, customs, etc., which are legitimated by the society and based on the historically achieved cultural level. All these elements of the law are united by a quality that corresponds to the ideology of justice and the idea of the law that to a large extent has found its reflection in the Constitution of Ukraine [10].

Based on the above we can make a conclusion that the civil law is not restricted only to legislative regulations, but also includes other social regulators, in particular, standards of morality, traditions, customs, etc. Accordingly, the standards of morality are understood by the Constitutional Court of Ukraine as a separate category, not identical to the current legislation.

In our opinion, the category "moral foundations of society" includes: (1) moral and ethical provi-

sions that are enshrined in the civil legislation of Ukraine in the form of civil and legal rules; (2) the rules of public morality, which are enshrined in the civil law in the form of civil and legal provisions; (3) the standards of social morality that exist in the society, but have not yet undergone the procedure of consolidation in the civil legislation of Ukraine. In its turn, such a division can become the basis for the identification of agreements the content of which violates the moral foundations of society, namely.

The first group of anti-moral agreements may include those the content of which is aimed at violating the requirements of the Law of Ukraine "On Protection of Public Morality". In particular, these may be the agreements the subject of which is a promotion in the electronic and other media of the cult of violence, cruelty, the spread of pornography, etc. (Article 5 of the Law).

The second group of anti-moral agreements may include those the content of which is aimed at the violation of civil law principles. In particular, these are the agreements the terms of which violate the moral and legal principles of justice, good faith and reasonableness, enshrined in Art. 3 of the Civil Code of Ukraine.

The third group of anti-moral contracts may include those the content of which violates the standards of morality that exist in society and are not yet enshrined in civil legislation. It is hardly possible to give specific examples of such violations. In particular, these are those provisions of morality to which the court applies, provided that there is an obvious violation and that there are no relevant legal provisions that would resolve the legal relationship in dispute. Thus, Parts 9, 10 of Art. 10 of the Civil Procedure Code of Ukraine provides for the right of the court in cases where the relationship in dispute is not regulated by the law to apply the law that regulates relations with similar content (analogy of statute) and in the absence of such – to proceed from the general principles of the legislation (analogy of law). That said, the procedural legislation prohibits the court to deny petitions on the grounds of absence, incompleteness, unclearness, and inconsistency of the legislation that regulates relationships in dispute. In such conditions, the category "moral foundations of society" may serve as the provision of "final instance" to which courts resort to in the last turn, provided that there is an absence or impossibility of the application of others.

To sum up, attention should be paid to the fact that the cases of the application by the courts of the provisions of Art. 203, 228 of the Civil Code of Ukraine concerning the invalidity of agreements the content of which conflicts with the interests of the state and society are almost absolutely absent in the court practice. This circumstance indicates the need for new, additional research on anti-social and anti-moral agreements. In particular, the development of identifying features that would allow to invalidate them.

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LEGAL PROBLEMS OF IMPROVING LEGISLATION FOR DAMAGES CAUSED BY EMPLOYEES BODIES OF INTERNAL AFFAIRS OF THE KYRGYZ REPUBLIC

Abstract. The article discusses the current state of civil law regulation of compensation for harm caused to a citizen by unlawful actions of the internal affairs bodies; A new approach to the legislative resolution of problems in this area is proposed. In particular, the main issues that should be reflected in the new Law "On guarantees of the rights of individuals when causing harm by illegal actions of law enforcement agencies and the court" are disclosed, the necessity of periodically summarizing judicial practice on cases of compensation for harm is justified.

Keywords: state, law enforcement agencies, internal affairs bodies, civil liability, compensation for harm.

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ПРАВОВЫЕ ПРОБЛЕМЫ СОВЕРШЕНСТВОВАНИЯ ЗАКОНОДАТЕЛЬСТВА ПО ВОЗМЕЩЕНИЮ ВРЕДА, ПРИЧИНЕННОГО СОТРУДНИКАМИ ОРГАНОВ ВНУТРЕННИХ ДЕЛ КЫРГЫЗСКОЙ РЕСПУБЛИКИ

Аннотация. В статье рассматривается текущее состояние гражданско-правового регулирования возмещения вреда, причиненного гражданину неправомерными действиями органов внутренних дел; предлагается новый подход к законодательному разрешению проблем в рассматриваемой сфере. В частности, раскрываются основные вопросы, которые должны быть отражены в новом Закона «О гарантиях прав лиц при причинении вреда незаконными действиями правоохранительных органов и суда», обосновывается необходимость периодического обобщения Верховным судом Кыргызской Республики судебной практики по делам о возмещении вреда.

Ключевые слова: государство, правоохранительные органы, органы внутренних дел, гражданско-правовая ответственность, возмещение вреда.

Проблемы совершенствования законодательства в сфере ответственности являются актуальными во все времена и при любом политическом строе, в условиях любой социально-экономической системы, а также в процессе реформирования национального законодательства и модернизации системы права. Выступая на рабочем совещании по судебно-правовой реформе, Президент Кыргызской Республики Сооронбай Жээнбеков заявил, что «со всей строгостью будет рассмотрена ответственность руководителей, чьи ведомства саботируют реализацию судебно-правовой реформы» [1].

Институт юридической ответственности является одним из важнейших средств обеспечения законности в условиях рыночной экономики. В случае нарушения законности всегда должна наступать ответственность. Одним из видов юридической ответственности в соответствии с принципом, закрепленным в гражданском законодательстве Кыргызской Республики, является гражданско-правовая ответственность. При этом признаки, характеризующие юридическую ответственность, свойственны и гражданско-правовой ответственности. В частности, это одна из форм государственно-принудительного воздействия на нарушителей норм права, которая применяется к лицам, допустившим правонарушения, и только уполномоченными на это государственными органами.

В юридической науке понятие гражданско-правовой ответственности является дискуссионным. Некоторые российские авторы (Алексеев С. С.; Строгович М. С.; Недбайло П. Е.) считают, что «наряду с традиционным ретроспективным (негативным) взглядом на ответственность как на последствие гражданского правонарушения существует и перспективный (позитивный), согласно которому ответственность состоит в неуклонном, строгом исполнении субъектами права своих обязанностей» [2, с. 371; 3, с. 73; 4, с. 51–52].

Позитивную юридическую ответственность известный советский ученый-юрист Н. С. Малеин отрицает, считая, что «она подменяет собой надлежащее исполнение обязательства» [5, с. 131–132].

По определению С. Н. Братуся, «юридическая ответственность – это исполнение обязанности на основе государственного принуждения» [6, с. 95]. По мнению П. Варула, «сущность гражданско-правовой ответственности состоит в государственном осуждении лица, ненадлежащим образом выполнившего принятую на себя обязанность» [7, с. 55].

При определении «гражданско-правовой ответственности» некоторые авторы определяют ее как «отрицательные имущественные последствия для нарушителя в виде лишения его субъективных гражданских прав либо возложения новых или дополнительных гражданско-правовых обязанностей» [8, с. 97]. Сторонники такого подхода уделяют основное внимание содержательной стороне гражданско-правовой ответственности.

С учетом вышеизложенного при рассмотрении понятия «ответственность» часто употребляется и понятие «принуждение». Здесь, не затрагивая взглядов и мнений ученых-юристов по этому вопросу, нам хотелось бы отметить только, что понятия «ответственность» и «принуждение» по своему содержанию неравнозначны. «Ответственность» по существу означает «необходимость претерпевать неблагоприятные последствия в случае неисполнения взятых на себя обязательств» [9, с. 16]. В словаре С. И. Ожегова «ответственность» толкуется как «необходимость, обязанность отвечать за свои действия, поступки, быть ответственным за них» [10]. «Принуждение» же означает «заставить что-нибудь сделать» [10]. И это, следует полагать, относится к ответственности вообще и к гражданско-правовой в частности. Иными словами, *всякая ответственность – всегда есть принуждение, но не всякое принуждение – есть ответственность*.

В современный период решение проблемы юридической ответственности государства перед обществом и его отдельными членами является актуальным; теоретическая разработка ключевых направлений и ее практическая реализация представляют собой одну из главных задач, решение которой способствует совершенствованию и модернизации законодательства. В то же время в большинстве стран мира существует общее правило, согласно которому за вред, причиненный действиями или актами органов государственной власти ответственность несет государство, которое в данном случае выступает как единый институт, гарантирующий гражданам возмещение вреда, причиненного неправомерными действиями сотрудников органов государственной власти. Иерархия ответственности выглядит следующим образом: государство ответственно за деятельность конкретного государственного органа, а тот в свою очередь – за действия или бездействие своих сотрудников.

В структуре юридической ответственности государства вопрос гражданско-правовой ответственности в последнее время приобретает все большую значимость. Незаконные действия органов государственной власти и их должностных лиц, за которые законом предусмотрена административная или уголовная ответственность, как правило, трудно доказуемы, кроме того, меры, предпринимаемые в рамках уголовного или административного судопроизводства, никаким образом не влияют на восстановление нарушенных прав и законных интересов пострадавшего лица. Гражданско-правовая ответственность в данном случае имеет существенные отличия, которые заключаются в ее компенсаторном характере, позволяющем возместить фактический ущерб, который причиняется незаконными действиями государственных органов.

Говоря о качественном составе юридической ответственности государства перед гражданами, отметим, что наибольший вред правам

и законным интересам граждан причиняют действия правоохранительных органов, которые совершаются ими в рамках реализации своих полномочий в ходе расследования дел о привлечении граждан к уголовной и административной ответственности. Это связано, прежде всего, с тем, что процессуальное законодательство позволяет в интересах следствия существенным образом ограничивать права и свободы граждан. В данном случае можно выделить два аспекта деятельности правоохранительных органов, в частности, органов внутренних дел. Первый – это деятельность, не выходящая за рамки закона, осуществляемая в соответствии с требованиями, предусмотренными законодательством Кыргызской Республики, результатом которой становится решение об отсутствии в действиях гражданина инкриминируемого ему преступного деяния или административного правонарушения. Второй – это деятельность, изначально осуществляемая в противоречии с законом, например, превышение должностных полномочий, злоупотребление должностным положением, применение незаконных приемов и способов расследования и другие действия, посягающие на права и интересы граждан. Законодательство позволяет в каждом из этих случаев потребовать возмещения причиненного вреда независимо от вины должностного лица, действиями которого был нанесен соответствующий ущерб.

Согласно статистическим данным Министерства финансов Кыргызской Республики, по судебным актам с Министерства внутренних дел Кыргызской Республики в качестве компенсации материального ущерба было взыскано за 2013 г.– 1941 633 сомов, за 2014 г.– 251410,00 сомов, за 2015 г.– 25284 сомов, за 2016 г.– 75000 сомов, за 2017 г.– 250743 сомов. В качестве компенсации морального вреда было взыскано в пользу граждан за 2013 г.– 231000 сомов, за 2014 г.– 436511 сомов, за 2015 г.– 80000 сомов, за 2016 г.– 20000 сомов, за 2017 г.– 90000 сомов.

Ответственность сотрудников органов внутренних дел наступает вне зависимости от их вины и состоит в возмещении вреда, причиненного гражданину, от имени и за счет государства. При всей прогрессивности данной нормы нужно отметить, что на практике процедура возмещения вреда, причиненного сотрудниками органов внутренних дел, противоречива и в некоторых случаях трудновыполнима. К этому подталкивает множественность установленных законодательных норм возмещения вреда в Гражданском и Уголовно-процессуальном кодексах Кыргызской Республики. Каждый из этих законодательных актов предусматривает собственный подход к процедуре возмещения вреда, причиненного государственными органами, включая и органы внутренних дел. При этом возникает вопрос: должен ли такой вред возмещаться в порядке гражданского или уголовного судопроизводства?

Судебная практика Кыргызской Республики также не демонстрирует единообразия, что порождает существенные трудности при реализации гражданином предоставленного законом права на получение соответствующего возмещения.

Здесь же следует упомянуть об институте морального вреда, компенсация которого также допускается в рамках несения государством ответственности за вред, причиненный сотрудниками органов внутренних дел. Компенсация морального вреда осуществляется только в судебном порядке и составляет предмет искового судопроизводства, тогда как возмещение имущественного вреда, причиненного незаконными действиями органов внутренних дел, может быть осуществлено во внесудебном порядке, на основании соответствующего постановления о возмещении вреда. При этом, как показывает анализ судебной практики по данной категории дел, чаще всего граждане заявляют одновременно два требования – о возмещении имущественного вреда и компенсации морального вреда, что порождает вопрос о целесоо-

бразности норм уголовно-процессуального законодательства, регламентирующих институт реабилитации.

Помимо вышеизложенного, определенные трудности возникают и при определении субъекта, ответственного за возмещение вреда, причиненного незаконными действиями органов внутренних дел. Вполне очевидно, что в качестве ответчика в данном случае может и должен выступать государственный орган, в чьем ведении находится вопрос о распределении и расходовании бюджетных средств. Однако перманентное отсутствие в республиканском бюджете соответствующих статей расходов на возмещение вреда делает данную процедуру зачастую декларативной.

Таким образом, очевидно, что несмотря на включение в законодательство Кыргызской Республики норм, достаточно подробно регламентирующих процесс возмещения вреда, причиненного органами внутренних дел в связи с их незаконными действиями, все же практические аспекты реализации данной процедуры осложняются множеством проблем.

Учитывая, что в последнее десятилетие обращения в судебные органы о неправомерных действиях сотрудников органов внутренних дел и возмещении ущерба стали повседневным явлением судебной практики, пришло время выводить данную проблему на уровень научной дискуссии и поиска научных подходов и методов в рассмотрении дел данной категории. Необходимо также отрегулировать данный вопрос в гражданском, гражданско-процессуальном, уголовно-процессуальном, административном, финансовом и конституционном праве. При этом необходимо привести в соответствие положения и нормы соответствующих законодательных актов, взяв за основу п. 7 ст. 20 Конституции Кыргызской Республики, которая устанавливает право каждого требовать возмещения вреда, «причиненного незаконными действиями органов государственной власти, местного самоуправления и их должностными лицами при исполнении служебных обязанностей» [11].

Поскольку, как показывает статистика, больше всего прав граждан нарушается на сегодняшний день в правоохранительной и судебной системе, было бы вполне оправданно и целесообразно принять единый закон, отражающий все правовые и процедурные аспекты реализации гражданами права на возмещение вреда, причиненного незаконными действиями правоохранительными и судебными органами. Указанный закон мы предлагаем назвать «О гарантиях прав лиц при причинении вреда незаконными действиями правоохранительных органов и суда».

К числу основополагающих постулатов такого нормативного акта можно было бы отнести следующие концептуальные положения.

Во-первых, основным субъектом данных правоотношений является гражданин, которому неправомерными действиями правоохранительных, в том числе и органами внутренних дел, и судебных органов нанесен существенный моральный или материальный вред. Ответственность этих органов имеет существенные особенности.

– закон ограничил состав причинителей вреда, включив в него только правоохранительные и судебные органы.

– потерпевшим может быть не только гражданин Кыргызстана, но и иностранные граждане и лица без гражданства, которые в соответствии с п. 1 ст. 19 Конституции имеют равные с гражданами Кыргызстана права. Право на возмещение вреда в соответствии с п. 4 этой же статьи «не подлежит никаким запретам» [11].

Во-вторых, правовая ответственность за вред, причиненный органами публичной власти, разительно отличается от характера противоправных действий (бездействия), например, органов внутренних дел: противоправность органов власти заключается только в издании или принятии ими решения (актов, постановлений, приказов), нарушающего права граждан, и это нарушение должно

быть доказано в суде потерпевшими. Другими словами, для признания акта, изданного тем или иным органом государственной власти, незаконным, необходимо сначала вынесение судом решения о его недействительности.

Совсем по-другому обстоит дело с незаконными действиями органов внутренних дел и суда, которые наносят гражданам существенный вред. Приведем лишь некоторые из них: 1) незаконное задержание; 2) незаконное применение меры пресечения; 3) незаконное осуждение; 4) незаконное наложение административного взыскания. Незаконность действий также доказывается в судебном порядке путем вынесения оправдательного приговора потерпевшему. В этом случае правоохранительный орган должен возместить вред, причиненный гражданину, в полном объеме и независимо от того, на каком уровне было совершено противоправное действие – на уровне органа дознания, следствия, прокуратуры или суда. Ущерб также возмещается по решению суда. Для этого потерпевшему необходимо предварительное подать исковое заявление о причинении материального ущерба или нанесении морального вреда,

Предлагаемый нами закон «О гарантиях прав лиц при причинении вреда незаконными действиями правоохранительных органов и суда» может иметь следующую структуру:

В вводной части закона необходимо привести:

- список унифицированных терминов и определений по данному вопросу (ст. 1);
- перечень принципов возмещения вреда. Данный перечень должен основываться на конституционных положениях и международных документах в области прав человека (ст. 2);

В основную часть закона необходимо включить разработанный и четко сформулированный:

- перечень оснований и условий наступления гражданско-правовой ответственности за незаконные действия правоохранительных органов и отдельной строкой – органов внутренних дел, поскольку здесь нарушений больше всего;
- перечень субъектов, которые несут правовую ответственность за причинение вреда своими неправомерными действиями;
- процессуальный порядок требования возмещения вреда (сроки подачи иска, особенности процедуры рассмотрения иска, сроки исковой давности и т.д.);
- перечень формул, по которым рассчитается сумма компенсации имущественного и морального вреда.

В заключительную часть закона необходимо включить нормы, устанавливающие:

- ответственность за нарушение законодательных норм;
- приоритет норм закона над иными нормативными правовыми актами, т.е. по сути придать такому закону статус специального по отношению ко всем остальным; одновременно в нормативных актах необходимо исключить нормы, так или иначе регулирующие вопросы возмещения вреда, причиненного правоохранительными и судебными органами, и перевести их в разряд бланкетных.

И наконец, самое главное – необходимо закрыть практику определения суммы возмещения вреда из государственного бюджета на основании приказов и распоряжений тех органов, сотрудниками которых был нанесен ущерб, а передать эту процедуру судебным органам и проводить ее на основании решения суда. Также предлагаем при судебном рассмотрении дела о возмещении вреда объединять иски о возмещении морального вреда и компенсации имущественного ущерба. При этом было бы целесообразно по делам данной категории отменить и сроки исковой давности.

Не стоит также забывать и о судебной практике. Еще одним направлением в рассматриваемой сфере должно стать периодическое

обобщение Верховным судом Кыргызской Республики судебной практики по делам о возмещении вреда, публикуемом в открытом доступе в одноименном Вестнике или на официальном сайте. Для судей конкретные ошибки и методику расчетов можно детально разобрать в специальном Постановлении Пленума Верховного суда «О практике рассмотрения дел, связанных с возмещением вреда, причиненного незаконными действиями правоохранительными органами и судом».

Полагаем, что принятые меры приведут к тому, что ни одно незаконное действие (бездействие) органов публичной власти и их должностных лиц не останется без применения адекватных мер ответственности, и Кыргызстан, наконец, станет по-настоящему демократическим, правовым и социальным государством.

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Section 2. Commercial law

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OVERVIEW OF MODIFYING VIETNAMESE COMMERCIAL LAW UNDER UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (VIENNA, 1980) (CISG) TAKEN EFFECT IN VIETNAM

Abstract. Vietnam Commercial Law was issued on June 14, 2005 to regulate trade activities (including goods trading activities) taking place in the territory of Vietnam or outside Vietnam if the parties are in Trade relations select Vietnamese laws adjusted. Currently, when Vietnam joined the Vienna Convention 1980, the Vietnamese Government is studying to review and amend the Commercial Law 2005. Some experts believe that it is necessary to amend the Commercial Law in a way that ensures compatibility and suitability, avoiding conflicts with the Vienna Convention 1980. In the following article, the author clarifies the specificity of The 1980 Vienna Convention with the trade laws of each country to recommend to modify Vietnam's Trade Law 2005 when Vienna Convention was effective in Vietnam.

Keywords: convention, Vietnam, commercial Law, international sales contracts.

1. Some common issues about Vienna Convention

The UN Vienna Convention on international sales contracts (Convention on Contracts for the International Sale of Goods – CISG for short) is drafted by the United Nations Commission on International Trade Law (UNCITRAL) in an effort to unify the source of law applicable to international sales contracts. This Convention was adopted in Vienna (Austria) on April 11, 1980 at the Conference of the United Nations Committee on International Trade Law in the presence of representatives about 60 countries and 8 national organizationl and began to take effect on January 1, 1988. On December 18, 2015, Vietnam officially joined the Vienna Convention, becoming the 84th member of the Convention. On January 1, 2017 the Vienna Convention began to be binding in Vietnam.

The 1980 Vienna Convention consists of 101 Articles and was divided into 4 sections, including: (1) Scope of application and general provisions (from Article 1 to Article 13); (2) Establishing contracts – order and procedures for signing contracts (from Article 14 to Article 24); (3) Purchase and sale of goods (from Article 25 to Article 88) and (4) Final provisions (from Article 89 to Article 101). The content of the Convention directly stipulates the rights and obligations of the parties to international goods purchase and sale contracts from the time of entering to the process of contract performance as well as the principle of handling contract violations.

Basically, the Vienna Convention and the Vietnamese law on goods purchase and sale contracts are quite compatible with each other, many of which both stipulate and some details of the Convention stipulate in detail, specifically Vietnam Commercial

Law and vice versa. This is because when drafting legal documents governing contractual relations (such as Commercial Law 2005 and Civil Code 2005), Vietnamese lawmakers consulted the provisions of the Convention. Specifically, the compatibility is expressed in the following aspects: (1) The contents of the Vienna Convention on international sales contracts are not contrary to the general principles of contract law of Vietnam; (2) Most of the content is recognized by both systems, but the Convention provides more detailed and specific regulations; (3) Some issues are governed by the Convention but Vietnamese laws do not stipulate (such as preservation of goods, specific contents of a contract proposal ...); (4) Some contents of Vietnamese law stipulate that the Convention does not mention (consequence of contracts for ownership of goods, conditions of validity of contracts, sanctions for violations of sanctions, and issues of time) signs, authorization issues ...) [1].

The reason for the more detail of Vienna Convention is the Commercial Law of Vietnam is designed to adjust contracts for the purchase and sale of goods in general (including contracts for the sale of goods in the country and contracts purchase and sale of international goods), while Vienna Convention is designed specifically for international sales contracts. Therefore, it is inevitable that Vietnam's Commercial Law has some more specific and less detailed regulations in many of the corresponding provisions in the Vienna Convention.

Vienna Convention is one of the most widely adopted and applied international trade conventions. With the participation of 84 member countries of different legal systems, developed countries as well as developing countries, capitalist countries as well as socially-oriented countries all continents have demonstrated that Vienna Convention is a representative and highly integrated document, reasonably acknowledged, ensuring equality for traders in the international sale and purchase of goods, unifying many conflicts between different legal systems around the world, playing an important role in resolving legal conflicts in international trade and promoting international trade development.

The admission to Vienna Convention will bring many benefits to Vietnam in promoting the development of international goods trading activities, reducing the burden on the law of adjusting international sales contracts while this field of Vietnam are still inadequate, many unregulated relations are in need of complete research. When Vietnam joins the Vienna Convention, it will become one of the automatic sources of law applicable to international sales contracts between merchants with commercial Vienna Convention), limiting or helping to resolve quickly and reasonably disputes in foreign trade. This is an effective and inexpensive way to improve Vietnamese law in the area of international goods trading.

On the trader side, Vietnam's accession to the Vienna Convention will create a "menu" to select the law applicable to traders, help traders reduce costs in negotiating and selecting the applicable law of the contract such as resolving disputes related to the purchase and sale of international goods between the parties based in different member countries of the Convention. Especially, the import-export turnover of Vietnam with Vienna's member countries is increasing. As for foreign partners, Vietnam's accession to Vienna Convention has created more confidence and peace of mind about the source of law applicable to goods purchase and sale contracts when signed with Vietnamese partners. These benefits are more evident when placed in the context of most of the world's commercial powers have joined the Viennese Convention, many of which are big and traditional trading partners of Vietnam such as EU countries, USA, Canada, Australia, China, Japan, Korea, Singapore ...

2. The influence of policy on Vietnam's amendment of the Commercial Law 2005

From the perspective of state management, the policy is understood as the thoughts, orientations and desires that the Party and the State should aim for in a certain period. In any country, the policy is defined on

the basis of specifying the political lines and platforms of the ruling party. In Vietnam, the policy is always associated with political power, often expressed in the Vietnamese Communist Party's Resolutions and Documents – as a Vietnamese leadership force (Article 4 of the Constitution. Vietnam in 2013).

In relation to law, policy is the basis and foundation for promulgating laws and plays a dominant and decisive role in the content of law. The law is used as a tool to bring policy into life, effectively regulate social relations in the direction that policy has set. Through legal norms, ideologies and general orientations in policy are transformed into specific, mandatory and general rules of conduct, guaranteed by state power [2].

It can be affirmed that the law is the result of institutionalization of policy, without the "non-policy" law, any legal document is born with the aim of transforming orientations that policy has set. Therefore, when the policy changes, the law must change.

In Vietnam, after the Sixth Party Congress (1986), the Party and State of Vietnam have determined to pursue an open-door policy, multilateralism, diversify external economic relations, gradually integrate into the international economy. The Party and State of Vietnam always consider foreign trade as one of the leading points of the country's economic development.

The 12th National Party Congress continues to emphasize the role of foreign trade in the country's economic development. Specifically, the report assesses the results of implementing socio-economic development tasks in the five years from 2011 to 2015 and the directions and tasks of the 5-year socio-economic development 2016–2020 of the 12th Congress The Party also defined the guidelines and policies of the Party and the State on the management and development of foreign trade activities: *"Exploiting international commitments well, expanding and diversifying foreign markets, not letting depends too much on a market. Promoting export and import control accordingly, striving to balance sustainable trade. Strengthen trade promotion, improve product quality, build Vietnamese brands, especially those with advantages. Make the most of the favorable conditions of trade agreements and agreements to promote exports; At the same time, there are appropriate defense measures to protect production and consumer benefits. Striving to achieve an average export growth rate of about 10% per year".* [3, Section IV, 62].

Implementing the guidelines and policies of the Party and State of Vietnam to step by step integrate deeply into the world economy, Vietnam has gradually participated in many international economic organizations in the region and the world (typically WTO and ASEAN). In addition, a series of bilateral and multilateral agreements signed by the State of Vietnam have created many opportunities for Vietnamese traders to trade with foreign countries. In order to actively integrate into the world economy, promote international trade activities, including goods trading, the Government of Vietnam has regularly reviewed and perfected the law on trade, towards building a full and appropriate legal corridor to effectively adjust and achieve the objectives set by the policy in new conditions. The evidence is in the last three years, a series of documents regulating basic economic regulation has been approved by the National Assembly (Civil Code 2015, Enterprise Law 2014, Investment Law 2014, Bankruptcy Law 2014, Competition Law 2018) has created a modern legal environment, step by step recognizing business freedom fully for traders. However, one of the documents that directly regulate traders' commercial activities (including domestic and international trade and goods) has not been promptly revised, it is the Commercial Law.

As a law to regulate trade relations between traders and traders, after more than 10 years of validity, the Commercial Law 2005 has achieved some remarkable achievements, such as creating a legal legal corridor in the commercial operation, recognizing and respecting the freedom of business, typically the freedom to conclude and determine the content of a commercial contract. However, in the process of

implementation, the Commercial Law is not really a document that appeals to traders, has not effectively which put policies into real life, many overlapping or unnecessary conflict with the Civil Code or specialized legal documents, many regulations are primitive, incomplete or inadequate (franchising, logistics, buying and selling goods through the department transactions …). The regulations on international trade in goods also carry heavy state management in the management relationship between the State and traders (while the nature of the Commercial Law must be a law regulating behavior trade between traders and traders) … In regulations related to the purchase and sale of goods, some content is not consistent with international practices or unclear, not yet predictive, causing difficulties for traders in the implementation process, including regulations on the concept of national goods purchase and International sale contracts, problems related to risk transfer, handling contract violations … This has caused difficulties for traders in the process of entering into contracts, especially international sales contracts.

With the above situation, the Commercial Law needed to be amended. Especially when the Vienna Convention on the international sale and purchase of goods is in force for Vietnam, the review and amendment of the Commercial Law regarding the contents of goods purchase and sale need to be thoroughly researched in order to ensure the rationality and attractiveness of the Commercial Law in adjusting goods purchase and sale contracts.

3. Some notes for amending the 2005 Commercial Law (the purchase and sale of goods) when Vienna Convention was valid for Vietnam

As a principle, after signing or acceding to international conventions and treaties, member countries must conduct a review and revision of the national legal system in order to step by step internalize international commitments according to the route. However, Member Coutries is a different case. Normally, international treaties that Vietnam has signed often regulate the responsibilities among the countries or between this Member Countries and investors, traders or goods and services originating from the remaining member countries.

Meanwhile, the content of the terms of the Vienna Convention does not have commitments among member countries, but directly stipulates the rights and obligations of traders in international goods purchase and sale contracts. With such provisions, the Vienna Convention serves as an effective source of law, directly helping traders determine their rights and obligations. The signing of accession to the Vienna Convention is of the same nature as the recognition of a document containing general trade conditions automatically applied to regulate the purchase and sale of goods among merchants with pillars business departments in different member countries. However, this acknowledgment does not mean coercion, "hard", forcing traders to comply, because the Convention allows traders to agree not to apply the Convention to purchase relations between them.

Since the Vienna Convention does not have the content of commitments between countries, the accession to the Vienna Convention does not require countries to internalize the content of the Convention, without forcing member countries (including Vietnam) must amend existing laws.

Therefore, in relation to the Vienna Convention, when revising the Commercial Law (part of the purchase and sale of goods), it is necessary to clearly define the Vienna Convention and the law governing sales contracts of each country (the Commercial Law 2005 in Vietnam) are two independent legal documents that coexist in parallel and do not exclude each other. While co-regulating an object is a sale and purchase contract, it has different meanings, roles, origins and purposes. This is reflected in the following aspects:

Firstly, about the origin, conditions and purpose of birth: The Vienna Convention was born on the basis of consensus of many countries, in order to regulate general commercial conditions for traders of many different countries in international com-

modity trading relations, with the expectation of offering the most favorable rules with the cheapest cost for traders in international goods purchase and sale contracts. Countries that sign or accede to the Convention voluntarily, are not mandatory. Meanwhile, the Commercial Law is a document issued by the Vietnam, the birth of the Commercial Law is necessary to serve the needs of the State's management of buying and selling goods among traders. In this respect, the Vienna Convention was built first on the basis of the interests of the traders, while the Commercial Law was built towards the management interests of the State.

Secondly, in principle, the Vienna Convention is recognized and automatically applied in member countries, adjusting international sales and purchase contracts that take place between traders with commercial headquarters in the different member states (unless the Vienna Convention traders are not the source of the selected law to adjust their contracts). Thus, the voluntary principle is highly appreciated, the compulsion to comply with the Vienna Convention is not set for traders. Meanwhile, the Commercial Law is mandatory for domestic or international sales contracts (if traders choose to apply the Vietnamese Commercial Law according to the principles of international justice).

Thirdly, on the basis of content construction: Vienna Convention was born "non-policy", the content of the Convention was not designed to institutionalize the editing of any country. Meanwhile, the Commercial Law was issued to regulate and realize policies and transform the policies of the Party and State of Vietnam into specific legal regulations.

Therefore, the adjustment is not compulsory and the Vienna Convention "non-policy" will be different from the compulsory adjustment, derived from the Trade Law's policy, the "rules of the game" in two documents so there is also a difference. The Vienna Convention governs "unofficial" policy, so what is most optimal for parties in international sales contracts will be noted. But for the Commercial Law, the adjustment content must originate from the policy, from the state's management interests, so it is not necessarily what is considered optimal for the parties in the contractual relationship that has been recorded. receive. This is because, the content of the law governing the purchase and sale of goods in the Commercial Law must derive from the views and policies of the State, harmonizing the interests of the parties. co-benefits with the State. If Vienna Convention take the interests of parties in the contractual relations as supreme, the Commercial Law must take advantage of the policy of being supreme. If the Vienna Convention is aimed at the optimal, best and cheapest for contract parties, the Commercial Law aims to be the best, best and cheapest in policy direction.

The amendment of Vietnam's Commercial Law in the current context must be approached in the direction of, considering these as two independent sources of law and adjusting a trade relationship. One party only adjusts the international sales contract (Vienna Convention), a party that regulates both domestic and international sales contracts (Commercial Law). One side was built with "non-policy" (Vienna Convention), one built to realize the policy (Commercial Law). One party built for traders, serving traders to reduce costs for traders (Vienna Convention), a construction party must both ensure the harmony of the interests of traders and ensure the interests of the Vietnam to serve the state management, consider the State's management costs (Commercial Law). If the Commercial Law is to ensure the rationality, transparency, legality and constitutionality, then the Vienna Convention is only feasible and cheap for traders. Therefore, the regulations for the most cost-effective and cheapest for traders, the Vienna Convention meets, but the Commercial Law sometimes cannot be done, due to the harmonization of the benefits of the policy and the state with traders, between traders and other related subjects.

Therefore, when Vietnam's Commercial Law is studied to amend, it is neither expected nor should the orientation of developing the Commercial Law

be the same as the Vienna Convention. The Vienna Convention itself recognizes the reservation rights of member states to certain contents stipulated in Article 12 and Article 96 of the Convention. In the process of revising the Commercial Law, the Vienna Convention in this case, like any other legal document in the world, will be approached in the direction of a reference source of law for Vietnamese legislators learn from experience to perfect Vietnamese law on goods trading, both in accordance with international practice, while ensuring management benefits of the policy and the State in each period.

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Section 3. Constitutional law

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THE JUSTIFICATION OF HUMAN RIGHTS IN PUBLIC ADMINISTRATION

...all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness
The American Declaration of Independence (1776).

Abstract. In this essay says about the grounds of human rights. Given the concept of human rights, its classification and role in the philosophy of law. Given clause the basic human rights in the political life of the state and society. As we all know, human rights are a complex phenomenon incorporating many different aspects. They have a moral life, of expressing human problems and claims that should not be violated or ignored anywhere on the globe; they also have a legal life fixed in national constitutions and in international declarations, covenants and treaties; they have political life as the basic standards of political legitimacy. Therefore, they are a centuries-old topic in the political sphere, in national and transnational level and will never lose its relevance in science and in other spheres of life of mankind.

Keywords: Human rights, public administration, citizens, The political activity of people.

Human rights are norms that help to protect all people everywhere from severe political legal and social abuses, is primarily a weapon in the fight against evil, which cause delude each other. No one may be negatively related to others and it should be reflected in the laws and social order. Neither from the state nor from any of the constituent entities of the company shall not be the infringement of human rights. People should feel their rights. He in no case should not live in fear for themselves, for their lives, for their freedom, for my family and friends. Each person from birth to death there are certain rights and responsibilities before the state and society [2].

The UNO has developed extensive standards contained in many conventions, declarations, covenants. It is important to highlight a number of "fundamental rights" that should be given absolute attention in national and international politics. These are all rights that affect the basic tangible and intangible needs of people. If they are not provided, no man can lead a decent life. Fundamental rights are those rights such as: right to life and security of person, right to freedom of religion, freedom from torture, discrimination and other actions that harm human dignity, the right to participate in political activities of the state [3]. Special attention should be paid to

the last human right the so-called "right of participation" in the political life of the state, because these rights belong to the category of fundamental rights are a basic prerequisite for the protection of all human rights [8].

Each individual citizen has the right: to participate in the political life of the country through participation in elections, referendum; to protect their interests, defending their rights in court; the possibility to Express their dissatisfaction with any factors in the form of protests, rallies or just show interest in the Affairs of the state (Article 21 of the universal Declaration of human rights 1948 States: 1. Everyone has the right to participate in the government of his country directly or through freely chosen representatives. 2. Everyone has the right to equal access to public service in his country. 3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and held by secret vote or by equivalent free voting procedures). If you wish to participate in the Affairs of state one must clearly understand what is needed, what are the goals of participation, should it? If you try to give a simple answer to this question it will look like this: activity restriction of power is exercised by the citizens directly concerns their rights, freedoms and interests, and hence people should participate in this activity and trying to control her [6].

The participation of citizens in public administration has as its direct consequence the increase of public awareness. This leads to the fact that citizens become more knowledgeable about political leaders and civil servants, and this ultimately affects the election results. In addition, public participation is a barrier to corruption and unjustified spending of budget funds [6].

The question of the place and role of human rights in the political life of the country is solved in theory and in practice, ambiguous. There are two main approaches to solving this problem. The first goes back to Aristotle, who assumed that the main vocation of man is to be a citizen of the state. The second approach is based on the principles of humanism and individualism, aimed at the recognition of the primacy of the individual over all other state, class, national, corporate principles. The principles of humanism and individualism emphasize the uniqueness of human life and interests of the individual. They Express respect for the dignity and rights of the individual, his worth as a person, focus on the supportive conditions of human social life.

With the participation of citizens in political life it is important to identify forms of participation. Exploring this question, the three main forms of participation. The first is an instrumental form that indicates the possibility of realization of group or individual interests. People thus try to receive from the state the right decisions or actions which will be useful for them. The second communitarian form that involves the use as the source of people's desire to contribute to society. People don't think about their own interests, they are guided by a desire to help other people to solve problems. The third educational form that includes an appeal not to sources of participation and results of operations.

The political activity of people is an important element of socialization. The state has more to attract people to public Affairs, to focus on informing. To make dialogue with citizens, meetings, round tables, discussions, etc. to Be closer to the people. People should not be afraid of freedom of speech, feel free to speak your desires, dissatisfaction, answers to solve any problem, to share proposals without fear that it will be ignored. And the state in turn should listen more to the people, live their problems. After all, the state is a mechanism for national development [7].

In all developing countries there is self-realization of national development, revival and a desire for self-assertion and rapid socio-economic progress. It challenges state authority. To solve this problem, three statements have to be widely accepted:

First, the government of a developing country should play a Central role in promoting economic and social development.

Secondly, to fulfil this role it is necessary to expand the capacity of the administration at all levels of management.

Third, governance must itself adapt to changing circumstances, if it has to be a mechanism for process improvement.

But, despite all this, the public administration cannot achieve development goals if it does not have the support, cooperation and participation of the people in General. It is obvious that the quality of governance in the country will largely depend on the quality of people who is mean. So ordinary man, whether in public office or not, is the most important element of a democratic system [7].

Participation of people has become an important part of modern management, when its scope and purpose expanded significantly in the modern welfare state. The involvement and participation of people is an important part of the design and implementation of development plans.

At the present time the popular participation of all citizens is improved. This is a revived interest in the philosophy of democracy based on participation, which promotes the French political philosopher Alexis de Tocqueville, who estimated that the participation of individual citizens is necessary for the survival of democracy and that democracy is undermined when people are unable to influence government decisions.

Each form of citizen participation is important for the state. And correspondingly, people also need to understand their importance of political skill steps: exercises clearly and convincingly Express their views, to listen and understand another point of view, to understand the essence of the dispute, to defend their beliefs; the ability to self-Orient in political information, to collect and organize it and correctly assess; organizational skills, ability to properly allocate orders, to check their implementation.

The higher the political culture of citizens, the society and the state is more likely to grow steadily and thrive.

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INTERNATIONAL NORMS AND NATIONAL LEGISLATION TO ENSURE THE INDEPENDENCE OF THE JUDICIAL SYSTEM OF THE REPUBLIC OF UZBEKISTAN

Annotation: The article discusses the international norms and national legislation to ensure the independence of the judicial system of the Republic of Uzbekistan. Analyzed the reform of the judicial system of the country.

Keywords: court, law, law, man, protection, interest, justice, reform, independence.

МЕЖДУНАРОДНЫЕ НОРМЫ И НАЦИОНАЛЬНОЕ ЗАКОНОДАТЕЛЬСТВО ОБЕСПЕЧЕНИЯ НЕЗАВИСИМОСТИ СУДЕБНОЙ СИСТЕМЫ РЕСПУБЛИКИ УЗБЕКИСТАН

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Аннотация: В статье рассматриваются Международные нормы и национальное законодательство обеспечения независимости судебной системы Республики Узбекистан. Проанализированы реформы судебно-правовой системы страны.

Ключевые слова: суд, право, закон, человек, защита, интерес, правосудия, реформа, независимость.

Все трибуналы и суды должны быть независимыми от исполнительной и законодательной властей, а также от сторон в судебном процессе. Это означает, что ни судебная власть, ни судьи, из которых она состоит, не могут зависеть от других ветвей государственной власти или от сторон в судебном процессе. Суды также должны быть действительно независимыми, а также свободными от любой формы воздействия или давления со стороны других ветвей государственной власти или кого-либо другого. Независимость судебной власти должна быть гарантирована Конституцией, законами и политикой страны и должна на практике осуществляться исполнительной властью, ее органами и представителями, а также законодательной ветвью власти. Судебная власть должна обладать юрисдикцией по всем вопросам судебного характера и исключительным правом определять, входит ли представленный на ее рассмотрение вопрос в сферу ее компетенции, определенную законом. Не должно допускаться никакое неуместное и неправомерное вмешательство в судебный процесс. Решения судов не могут быть предметом пересмотра (за исключе-

нием надзорного порядка), смягчения приговора или помилования кроме случаев, когда это осуществляют компетентные власти в соответствии с законом.

Судебная власть должна обладать юрисдикцией по всем вопросам судебного характера и исключительным правом определять, входит ли представленный на ее рассмотрение вопрос в сферу ее компетенции, определенную законом. Не должно допускаться никакое неуместное и неправомерное вмешательство в судебный процесс. Решения судов не могут быть предметом пересмотра (за исключением надзорного порядка), смягчения приговора или помилования кроме случаев, когда это осуществляют компетентные власти в соответствии с законом. Судебная власть должна быть независима с точки зрения внутреннего устройства судебной администрации, включая распределение дел между судьями в рамках суда, к которому они принадлежат. Термин «независимость судей» имеет два измерения: институциональная независимость и персональная независимость [5–7]. Назначения, произведенные исполнительной ветвью власти, или выборность судей на народном голосовании подрывают независимость судебной власти. Критерием для назначения лиц на судейские должности должна быть их пригодность для занятия этой должности, основанная на профессионализме, способностях, правовых знаниях и соответствующей подготовке в области права. Актуальность выбранной статьи заключается в том, что судебная власть как одна из трех ветвей власти представляет собой одну из движущих сил современного государства. Реформирование судебно-правовой системы осуществлялось последовательно и поэтапно, в тесной взаимосвязи с коренными преобразованиями в сфере государственного и общественного строительства. Новой вехой в развитии и дальнейшем становлении независимой и эффективной судебной системы стало издание Указа Президента Республики от 21февраля 2017 года № УП-4966 «О мерах по коренному совершенствованию структуры и повышению эффективности деятельности судебной системы Республики Узбекистан».

В соответствии со структурными преобразованиями в судебной системе Высший хозяйственный суд Республики Узбекистан объединен с Верховным судом Республики Узбекистан, который стал единым высшим органом судебной власти в сфере гражданского, уголовного, административного и экономического судопроизводства.

Созданы административные суды, уполномоченные рассматривать споры, вытекающие из публично-правовых правоотношений и административные правонарушения. Хозяйственные суды переименованы в экономические суды с созданием межрайонных экономических судов. При этом дополнительно созданы 71 межрайонный (районный, городской) экономические суды, которые рассматривают споры между субъектами предпринимательства по первой инстанции, а существующие хозяйственные суды областей, города Ташкента и Республики Каракалпакстан преобразованы в суды второй инстанции.

Ликвидирована Военная коллегия Верховного суда, создана судебная коллегия по административным делам Верховного суда Республики Узбекистан. При этом реформы проводились с учетом общепризнанных норм международного права, а также богатого исторического опыта национальной государственности, обычаев и традиций нашего народа. Правосудие и прозрачность судебных разбирательств на сегодняшний день факторы, которые сказываются на общей картине независимости нашей страны в целом, что в свою очередь является движущим фактором признания нашего государства международным сообществом. Основной Закон Республики Узбекистан провозгласил, что судебная власть в Республики Узбекистан действует независимо от законодательной и исполнительной властей, политических партий, иных общественных объединений. Согласно Закону Республики Узбекистан

«О судах» правосудие в Республике Узбекистан осуществляется только судом. Суд призван осуществлять судебную защиту прав и свобод граждан, провозглашенных Конституцией и другими законами Республики Узбекистан, международными актами о правах человека, прав и охраняемых законом интересов предприятий, учреждений и организаций. Деятельность суда направлена на обеспечение верховенства закона, социальной справедливости, гражданского мира и согласия. Независимость судебной власти гарантируется Конституцией РУз: «Судебная власть в Республике Узбекистан действует независимо от законодательной и исполнительной власти, политических партий, иных общественных объединений. Судьи должны быть независимы и подчиняться только закону. Какое-либо вмешательство в деятельность судей по отправлению правосудия в соответствии с Конституцией недопустимо и влечет ответственность по закону. Неприкосновенность судей гарантируется законом». Аналогичные гарантии закреплены и в Законе «О судах» и в УПК РУз [1, ст. 106, 112; 3, ст. 4, 69].

Граждане Республики Узбекистан, иностранные граждане и лица без гражданства имеют право на судебную защиту от любых неправомерных действий (решений) государственных и иных органов, должностных лиц, а также от посягательств на жизнь и здоровье, честь и достоинство, личную свободу и имущество, иные права и свободы. Президент Узбекистана Шавкат Мирзиёев, выступая на видеоселекторном совещании, посвященном состоянию дел в системе судебных органов, предложил внести ряд нововведений для улучшения работы сферы. В частности, глава государства заявил, что для дальнейшего совершенствования системы подготовки и повышения квалификации судей необходимо организовать в стране специализированное учебное заведение — Академию правосудия. На совещании было выдвинуто и еще одно интересное предложение — об организации на телевидении и в печати цикла передач и публикации статей на регулярной основе под рубриками «Судейский клуб» и «Под защитой суда», рассказывающих о жизненном пути судей, заслуживших уважение народа, а также пропагандирующих положительную практику в сфере отправления правосудия. Также президент Узбекистана Ш. Мирзиёев выдвинул предложение о внедрении в республике порядка проведения судьями открытого диалога с населением на местах не менее одного раза в месяц. Также, по его мнению, пришло время наладить практику представления каждым судьей отчета о своей деятельности в местных кенгашах народных депутатов. Президент Ш. М. Мирзиёев подчеркивает: «Теперь оценку деятельности судей, прежде всего, даст сам народ». Теперь внедрены новшеством среди этих направлений реформирования и расширение масштабов практики по проведению выездных судебных заседаний в махаллях, на предприятиях и в организациях, направленных на профилактику правонарушений. В этом значимую роль играют современные технологии, которых широким внедрением в деятельность судов информационно-коммуникационных технологий, включая электронное стенографирование и видеоконференцсвязь, формированием межведомственной системы электронного обмена информацией по обеспечению безусловного исполнения решений судов. Либерализация уголовных наказаний, ознаменовавшая собой начало важного этапа судебно-правовых реформ, имела большое социальное и общественно-политическое значение. В этом контексте следует отметить, что введение института примирения также послужило важным шагом в деле дальнейшей либерализации и гуманизации системы уголовных наказаний. Отражая гуманистический характер нашего законодательства, это служит формированию законопослушного поведения граждан на основе уважения, добровольного и осознанного соблюдения законов. В целях дальнейшего повышения роли суда в обеспечении гарантий

соблюдения конституционных прав человека на свободу и личную неприкосновенность в судебно-правовую систему страны введен институт права выдачи судом санкции на заключение под стражу. Передача судам права выдачи санкции на заключение под стражу позволила создать эффективный механизм судебного контроля за законностью применения заключения под стражу на досудебной стадии уголовного процесса. Кроме того, эта мера способствовала усилению ответственности следователей и прокуроров, а также повышению роли судебной власти в надежной защите прав и свобод человека. Данный институт, получивший широкое распространение в демократических странах мира, с 1 января 2008 года успешно функционирует и в Узбекистане.

Тесную связь справедливости и независимости с понятием законности и равенства отмечал еще Аристотель, он писал: понятие справедливости означает в одно и то же время как законное, так и равномерное, а несправедливости — противозаконное и неравное (отношение к людям). Для построения правового демократического государства и гражданского общества в нашей стране важнейшей задачей является обеспечение верховенства закона и справедливости.

В Стратегии действий по пяти приоритетным направлениям развития Республики Узбекистан в 2017–2021 годах приоритетными направлениями реформирования судебно-правовой системы определены повышение доступа граждан к правосудию, обеспечение подлинной независимости судебной власти, укрепление гарантий надежной защиты прав и свобод человека.

Принципиальные изменения, связанные с реформированием судебно-правовой сферы внесены в 7 статей Конституции Республики Узбекистан. Для коренного совершенствования системы подбора кандидатов и назначения на должности судей, формирования высококвалифицированного судейского корпуса образован новый орган судейского сообщества — Высший судейский совет Республики Узбекистан. резидент поставил цель — укрепить доверия народа к судебной системе путем защиты прав и свобод граждан, превратить суд в истинную «Обитель справедливости». Важнейшей задачей названо формирование судейского корпуса, способного принимать всесторонне продуманные справедливые решения. В целях предотвращения преступности среди молодежи, усиления внимания к их нравственно-духовному воспитанию, предостережения их от негативного воздействия различных посторонних течений, в органах внутренних дел введена должность заместителей начальников районных (городских) управлений (отделов) внутренних дел по вопросам молодежи — начальников отделов (отделений) профилактики правонарушений.

Еще одним из основных приоритетных направлений реформирования системы внутренних дел является коренное совершенствование института профилактики правонарушений, как главного направления борьбы с преступностью.

В целях обеспечения ранней профилактики и предупреждения правонарушений, широкого привлечения органов самоуправления граждан, институтов гражданского общества и населения в профилактических мероприятиях, создана Республиканская межведомственная комиссия по профилактике преступности и правонарушений, внедрены конкретные критерии оценки эффективности деятельности по профилактике правонарушений и механизм поощрения и стимулирования инспекторов по профилактике, достигших высоких результатов в своей деятельности.

Указом Президента Республики Узбекистан от 18.04.2017 года № УП-5019 осуществлены меры по усилению роли органов прокуратуры в реализации социально экономических реформ и модернизации страны, обеспечении защиты прав и свобод человека. Введена должность заместителя Генерального прокурора Республики Узбекистан, ответственного за организацию и координацию

деятельности в сфере анализа проблем обеспечения законности и правопорядка.

Указом Президента Республики Узбекистан № УП-5343 от 15 февраля 2018 года "О дополнительных мерах по повышению эффективности деятельности органов прокуратуры в обеспечении исполнения принимаемых нормативно-правовых актов" в структуре Генеральной прокуратуры созданы управления по надзору за исполнением законодательства в топливно-энергетическом комплексе; по надзору за исполнением законодательства в таможенной и налоговой сферах; по надзору за исполнением законодательства в сфере транспорта, строительства и других отраслях экономики; по надзору за исполнением законодательства в сфере здравоохранения, образования и других социальных сферах; по правовой защите предпринимательства и инвестиций; по надзору за исполнением решений Президента Республики Узбекистан; по обеспечению полномочий прокурора в административном судопроизводстве; по методическому обеспечению следствия.

Созданы постоянно действующие межведомственные оперативно-следственные группы при Генеральной прокуратуре Республики Узбекистан, прокуратурах Республики Каракалпакстан, областей и города Ташкента из числа сотрудников органов прокуратуры, внутренних дел и Службы национальной безопасности Республики Узбекистан.

В 2017 году приняты меры по усилению общественного контроля за деятельностью органов прокуратуры. Если раньше прокуроры должны были информировать местные органы представительной власти в лице Кенгашей народных депутатов о состоянии законности и борьбы с преступностью на соответствующей территории, то теперь они обязаны ежегодно представлять отчет о своей деятельности. В частности, на заседаниях Жокаргы Кенеса Республики Каракалпакстан, Кенгашей народных депутатов районов (городов), областей заслушаны 493 отчета прокуроров. Также, за период 2016 года и 9 месяцев 2017 года прокурорами в Кенгаши народных депутатов и органы самоуправления граждан внесено 2,6 тыс. информаций о состоянии законности и борьбы с преступностью. Генеральный прокурор Республики Узбекистан ежегодно представляет отчет о деятельности прокуратуры в Сенат Олий Мажлиса. С февраля 2016 года в структуре Сената Олий Мажлиса действует Комиссия по контролю за деятельностью органов прокуратуры и т.д.

В целях обеспечения правопорядка и законности в стране, беспрекословного исполнения законодательных актов, надежной защиты прав и свобод граждан также реформирована система исполнительного производства. В частности, для обеспечения своевременных и полных платежей за энергоресурсы, выявления, профилактики и устранения незаконного подключения к отраслям электро- и газораспределения, а также беспрекословного исполнения судебных решений при Генеральной прокуратуре создано Бюро принудительного исполнения.

Дополнительной гарантией обеспечения прав и законных интересов предпринимателей стало создание института Уполномоченного при Президенте Республики Узбекистан по защите прав и законных интересов субъектов предпринимательства.

Постановлением Сената Олий Мажлиса Республики Узбекистан от 4 октября 2017 г. создана Парламентская комиссии по вопросам обеспечения гарантированных трудовых прав граждан, основной задачей которой определено усиление парламентского и общественного контроля за реализацией законодательства и международных договоров Республики Узбекистан по обеспечению гарантий трудовых прав граждан, предупреждение и недопущение возможных рисков возникновения детского и принудительного труда в какой-либо форме. Президент нашей страны Шавкат Мирзиёев особо отметил, что критический анализ, жесткая дисциплина и персональная ответственность должны стать постоянным

и неизменным правилом как всех сотрудников органов государственного управления, так и судей. Судьи, которые являются частью общества, которому они служат, не могут эффективно осуществлять правосудие без общественного доверия. Они должны ознакомиться с ожиданиями общества к судебной системе и жалобами на его функционирование. Постоянный механизм такой обратной связи, созданный Советом судей или другим независимым органом, будет способствовать этому. Республика Узбекистана, таким образом, подтвердила приверженность своим международным обязательствам в сфере прав человека и обязательность соблюдения международных договоров, к которым она присоединилась. Осведомленность институтов гражданского общества о своих правах на участие в решении вопросов государственного и местного значения, овладение навыками проведения в жизнь различных форм общественного контроля за исполнением законов и иных нормативно-правовых актов — важнейший элемент культуры прав человека как общества в целом, так и каждого индивида.

Одним из важных условий укрепления гарантий защиты прав и свобод человека в стране является повышение уровня знаний работников государственного аппарата и прежде всего юристов по вопросам прав и свобод человека.

С этой целью отдельное внимание уделяется обеспечению прав граждан на образование, созданию равных условий и возможностей поступления в ВУЗ для всех лиц.

В настоящее время утверждено Положение о порядке приема иностранных граждан в бакалавриат Ташкентского государственного юридического университета. Согласно нововведениям внедрена упрощенная система приема на учебу иностранных граждан в бакалавриат университета. На сегодняшний день в ТГЮУ обучаются иностранные студенты из Японии, Южной Кореи, Китая, Туркменистана, Казахстана и других стран. Среди студентов обучаются русские, каракалпаки, казахи, таджики, киргизы, туркмены, азербайджанцы, корейцы, татары и представители других наций и народностей.

Укрепляется сотрудничество с ведущими образовательными учреждениями зарубежных стран. В сентябре 2017 года между ТГЮИ и Школой права Бостонского колледжа подписан Меморандум о взаимопонимании, определены направления сотрудничества в подготовке и повышении квалификации юридических кадров. Сотрудничество с зарубежными образовательными учреждениями способствует более широкому внедрению современных международных стандартов в области подготовки юридических кадров. Будущие юристы уже в процессе обучения получают все необходимые знания о правах человека.

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Section 4. Political culture

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SOUTHEAST ASIA IN THE FRANCE'S PIVOT TO ASIA

Abstract. Southeast Asia used to be a "lost area" by France for a long time after the Second World War, when Paris focused on developing Europe, strengthening the relationship with neighbouring countries and gave the priority to Africa in their diplomatic policies. However, in the context where the Asia-Pacific including Southeast Asia, an inseparable component, has become the centre and motive for the development of the world economy. Most of the world powers, notably the United States of America, have pivoted to this area. That is the reason Paris has changed their perspective and started making the plan of pivoting to Asia in 2012. Southeast Asia has been considered as an indispensable link in this whole policy. French pivoting policy-making based on the national benefits in Asia due to a powerful development of this area within the economy, trade, political connection, and the world gradual influence. The focus of France's pivoting policy does not include the restructuration of military force in this area but relates to the economy and diplomatic activities.

Keywords: Southeast Asia, France, President François Hollande, pivoting policy.

The situation of Southeast Asia in the Current international political complexion

International security after the cold war has witnessed great mutations. Dialogue has replaced confrontation and military race. However, international political complexion has not been stable yet. It even tends to be complicated and diversified. The possibility of a world war has been driven back but the conflict of ethnicity, religion, and terrorism still happens in many places in the world. Today, the Asia Pacific has seen alternatively the competition and cooperation in which the USA and China fight over their influence in this region. Besides, this region faces many challenges in security such as the existence of hot spots in the straits of Taiwan, the Northeast Asia, South China Sea, the Strait of Malaca, etc. and other complicated and insolvable troubles such as potential conflicts due to territorial, ethnic and religious disputes; internal political instability in each country, terrorism, pirates, weapons, and drug smuggling and illegal migration. In recent decades, the Asia-Pacific has risen up as the main global growth motive with the strength of the economy and strategic position and influential role to the global balance in terms of the environment, military affairs and politics. The 21st century is forecasted as a "Century of the Asia-Pacific" [1]. Such changes of the world and regional situation are factors directly impacting Southeast Asia. It is the first time in history after the Second World War, there have not been conflicts, nor for-

eign military occupation in Southeast Asia. Countries in the same region are coming closer together and cooperating with each other to make Southeast Asia a peaceful, independent, stable and developed region. In some recent decades, Southeast Asia has developed strongly in both commercial economy and political cooperation. Notably, the foundation of ASEAN and the official establishment of three great pillars including political-security community, economic community and cultural-social community on December 31st, 2015 marked the unification process of ASEAN, created a firm foundation for the coming development steps, and improved the position of Southeast Asia in the world. Any country which establishes a close relationship with this region and strengthens its influence in this region, it better assures its position in the world order. That is the reason why, all powers speed up the implementation of the strategies in this region, which offers both opportunities and challenges in security. In this context, France has carried out Asia pivoting policy since 2012, in which Southeast Asia is an important pillar.

The article studies Asia pivoting policy of France implemented under the former president François Hollande. This policy clearly indicated that the position of Southeast Asia would be one of the essential issues in the French diplomatic scenarios. The analysis of French benefits in this region clarified the cornerstone of policymaking. The article also illustrates the process of policy implementation in Southeast Asia focusing on economy, diplomacy, security and national defense. The article additionally figures out the prospect assessment of the succession of this policy in an overall diplomatic policy of France under the president Emmanuel Macron.

Benefits of France in southeast Asia

During a long period after the Second World War, France paid less attention to Asia and considered this region as a remote area which had a slight link to their national benefits. However, in the period where geopolitics and a cutthroat power transfer in the Asia-Pacific are dominant issues making the face of the world, Paris should restate the benefits of France when strengthening cooperation with Asia in general and Southeast Asia, in particular, to make a more suitable diplomatic policy. This point was clearly stated in the speech by the French minister of Foreign Affairs Laurent Fabius in the headquarter of ASEAN in August 2013 "The French government decided to focus on Asia, especially on Southeast Asia". The adjustment of this strategy is an important pillar in the French diplomatic policy under the former president François Hollande. This strategy was defined through the benefits of France in this region.

Geostrategy and national security

Southeast Asia is located in the southeastern continent of Asia – Europe, including Southeast Asian mainland and island with an area of about 4.5 million km^2 with 11 countries: Brunei, Cambodia, Timor-Leste, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

Southeast Asia has an important strategic position for France because it stretches marine navigations between the Pacific and The Indian Ocean, controlling most of the world's energy trade and transport activities going through this area. This is a vital arterial pathway for Pacific coastal countries and continents. Most of the oil imported by many East Asian countries comes from the Gulf and must go through Southeast Asia. Geographical researchers still call this area "ventilation duct", "crossroads" or "bridge" of important traffic in the world. In particular, Southeast Asia is a bridge between two large oceans, the Pacific and The Indian Ocean, and also a bridge between Asia, Europe and Oceania.

Southeast Asian countries cover almost the entire perimeter of the South China Sea with a total coastline of about 130.000 km. The South China Sea is controlled by seven straits to ensure an intersection between Asia and Oceania and is the only sea linking the Pacific and the The Indian Ocean (The Strait of Malacca between the Malay Peninsula and Sumatra island of Indonesia, connecting the Andaman Sea, bordering the Indian Ocean, to the South China Sea;

Macassar Strait connects the sea of Celebes and the Java Sea, separating Borneo west of Sulawesi to the East; Taiwan Strait between Taiwan and the continent; The Sunda Strait separates the islands of Java and Sumatra of Indonesia; The Lombok Strait connects the Java and Indian Ocean, dividing the Indonesian islands from Bali and Lombok; The Balabac Strait connects the Sulu Sea with the South China Sea, separating Balabac Island in the Philippines from the northern Borneo islands, in the state of Sabah in Malaysia; Luzon Strait separates the Philippines and Taiwan). Through decades of history, the South China Sea has always been considered as an essential way of transporting oil and commercial resources from the Middle East and Southeast Asia to Japan, South Korea, and China. More than 90% of the world's commercial transport is carried out by sea and 45% of them must go through the South China Sea. The amount of oil and liquefied petroleum gas transported through this sea is 15 times greater than that of the Panama Canal. Every year, about 70% of the volume of imported oil and about 45% of the volume of Japanese exports are transported through the South China Sea; 70% of imported oil and 60% of China's imports and exports are transported by sea through the South China Sea. Therefore, this sea is very important for all countries in and outside the region in terms of geostrategy, security, maritime and economic transport.

As a country that controls many territories in both the The Indian Ocean and the South Pacific, it means that France is also a power in the Asia-Pacific and the only European country to have direct benefits in the area. France needs to be assured of freedom to enter and exit this area. Therefore, strengthening the presence in Southeast Asia is Paris' inevitable choice.

With 1.6 million citizens living in the overseas territories of France such as Mayotte and La Réunion in the The Indian Ocean or New Caledonia, Polynesia, Clipperton and Wallis, and Futuna Islands in the Pacific Ocean, all constitute the world second largest economic privilege area with about 9 million square kilometers (after the US), all administrations in France also need to resolutely strive to protect the principles of maritime freedom in Southeast Asia, especially in the context where China's activities in the South China Sea are causing concern for the whole world. France has always maintained its standing sovereign defenses in its overseas territories, including 8,000 people with 72 experienced warships and support ships operating in tropical waters [4].

Economy

Southeast Asia is seen as a driving force in the global economy thanks to the positive growth prospects as well as the rapid recovery from the major financial and economic crisis of 1997. The good economic health of some emerging countries in this region contrasts with the slowdown in other regions. According to the International Monetary Fund, by 2020, Asia will account for more than 30% of the total global growth, of which ASEAN countries account for one third. Investment opportunities, free trade and open markets make the region a real attraction, explaining the new interest of French diplomacy in the region, which is promoted by the desire to develop an economic partnership for companies and France's own economic growth.

France needs Southeast Asia as a potential market to revive its still stagnant economy after the recession and sees ASEAN as an important economic partner in Asia pivoting policy. Today's prosperity in France – the sixth largest economy in the world – is also closely related to the dynamic development of Asia in general and Southeast Asia in particular. With a population of over 600 million people (about 9% of the world population), ASEAN is a big market with a high growth rate of 5–7%. In Southeast Asia, more than 1.500 French businesses are operating. The total French export turnover to ASEAN is equivalent to the export turnover to China. Apart from the European Union (EU) member states, ASEAN is France's third largest trading partner after the United States and China, ranking ahead of Japan. At least six Southeast Asian countries are on the list of about 45 priority countries and territories for French exports.

Southeast Asia clearly has an increasingly important position in the strategy of French businesses, contributing to boosting France's economic dynamism.

Southeast asia during the implementation of Asia pivoting policy of France

Goals of Asia Pivoting Policy of France

Since the 1990s, French leaders have evaluated Asia as a top strategic challenge to overcome, with a series of official speeches and texts emphasizing the economic potential of this area. The presence of France in this area is no longer something new but still quite fuzzy. Since the mid-1990s, France has conducted high-level dialogues and established strategic partnerships with Japan (1995), with China (1997) and with India (1998). President Jacques Chirac signed a defense treaty with Singapore and Malaysia and by the time of President Nicholas Sarkozy France was closer to India despite the prolonged tension between this Asian country and China since 2008–2009 [3].

By the time he came to the power in 2012, President François Hollande showed a desire to establish a clearer and more diverse presence of France in the Asia-Pacific, despite having to compete directly with the US, the latter is pushing its strategy toward this region to limit China's influence. The French White Book on defense and national security in 2013 gave a priority to Asia and called on France to increase its engagement with the continent [5].

The basic goal of Asia pivoting policy of France is to find its strategic position in this area, in other words, the position of a France with a relevant role and to be heard. However, "pivoting to Asia is not a movement effect, but because France wants to be present in an area where the future world is being built" [2]. The idea of French pivoting is not the same as American "pivoting" or "rebalancing" policy implemented in the Asia-Pacific in 2011 under President Barack Obama. The focus of "pivoting" of France is not accompanied by military restructuring in the region but mainly on economic and diplomatic activities. Specifically, the French pivoting policy focuses on solving two main issues: the first is to find new commercial markets, the second is to diversify and deepen strategic partnerships in the Asia-Pacific region.

Policy implementation measures in Southeast Asia

Firstly, on diplomatic strategy: Building a high-level Asian strategy accompanied by the development of the concept of The Indian Ocean – Pacific; Increasing the frequency of official political-military visits to Southeast Asian countries; Strengthening strategic partnerships with Singapore, Indonesia, Vietnam and working towards strategic partnership with Malaysia and expanding relationships with potential countries such as Thailand and the Philippines; Strengthening involvement in regional institutions by fully participating in forums and organizations such as ASEAN, APEC, EAS … and playing an active role in developing the agenda of these forums.

Secondly, on security and defense: Strengthening the military presence in the region, on the one hand, to modernize military relations with the strategic partner Singapore, to ensure the presence of trusted military equipment in the region with a naval, transportation and logistics support point located in Singapore, on the other hand to seek to strengthen the presence of the French Navy in other countries in Southeast Asia with the deployment of modern destroyers; Maintaining the presence of the French Defense Minister in the Shangri-La annual dialogue in Singapore; Expanding cooperation with naval forces of Southeast Asian countries (in the field of anti-terrorism, disaster prevention, officer exchange, exercise …); Proposing annual consultations on maritime safety and freedom of marine navigation in the The Indian Ocean-Pacific on international forums; Actively participating in regional security forums, strengthening defense cooperation and promoting arms supplying contracts.

Thirdly, on economy: Improving the overall trade impact of Paris in the region facing a strong emerging China by expanding relations, trade and investment to the region through APEC, G20 and new generation free trade agreements to promote market opening, reduce trade barriers, enhance transparency

and implement fair trade commitments; Making the "green economy" become a spearhead in Southeast Asia. Fourthly, promoting the role of member countries of Francophonie (French Speaking Community) in Southeast Asia to enhance cultural and people exchanges.

The imprint of the process of implementing the pivoting policy in Southeast Asia under President François Hollande

The focus on "pivoting" is primarily on economic and diplomatic activities, and political and security aspects are also noted.

Southeast Asia – French prioritized economic partner

Faced with economic dynamism and the strong rise of Southeast Asian nations, France must reform its economic policy for the whole region. The result of this reform is the movement to commit to diversify French foreign policy in Asia and reaffirm French influence on a global scale. Based on this point of view, France continues to develop bilateral relations with traditional partners in Southeast Asia such as Singapore, Vietnam, and Indonesia. In addition, France is exploring new markets and investment potentials in emerging economies like the Philippines, Malaysia, and Thailand.

According to data from the French Treasury, ASEAN is its second largest trading partner in Asia, with a two-way trade turnover of nearly 31 billion EUR in 2017, an increase of 5.9% over the previous year. French exports to the region increased slightly, reaching 3.7% while imports grew stronger, to 8.1%. In that overall picture, France's market share in the region reached about 1.6%. Although this rate is not high, it is almost stable in the last 10 years. This is a relatively positive trend compared to other markets, France's market share tends to decrease. In 2016, French exports to Thailand increased by 33%, to Malaysia by 23%, to Singapore by 10%, to Vietnam by 7.9%, to Myanmar by 5.1%, and figures showed that the product originated from the country of "Gaulois Rooster" is quite well received in the main markets.

French foreign investment into Southeast Asia is also quite large. By 2017, French direct investment to ASEAN reached about 16 billion EUR, the third largest level after French investment to China and Japan.

France must be present economically everywhere and make the most of its leverage in every Southeast Asian country. Vietnam, for example, is partnering in high-tech sciences and in admitting more students to study in France; Singapore and Malaysia are French partners in defense equipment and technology transfer.

According to the Singapore Ambassador in France, Zainal Arif Mantaha, the steady rise of the middle class in Southeast Asian countries, is forecasted to quadruple up to 2030. This will be a huge opportunity for French businesses which have strengths in areas such as services, aviation industry, luxury goods or food industry. ASEAN is ready for new opportunities, especially in the area of creative economy and digital economy.

According to Joffrey Célestin-Urbain, the Deputy Director in charge of bilateral relations of the French Treasury, infrastructure or climate change are the areas of investment of which France has a great advantage in the region. In Southeast Asian countries, the demand for capital infrastructure construction is huge. The Asian Development Bank estimates that the region needs about US $3,150 billion in investment in this area between 2016 and 2030, i.e. about US $200 billion per year, equivalent to 5% of the region's GDP.

As for climate change, the Asian Development Bank (ADB) has released an economic report on the status of climate change in Southeast Asia in 2015 and affirmed that Southeast Asia is particularly vulnerable to climate change because people densely live on the coast. Up to 4 countries in the region are among the most vulnerable countries. In the next few years, countries will have to invest about $200 billion to adapt to climate change.

Enlisting ASEAN's dynamic development has become a concern and a key development strategy of French businesses, including many activities to promote the advertisement of French technology and products to Southeast Asia, improving the competi-

tiveness of France in areas where goods from countries such as Japan, Korea, China … are prevailing. The seminar with the theme "ASEAN – a big market towards the creative economy" held in 2018 in Paris the French Senate in the coordination with Business France is one of those activities.

Diplomatic activities

Southeast Asia's position in Asia pivoting policy is reflected in the fact that France advocates maintaining high-level meetings with ASEAN on global economic and geopolitical issues, maintaining its presence of the Minister of Defense at the Shangri-La Dialogue and strengthening diplomatic activities with ASEAN and resources for the French Mission in ASEAN.

From the first months of François Hollande's five-year presidency, specifically from May 2012 to November 2013, 33 state visits to Asia took place, while this number was only 13 in the previous two years. The first Southeast Asian country that the French president chose at the beginning of his presidency was Laos. During five years in power, President Hollande traveled to the Philippines (2015), and Vietnam (2016). One month before leaving the Elysée Palace, the French president made the last trip as head of state to three Southeast Asian countries namely Singapore, Malaysia and Indonesia, from March 26–30, 2017.

In Paris, Mr. Hollande received leaders from countries like Thailand and Myanmar. Dozens of bilateral dialogues by President François Hollande with the leaders of Southeast Asian countries have helped Paris expand its influence and create a solid foundation in its relationship with the region.

Not only did he personally go to Southeast Asia but President Hollande also mobilized the government, headed by Prime Minister Jean-Marc Ayrault, then Prime Minister Manuel Valls, standing side by side with him in this effort. His two prime ministers have been the most senior leaders of France since the late 1980s visiting Thailand.

In addition to visiting or regulating the most senior government envoys to Southeast Asia, President Hollande also took advantage of a team of French diplomats around the world and embassies to expand Paris' Asia pivoting policy.

Economy, strategy, and environment are always the driving forces of the French missions or diplomatic contacts. The diplomatic campaign to serve the purpose of the environment is also a new direction that President Hollande has outlined. In preparation for the summit against climate change Paris-COP 21, in the Philippines, in February 2015, the head of France launched the "Call from Manila".

Culture and people exchange

This is also the field that is creating the mark in the "pivoting" of France to Asia. Never before have French interested in Asia in general and Southeast Asia in particular as much now as the French communities in Asia are the fastest growing communities in the world. Currently the number of French people living in Asia accounts for nearly 9% of the French population abroad. In Southeast Asia, the two most populous French countries are Indonesia and Thailand.

The number of French students at Asian universities is increasing, while Asian students (especially Chinese, Korean or Vietnamese) currently studying in France have reached 50,000.

Many Southeast Asian countries such as Cambodia, Laos and Vietnam, are members of the Francophone community and become "bridges" linking culture, language, education, etc. between France and the ASEAN region in particular and Asia in general.

Security-national defense

France's Asia pivoting policy is not only promoted by diplomatic activities and economic cooperation but also by security and national defense strategy. In his speech at the ASEAN Headquarters in Jakarta on August 2, 2013, former French Foreign Minister Laurent Fabius affirmed, "It is impossible to have France's Asia pivoting policy without ASEAN. This policy cannot be restricted to the Delhi-Beijing-Tokyo strategic triangle". The 2013 French White Paper on Defense and National Security pointed out that "France participates in defense and security

cooperation with many countries in the region such as Indonesia, Malaysia, Singapore and Vietnam."

So far, the security strategy implemented by France has been to prevent the proliferation of nuclear weapons and to focus on scaling up and increasing the military's potential. However, France has re-established the problem of identifying a new regional and global security strategy, reflected in the document "France and Security in the Asia-Pacific " published in April 2014 [6] and updated in June 2016. This is a publication of the action plan in the field of French security and defense in the Asia-Pacific region. This document highlights two things: France strengthens its presence in the Asia-Pacific region because France's benefits are directly related to this region; France must assert this fact and convince that it is a strategic choice.

A key point in France's Asia pivoting policy is that President Hollande has found a balance between Paris' partners. France not only cares about developing economies like China and Japan but also small partners in the region. France was the first European country to join the Treaty of Amity and Cooperation (TAC) in Southeast Asia in 2007 [4]. In this area, France has a close relationship with four countries: Singapore, Indonesia, Vietnam, and Malaysia. The French defense-security policy for Southeast Asia has been planned based on the division of three specific groups of countries such as:

Firstly, the political top priority countries for which France performs all levels of partnerships (political and economic dialogue, political-military exchanges, defense cooperation) include Malaysia and Singapore.

Secondly, the countries are identified roughly equivalent to the priority group including Indonesia and Vietnam.

Thirdly, countries with weak cooperation which France must make a commitment to support relations with such as the Philippines, Myanmar, and Thailand.

France implements its political commitment to the region through its active presence, the development of strategic partnerships and the strengthening of security cooperation networks. French Defense Minister Jean-Yves Le Drian twice performed the Shangri-La Dialogue Security in Singapore and spoke about the South China Sea. Mr. Le Drian has set up a dialogue framework every 2 years with defense ministers in the South Pacific region. Especially, his last attendance in this security forum in June 2016, Mr. Le Drian announced the intention of France to cooperate with EU countries to implement the Freedom of Navigation Operations (FONOPs) in the South China Sea aiming to protect "order based on international law". For two consecutive years from 2016–2017, the group of assault landing craft Jeanne d'Arc (The Jeanne d'Arc campaign aims to strengthen international cooperation and practical combat training for 131 officers involved in the course – including officers from allies – and facilitate student's active participation in group activities. The four main objectives of the campaign are: deployment of military forces in strategic areas, international cooperation, diplomatic relations support, and practical combat training for the officers involved in the course), including the fleet of helicopter cruiser Mistral – Courbet and the French Tonnerre lander, visited ports of the countries with strategic partnerships with France in Southeast Asia like Vietnam and Singapore.

One problem that France is also concerned about when implementing a security-defense strategy in its Asia pivoting policy is defense equipment, focusing on basic issues such as military equipment business, technology transfer and long-term support in the fields of training as well as logistics.

As the fifth largest weapon exporter in the world, France contributes to strengthening the defense of Asian countries with gradually increased sales of defense equipment to this region (28% in the period of 2008–2012, compared with 12% in the period of 1998–2002). Southeast Asia is a major consumer market for French defense equipment. About 40% of submarines sold to Southeast Asian countries are from France. France currently holds more than 50%

of Malaysia and Singapore's defense market, and in 2012, French companies won more than 800 million dollars in the sale of weapons equipment in Indonesia. In 2012–2013, Singapore is the fifth largest importer of weapons in the world, in which France is the second largest supplier after the US.

The inheritance of Asia pivoting policy under President Emmanuel Macron

Mr. Macron had played a key role in shaping foreign policy for Mr. Hollande in the period of 2012–2014, which focused on China and developed relationships with India, Japan, Korea, and ASEAN. Perhaps therefore, since the election campaign, Mr. Macron was thought to be more interested in the Asia-Pacific region than Ms. Le Pen. Mr. Macron also expressed prominence compared to Ms. Le Pen in foreign policy at the point of not taking China to represent the whole Asia-Pacific, but actually addressing other issues of this region.

As a former Minister of French Economy (2014–2016), Mr. Macron had his own assessment of advantages and disadvantages from the rise of China, India and Southeast Asia for France. He also called for the re-establishment of France's strategic presence in the Asia – Pacific within the framework of the European plan.

During more than a year in power, Emmanuel Macron has made a clear mark on politics with innovations in the diplomatic security strategy [8]. The key role of the Asia-Pacific region is also included in the French security strategy by Mr. Emmanuel Macron. France has increased the frequency of defense operations in the Pacific and The Indian Ocean since the beginning of 2018, while actively promoting defense cooperation in the Asia-Pacific region.

France's selection of this area to conduct a combat training program for naval officers of other countries is a clear testament to Paris' security strategy. As part of a series of recent activities with many Asian countries, the visit to Philippine port of the French battleship or the friendly visit of Dixmude helicopter carrier and the stealth frigate Surcouf to the ports of Vietnam and Singapore clearly stated ongoing development of defense relations between France and Southeast Asian countries, as well as France's role as a great power in the Indian-Pacific region.

It can be said that the continuation of the current defense policy as well as the support of Mr. Le Drian for Mr. Macron have shown that the importance of cooperation between France and the Asia-Pacific will be recognized and consolidated by Mr. Macron's administration.

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Section 5. Political sociology

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POLICY OF SOCIAL SECURITY POLICY IN VIETNAM

Abstract. Theoretical and practical evidence shows that Vietnam's social security system model is very rich and diverse with many components, contents, overlapping and complex. In fact, social security is carried out in both broad and narrow sense with increasing social investment and economic growth. However, from the perspective of people's income, the absolute value and the proportion of income from social security still account for a small proportion with a low absolute value and there is a manifestation of the lack of distribution symmetrical. This calls for the development of a social security law and the development of criteria and standards for the effective implementation of social security policies that contribute to sustainable development.

Keywords: social security policy; policy enforcement; social security in Vietnam; role of social security in Vietnam; enhance social security.

1. Social security policy

1.1 Theoretical background on social security policy

Social policy is a kind of policy institutionalized by state law, a system of views, guidelines, directions and measures to solve social problems posed for a time and not. Time, first of all the social issues related to human life on the principles of progress and social justice, in order to contribute to the stable and sustainable development of the country. The basic social policies include population policy, family policy, health policy, education policy, policies for classes and classes in society; policy for the gender, social security policy …

Robert M. Ball in his book Social Security Today and Tomorrow [1] mentions the concept of Social Security (a system of policies that support those who are (or are threatened) by lack of income (which is wage) or other special expenditures) and refer to the programs that governments have set up to help people at risk of loss or loss of income; Social security is seen as a protection for the public against social risks. John Dixon in Social Security in the Global Perspective [4] mentions that a country's social security is intended to provide public (cash and in kind) measures for random events. However, the law stipulates that people have a right to enjoy, includ-

ing loss of income or inadequate incomes, offsetting the cost of living for dependents; Social security is only available to individuals and households who fall victim to sudden or sudden loss of income – social security focuses only on poverty, social exclusion and poverty. Reinsurance is not considered part of social security. M. Grosh, C. Ninno, E. Tesliuc and A. Ouerghi on Social Protection and Social Promotion: Designing and Implementing Effective Social Security [6] It is used to help those who fall from the top down economically before they fall into poverty, either subsidizing or providing a minimum income to those who are in a poor, permanent state. longer.

In Social Security in Vietnam towards 2020, author Vu Van Phuc [9] states that social security is a social policy of the state to implement preventive measures, limiting and correcting risks, ensuring income and living security for members in society [8, p. 14]. In his book Social Security Policy and the Role of the State in Implementing Social Security in Vietnam, Nguyen Van Chieu said that social security policies are the protection measures of the home. to prevent, limit and remedy the risks to their members when they lose or reduce their income due to illness, maternity, labor accidents, occupational diseases, unemployment or old age no labor or other objective reasons through social insurance, health insurance, unemployment insurance, social benefits and social assistance [3, p. 18]. Social security policy is understood as a system of guidelines, guidelines and measures to ensure income and other essential conditions for individuals, families and communities in the face of economic and social changes. and naturally causes them to lose or lose their ability to work or lose their jobs, sickness, illness or death; For lonely old people, orphans, disabled people, vulnerable people, war victims, people affected by natural disasters. This is a system of policies to prevent, reduce and remedy risks through social insurance, social relief and social assistance activities. The goal of social security policy is to ensure income and other essential living conditions for all members of society. The subject of social security policy is all people, including those in the labor category, those who have not yet reached the working age and those who have reached the working age, including those of social polic urban and rural poor, women, children, youth, the disabled and ethnic minorities … [2, p. 22–25].

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1.2. The role of social security in society

In modern society, countries, on the one hand, aim at promoting all resources, especially human resources for economic growth, enhancing the competitiveness of 28 economies to create sustainable development and more and more prosperous for the country; On the other hand, the social security system is constantly being improved to help people, especially the laborers, to cope with social risks, especially the risks in the market economy and the commune risk. other associations. In addition to the overall impact of rich countries, social security policies can contribute to the socio-economic development of poor countries.

This is reflected in the following aspects: *First,* social security policies affect the accumulation of human capital as it improves the level of education and human health, eliminating the forms worst of poverty, poverty. *Secondly*, social security policies also have a positive impact on the demand side as it is a redistribution of purchasing power and benefits the domestic production of goods and services. *Third,* social security policies contribute significantly to the creation of conditions for a sustainable social and political environment. When the benefits of economic growth reach all people, including former social groups that are marginalized, this will contribute to

reducing social and political disorder. These impacts stem from the redistributive nature of the social security system.

1.3 Enforcement of social security policy

Social security policy implementation is the process of turning policies, measures, and measures related to the social security system into actual outcomes through organized activities in the state apparatus. and the wide participation of organizations, units, families, individuals and the whole society, in order to realize the objectives set by the policy. It is the process of implementing the social security policy system (social assistance, social benefits, social insurance, health insurance, employment …) into reality with tools, state machine to realize the goal set [7, p. 44]. How does the implementation of social security policy relate to the various sections (state agencies making social security policies, executing agencies implementing social security policies, social security beneficiaries, beneficiaries of policy) and basic steps in the implementation of social security policy.

How does the implementation of social security policy relate to the various sections (state agencies making social security policies, executing agencies implementing social security policies, social security beneficiaries, beneficiaries of policy) and basic steps in the implementation of social security policy. In fact, these divisions often do not have absolute isolation but are interwoven and integrated (such as social policy-makers, policy beneficiaries, etc.). Implementation of steps in the implementation of social security policies must be considered at the level of enforcement subject: Social policy, social protection policy is central planning (national policy), then The implementation of social security policy is the local government at all levels.

On the basis of national policies, local authorities at all levels, on the basis of local conditions, continue to institutionalize national policies through the issuance of decisions, plans and programs. local policy) and implementation arrangements to realize these policies. In terms of relativity, therefore, it can be seen that implementing a social security policy of a province or city is just one part of the policy cycle (planning, implementation, evaluation) and It can be seen that the implementation implies the whole policy cycle (local policy) with all three steps (planning, implementation, evaluation).

2. Evaluate the implementation of social security policy in Vietnam during 1986–2017

Through 30 years of implementing the renovation policy, the work of ensuring social security in Vietnam has achieved many important results. The social security system is increasingly synchronous and complete with the coverage is constantly expanding. The material and spiritual life of the people has been constantly improved. Social security has become a strong backstop for the poor and the vulnerable in society, contributing to the formation of a society without social exclusion and ensuring the socialist orientation of social cohesion. develop the country. To date, the work of ensuring social security has achieved many outstanding achievements, the people agreed and international appreciated: The social sector has achieved many important achievements, especially poverty reduction, job creation, preferential treatment for people with meritorious services, education and training, health care, support for people with special difficulties, family affairs and gender equality. The material and spiritual life of people with meritorious services, the poor and ethnic minorities has been improved, contributing to the consolidation of the people's confidence and social and political stability. Vietnam is recognized by the United Nations as one of the leading countries in implementing some of the MDGs [5, p. 104].

Institutionally, in the recent years of renewal, the Communist Party of Vietnam and the Government of Vietnam have formulated and implemented many important social security policies, mobilizing many resources of the whole society. Helping people (ethnic minorities, the poor, the lonely elderly, children and vulnerable people) to rise up in life. Policies and solutions to ensure social security are implemented

in all three aspects: Help beneficiaries increase access to public services, especially in health, education, teaching legal aid, housing, …; Support production development through policies on market guarantee, credit, employment; Develop essential infrastructure for localities to serve people better. The legal system of social security is becoming more and more perfect, which has become an important legal foundation for regulating social relations. The social security system has been developed with increasing content and forms, to share risks and provide practical assistance to the participants. Social insurance is implemented in three types: compulsory insurance (social insurance and health insurance), voluntary insurance and unemployment insurance.

However, the work of ensuring social security in Vietnam still has many shortcomings and weaknesses: poverty reduction is not sustainable, people in ethnic minority areas, remote areas are more difficult, The rich and poor, divided between regions, tend to expand. Underemployment in rural areas, urbanization and unemployment in urban areas is still high. The resources to implement social security are limited, mainly based on the state budget, with coverage and low support levels, not keeping pace with the development of the socialist-oriented market economy. means. The balance between the source and use of the social security system, including social insurance funds, health insurance and social protection schemes, is limited and faces great challenges in the short term, as well as medium and long term. Social insurance funds, especially health insurance funds, are in a state of emergency in the near future. Investment resources for social security of the State hard to meet the requirements of social security of increasing people, while mobilizing from other sources, especially from the community is limited, especially countryside. Forms of insurance do not meet the diverse needs of the people; The quality of services is generally low, still occur not less negative, troublesome. Some unreasonable social security policies exist; There are no specific social security policies and suitable for rural people and mountainous and ethnic minority areas with difficult living conditions. The quality of provision of social security services, especially health services, is limited, not meeting the requirements of socio-economic development and increasing the living standard of the population. The administrative system and the social security service have not kept pace with the development requirements, and are limited in their ability to organize and manage social security [8].

3. Solutions to strengthen the implementation of social security policy in Vietnam

To bring into full play the initiative of the whole political system in formulating programs and plans for the implementation of a system of uniform and effective social welfare policies.

First, the social security policy must be specified by action programs, target programs, implementation plans; To promulgate documents guiding the implementation of the policy; Development of development projects and projects. These procedures provide an environment for policy implementation, which stipulates the requirements and steps needed to implement the policy.

Second, prepare resources for policy implementation; mobilize resources. On the basis of such programs, the authorities should concretize the social security programs into specific schemes and decisions and assign specific responsibilities of the departments and localities in implementation process. Planning programs must be concretized in terms of objectives and roadmaps in relation to the objectives and roadmap for the implementation of the country's socio-economic development tasks and regularly monitored and monitored. performance with high determination.

Promoting propaganda and advocacy to promote the synergy of all organizations, community groups and all people in expanding the social security system associated with the community. Addressing the issue of social security in the context of poor countries, if only based on the budget will not be able to achieve the goal. Therefore, the promotion of synergy based

on high consensus of society is necessary and attaches to the following measures:

– Promote the propaganda and mobilization among the people, make the spirit of mutual support, the spirit of community must be improved and solid. Strengthening the communication to create an atmosphere of understanding, consensus and willingness to participate in activities of social security nature of people in the future is very important. The propaganda and advocacy work must be diversified, diversified and suitable for each type of people in the social security system; To propagate policies, policies and types of insurance for people to understand and choose – especially the Law on Insurance for all workers and people to understand the responsibilities, rights and interests. To participate in social insurance and health insurance. Along with propaganda and advocacy measures, there should be strict measures of punishment and sanctions by the government for enterprises that deliberately commit violations and refuse to perform their social responsibilities.

– Assign, coordinate, maintain and adjust in a synchronous and timely manner in the implementation of specific solutions in the social security system. The social security policy system is often implemented in a large area with many types and organizations involved so there must be coordination and reasonable division to accomplish well tasks. On the other hand, the implementation of social security policy objectives is extremely diversified and complex, intermingling and promoting each other, so it is necessary to coordinate the levels and branches to implement the main Active science books will be highly effective, because they remain stable. In order to maintain the policy, there must be a synergy of many factors, such as: the government is the organizer of the policy implementation to create favorable conditions and environment for the policy implementation; Policy-makers have the responsibility to actively participate in the implementation of policies. The timely adjustment of policy is necessary, taking place regularly in the process of implementing the policy-this adjustment must meet the preservation of the original policy objectives, only adjust the measures, the implementation mechanism of the target … Therefore; It is necessary to assign, coordinate, maintain and adjust in a synchronous and timely manner the implementation of specific measures in the social security system.

– Strictly observe the regulations on publicity, transparency, inspection and supervision of the implementation of the law on social security. The implementation of policies in the recent time has created a great social consensus among the majority of people is the Party, the Government at all levels have strictly implemented the Decision No. 31/2011 June 2, 2011 The Prime Minister shall stipulate the publicity, transparency, inspection and supervision of the implementation of the law on social security.

State management agencies shall have to regularly monitor, urge and guide agencies, organizations and individuals to ensure the implementation of social safety regulations applicable to the right subjects. standards, standards, norms; Timely prevent mistakes in the implementation process. Political and social organizations, media agencies and the media shall supervise in accordance with law in order to ensure the objective and effectiveness of the implementation of social security regulations. Citizens, individuals and organizations are responsible for promptly and honestly reporting on issues related to the implementation of social security law [10].

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