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Minimum wage in the system of state social guarantees: International comparative-legal experience

Мінімальна заробітна плата у системі державних соціальних гарантій: міжнародний порівняльно-правовий досвід

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Abstract

In the conditions of the development of the market economy, attention is drawn to the problem of the appropriate level of wages as a state social guarantee. The level of earnings of each working citizen affects the total income of the population, which contributes to the formation of demand for goods, works, and services and the level of the economy. The purpose of the work is to study the current problems of the payment mechanism in current conditions and establish the minimum wage in different countries. The research methodology includes such methods as the dialectical method, the method of analysis and synthesis, deduction and induction, the method of analogy, the historical-legal method, the systematic method, the formal-legal method, and the comparative-legal method. As a result of the conducted research, the minimum wage standards in Ukraine, despite the increase, remain one of the lowest among European countries. It is outlined

Анотація

В умовах розвитку ринкової економіки, увагу привертає проблема належного рівня заробітної плати як державної соціальної гарантії. Так, рівень заробітку кожного працюючого громадянина впливає на сукупний дохід населення, що сприяє формуванню попиту на товари, роботи і послуги та на рівень економіки загалом. Метою роботи є дослідження актуальних проблем механізму оплати праці в сучасних умовах та встановлення мінімальної заробітної плати в різних країнах. Методологію дослідження складають такі методи, як: діалектичний метод, метод аналізу та синтезу, дедукція та індукція, метод аналогії, історико-правовий метод, системний метод, формально-правовий метод, порівняльно-правовий метод. В результаті проведеного дослідження стандарти щодо мінімальної заробітної плати в Україні, не зважаючи на підвищення, залишаються одними з найнижчих серед європейських країн. Узагальнено, що в європейській практиці використовують три основних підходи до

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that in European practice, three main approaches are used to establish the minimum wage: based on the minimum needs of the employee; based on establishing a size that is 2-2.5 times higher than the subsistence minimum, and based on a comparison of the sizes of the minimum and average wages.

Keywords: minimum wage, social guarantees, wages, wage system, state regulation of wages.

Introduction

With Ukraine's course towards European integration, a strategic goal has been declared - "achieving European living standards" and ensuring basic state social standards and guarantees at the level of the European Union countries.

Based on the analysis of the experience of foreign countries, which was carried out by experts of the International Labor Organization (hereinafter – the ILO), several normative legal acts were adopted regarding the standards of minimum wage provision. Thus, the Convention of June 16, 1928, No. 26 "On the Establishment of a Procedure for Establishing a Minimum Wage" (International Labor Organization, 1928) provides that the established minimum wage is mandatory for of the respective employers and employees and shall not be reduced either by individual agreement or, unless there is a general or case-specific authorization by the competent authority, by collective agreement. The same provisions are followed in Art. 2 of the ILO Convention of June 22, 1970, No. 131 "On the Establishment of the Minimum Wage with Special Consideration for Developing Countries" (International Labor Organization, 1970), in particular, emphasized the legal meaning of the minimum wage: it is not subject to reduction, therefore, the employer has no right to pay the employee a wage below this limit.

Following international standards, the level of the minimum salary is considered as a lower limit, which should guarantee the satisfaction of the basic life needs not only of the worker, but also of his family, while, as a rule, the "set" of such needs is not defined, but the possible criteria for their establishment are indicated.

The Charter of the European Community dated December 9, 1989, "On the Basic Social Rights of Employees" (European Community, 1989) defines that employees should be provided with a fair wage, that is, a wage sufficient to ensure a decent (satisfactory) standard of living, in

встановлення мінімальної заробітної плати: на основі мінімальних потреб працівника; на основі встановлення розміру, який у 2–2,5 рази перевищує прожитковий мінімум, і на основі зіставлення розмірів мінімальної та середньої заробітної плати.

Ключові слова: мінімальна заробітна плата, соціальні гарантії, оплата праці, система оплати праці, державне регулювання оплати праці.

addition, it is established that in the case of deductions from wages, measures should have been taken to continue receiving the necessary funds for the employee and his family members. So, as we can see, international documents provide for the obligation to ensure minimum standards for remuneration.

The current legislation of Ukraine practically duplicates the recommendations of the ILO. In particular, the Constitution of Ukraine, the Code of Labor Laws, and the Law of Ukraine "On Remuneration" state that the amount of the minimum wage is determined taking into account the needs of employees and their families, the value of which is sufficient to ensure the normal functioning of the body of an able-bodied person, the preservation of his health food products, a minimum set of non-food products and a minimum set of services necessary to satisfy the basic social and cultural needs of an individual, as well as the general level of average wages, labor productivity and the level of employment (Law 254k/96-VR, 1996; Law 322-VIII, 1971; Law 108/95-VR, 1995). However, the size of such "minimum" required provision differs in each of the states.

The article analyzes the institution of wages and investigates the issue of guarantees for the realization of workers' rights to fair wages in different countries, notes the problematic issues of the implementation of the wage function and its impact on the country's economy, taking into account various factors.

Theoretical Framework or Literature Review

During the comparative legal analysis of the minimum wage in the system of social guarantees, the works of the following scientists were studied: Baranov, Galayda and Ryabukh, Gerasymenko, Golosnichenko and Dovzhik, Klymenko, Kupina, Krokmal and Parkhomenko-Kutsevil, Laptev, Lopushnyak,

Mashevskaya, Pyzhova, Rekun, Stavarska, Shevchuk, and Gaidar, and Utvenko.

In the work of Baranov (2011), the global experience of building an effective system of remuneration at the enterprise was analyzed. In particular, the author researched the foreign experience of remuneration systems, personnel remuneration models, and their relationship with the results of the work of an individual employee, business unit, or enterprise as a whole. The criteria for the effectiveness of the labor motivation system and its effects on achieving the strategic goals of the enterprise are analyzed.

The European experience of applying effective systems of remuneration and motivation of the company's employees became the object of research by Galayda and Ryabukh (2016). The authors concluded that one of the most important problems of the organization of wages at enterprises in Ukraine is the lack of an effective mechanism for the interest of employees, which would be able to ensure as close as the possible relationship between their wages and the actual labor contribution of each employee and the enterprise team as a whole, on the one hand, but was economically justified and would correspond to the company's development strategy – on the other hand, it would not contradict either the laws of the market economy or the principles of social responsibility of business and social partnership.

Global standards and Ukrainian realities regarding the minimum wage are explored in the article by Gerasymenko (2011). The author notes that currently, Ukraine is significantly behind European countries in terms of the minimum wage. The author also researched that, taking into account changes in economic indicators and price growth in many countries, there is an automatic algorithm for increasing the minimum wage. However, in the legislative norms of a significant number of states, there are no clear instructions on when it is necessary to increase the salary, and, therefore, in recent years, the gap between the minimum and average salaries has become obvious.

Problematic issues and ways to solve them related to wages are considered in the article by Golosnichenko and Dovzhik (2014). The author confirms that the improvement of wage systems, the search for new solutions, and the in-depth study of Western experience can help solve several problems related to wages in Ukraine, qualitatively improve its condition, and create the

basis for increasing the interest of employees in highly productive work shortly.

The international legal and domestic context regarding social security standards and guarantees is regarded in the work of Klymenko (2019). Peculiarities of legal regulation of decent wages are studied in the research of Kupina (2021). The general principles of state management in the sphere of labor remuneration were studied in the study of Krokmal and Parkhomenko-Kutsevil (2022).

Theoretical aspects of remuneration in the context of effective motivation of the company's personnel are disclosed in the work of Laptev (2015).

The practice of Ukraine and European countries regarding the minimum wage is analyzed in the work of Lopushnyak (2017). The author suggests that the restoration of inter-job relations should bring the subsistence minimum to its actual size and, using the experience of EU countries, establish a legislative norm of mandatory adjustment of the major state social standards and guarantees in the field of income following the inflation index in the event of an increase in consumer prices by more than 2 %.

Mashevskaya (2022) noted the peculiarities of foreign experience regarding the use of labor systems and employee motivation.

Pyzhova (2020) analyzed the triad of the interaction of the minimum wage, fair wages, and a decent standard of living in the context of international experience. Thus, the researcher concluded that the core of the category guaranteeing the realization of workers' rights to fair remuneration is the issue of the minimum wage and fair remuneration. The author analyzes the Conventions of the International Labor Organization on the raised issue. At the same time, it is remarked that the minimum wage should be established taking into account the interests of employees, as well as their family members, and at the same time taking into account the interests of economic development. The challenges and prospects of the state regulation of labor remuneration in Ukraine were investigated in the work of Rekun (2017).

Stavarska, Shevchuk, and Gaidar (2018) also drew attention to the state policy of regulating wages in the context of sustainable development of the country. Utvenko (2018) analyzed in detail the theoretical foundations of the system of social security and social support.

Given the above, the study of such a social guarantee as the minimum wage was studied among scholars. However, a comprehensive study of international-legal experience on this issue has not been conducted so far.

Methodology

The dialectical method played an important role in the study of the international legal experience of minimum wage regulation. Thus, with the help of general laws of development, which reflect the development of all spheres of social life and thinking, and not with partial laws, which reflect the development of only one sphere of reality, it was revealed what the legal nature of wages is, by what norms it is determined, on what grounds it is assigned, and why it is important to ensure minimum wage standards for workers.

In studies of international experience regarding wages, the method of analysis and synthesis should be rationally applied to examine the general interpretation of social guarantees and their essence, the characteristics of the properties of social legislation, the establishment of regularities regarding the application of the norms of social legislation, as well as the selection in the legislation of Ukraine of such elements that influence the formation of standards regarding the payment of the minimum wage.

Deduction and induction are of great value for the analysis of legal categories related to the subject of state social guarantees from individual to whole for the detailed disclosure of the problem, and analogy as a method that contributes to the identification of both external and internal factors that affect the process of providing minimal guaranteed by the state.

The use of the historical-legal method provided wide cognitive opportunities, as it made it possible to reveal the essence of the investigated phenomena in cases where it is not obvious, based on the available facts, and to identify the general and recurring, necessary and natural, on the one hand, and qualitatively excellent - on the other hand. With the help of a detailed retrospective analysis of the establishment of the minimum wage in the world and on the territory of Ukraine, it can be stated that the direct historical influence forms the current state. Thanks to the historical-legal method, the formation of social legislation was characterized in chronological order, as a result of which it will be clear what economic, political, and social conditions influenced the adoption of this or that

act and, in turn, reveal the features of this or that stage. Also, taking into account the historical features, it is possible to single out the shortcomings of the legislation on payment of labor at certain stages and determine the directions of optimization of this area.

The use of the system method is conditioned by the need to obtain a very specific result, when it is impossible to expect that this result will appear by itself, in a natural way, and it has to be constructed under the conditions of time and resource limitations, as well as the complication of social processes. The system method serves as an adequate means of research and development not of any objects that are arbitrarily called a system, but only of those that are an organic whole. Therefore, thanks to the use of the system method, it became possible to study the minimum wage in the system of social guarantees as a complex phenomenon.

With the help of the formal-legal method, the content of legal norms or phenomena in their stable state was isolated, and the general features of the researched object, its features, structure, and classification were determined. Due to the connection with the rules of logic and language, the specified method helped formulate the definition of legal concepts, make their description, classification, and systematization, and create a coherent conceptual system.

The application of the comparative legal method was laid out in the most significant part of the materials on the social legislation of foreign countries. Also, this method became useful for the optimization of national social legislation, as well as the comparison of legal norms of Ukraine in the social sphere with the norms of foreign countries making it possible to identify common and distinctive features and understand the patterns of development of social legislation in the world.

Results and Discussion

Before analyzing the international comparative-legal experience regarding the establishment of the minimum wage, let's find out what role the payment of labor plays as a state social guarantee.

In the general sense, remuneration is understood as remuneration, as a rule, in the monetary equivalent, which the owner or a body authorized by him pays to the worker for the work performed by him (Golosnichenko, & Dovzhik, 2014).

The payment of labor performs the following functions (Table 1):

Table 1.
The Functions of Ppayment of Labor.

The Function of Payment of Labor	
Reproducible	providing employees with the necessary life benefits for the reproduction of the workforce;
Stimulating	establishing the dependence of its size on the quantity and quality of work of a specific employee, his labor contribution to the results of the enterprise;
Regulating	optimization of the placement of the workforce by regions, and branches of the economy, taking into account the market situation;
Social	reflects the measure of living labor in the distribution of the consumption fund between the employee and the owner of the means of production;
The function of forming the solvent demand of the population	coordination of solvent demand, which is usually understood as the form of identifying needs provided by buyers' funds, on the one hand, and the production of consumer goods, on the other.

Data Provided by Golosnichenko, & Dovzhik (2014).

The specified wage functions are closely interrelated, but only with their totality is wage efficiency achieved. Given this, it is essential to ensure the minimum wage is under the real needs of the population to perform the functions of remuneration.

universal nature and the presence of international legal regulation, this noteworthy indicator of the population's standard of living does not always meet its real needs. We will analyze the international experience on this issue in more detail.

Therefore, a vital social guarantee operating in the world is the minimum wage. Despite its

The international practice uses three approaches to calculating the minimum wage (Table 2):

Table 2.
International approaches to calculating the minimum wage.

Approaches to Calculating the Minimum Wage	
Consideration of the minimum needs of the employee	The size of the minimum wage is determined based on the subsistence minimum.
Setting a size that is 2-2.5 times higher than the subsistence minimum	Expenses for providing a "consumer basket" are taken into account.
Consideration and comparison of minimum and average wages	This comparison takes into account EU indicators and ILO recommendations.

Data provided by Lopushnyak (2017)

The minimum wage institute operates in many countries. But the models for establishing minimum wage standards are different.

Table 3.
Models of setting the minimum wage in foreign countries.

Models for Setting the Minimum Wage		
Model	Country	The essence
Determination of minimum standards by the government	Portugal, Slovenia, Spain, the Czech Republic, Poland, Greece, Slovakia, Croatia, the Netherlands	The level of the minimum wage is determined unilaterally by the government
Determination of minimum standards by the government, taking into account the recommendations of social partners	Bulgaria, Estonia, Latvia, Lithuania, Hungary, Romania, Germany, Ireland, Great Britain	Consultation with a special advisory body or group of social partners

Determination of the minimum wage takes place in accordance with the established rule and on the basis of consultations with social partners	Belgium, Luxembourg, Malta and France	Periodic review of standards and mandatory automatic indexation according to the consumer price index
Establishing the federal and regional minimum wage	USA	On the basis of consumer prices and standards, minimum wage standards are established both nationally (minimum) and minimum in each region
Establishing only the regional minimum wage	Japan, Canada	Minimum wage requirements for each region are established
There are no laws on minimum wage standards	Finland, Norway, Italy, Germany, Denmark, Austria, Sweden	There is a tradition of concluding collective agreements between interested parties

Data provided by Gerasymenko (2011).

Despite the establishment or lack of minimum wage standards in various countries, today, in countries with a developed market economy, considerable attention is paid to strengthening the stimulating role of tariff wages, the basis of which is the concept of a flexible tariff. That is, it is the improvement of the qualifications of employees and the stimulation of individual results of their work, primarily production and quality of products (Mashevskya, 2022). At the same time, the mechanism of state regulation of wages is increasingly based on the ratio of such components as the minimum wage, the limit of its growth in the period of inflation, tax policy, the general procedure for indexation of incomes, forms, and systems of labor remuneration, etc. (collective contractual regulation on branch level); amounts of tariff rates and salaries, surcharges, and allowances (collective agreements); average salary (labor market). This mechanism opens up good opportunities for social dialogue and social partnership.

Taking into account the fact that, compared to the CIS countries, the minimum wage in Ukraine is lower than in Azerbaijan, Armenia, Belarus, and Kazakhstan and much lower than in European countries, Ukraine needs to implement standards for the comprehensive assessment of an employee to pay for his work, providing opportunities for his proper financial condition. Establishing effective wage levels, optimizing wage costs, and at the same time developing and applying an effective motivational mechanism is an important and difficult task. However, it is only by implementing positive European and international experiences that it is possible to solve some problems that are reflected in the general state of the country's economy.

Conclusions

1. The payment of labor performs such functions as reproductive, stimulating, regulatory, and social, and the function forms the solvent demand of the population. Wage functions are interrelated, but wage efficiency can only be achieved when they interact.
2. Among foreign countries, there are different models of wage setting: determination of minimum standards by the government; determination of minimum standards by the government, taking into account the recommendations of social partners; determination of the minimum wage takes place under the established rule and based on consultations with social partners; establishment of federal and regional minimum wages; establishing only the regional minimum wage; there are no laws on minimum wage standards. Each of the models contributes to ensuring the social function of the state.
3. The study of the experience of foreign countries and the provisions of international legal acts made it possible to assert that during the development of the institution of labor remuneration, it is important to guarantee the rights of workers to fair wages and at the same time implement a system of motivating workers to receive higher wages per their efficiency.

As for further scientific research, we consider it necessary to analyze in detail the ways of solving the problem of forming and providing minimum state social guarantees regarding the minimum wage both in Ukraine and abroad.

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