

Non-state social security: International legal comparative experience

DOI: <https://doi.org/10.46398/cuestpol.4178.35>

Yegor Krasnov *

Vyacheslav Truba **

Anna Hudz ***

Olha Potopakhina ****

Andrii Skorobagatko *****

Abstract

Ukraine's social security system faces significant difficulties. The challenges of the war add to the previously existing economic and demographic problems. The painful issue of ensuring social standards of the population in conditions of shortage of funds brings to the forefront ways to reduce the burden on budgets. In this regard, non-state social security is of great importance. In view of this, it is important to study the international experience of the functioning of non-state social security systems. The purpose of the work was to analyze the effectiveness of the Ukrainian system of non-state social security in comparison with the corresponding systems of other countries and to study international standards. The methodological basis of this research used such methods as: historical, statistical, comparative legal, formal legal and emergency method. In the conclusions of the case, the peculiarities of the non-state pension system of Ukraine are explained and the problems it faces are investigated. Several mechanisms that can lead to an increase of its efficiency and popularity among the population are considered. It was remarked that it is necessary to introduce changes, including through the implementation of international legal documents.

Keywords: non-state social security; non-state pension funds; international social security; investment portfolio; non-state organizations.

* Ph.D., Associate Professor, Judge of the Supreme Court, Ukraine. ORCID ID: <https://orcid.org/0009-0008-6869-0913>

** Doctor of Legal Sciences, Professor, Rector of the Odesa I.I. Mechnikov National University, Ukraine. ORCID ID: <https://orcid.org/0000-0001-7782-2166>

*** Ph.D., Associate Professor of the Department of Labor Law and Social Security Law of the National University "Odesa Law Academy", Ukraine. ORCID ID: <https://orcid.org/0000-0001-6230-4171>

**** Ph.D., Associate Professor of the Department of Civil Law Disciplines of the Odesa I.I. Mechnikov National University, Ukraine. ORCID ID: <https://orcid.org/0009-0002-6321-7488>

***** Doctor of Legal Sciences, Associate Professor, Head of the Department of General Legal Disciplines of the National University "Odesa Maritime Academy", Ukraine. ORCID ID: <https://orcid.org/0009-0006-4757-4089>

Seguridad social no estatal: Experiencia jurídica internacional comparada

Resumen

El sistema de seguridad social de Ucrania enfrenta importantes dificultades. Los desafíos de la guerra se suman a los problemas económicos y demográficos previamente existentes. El doloroso tema de asegurar los estándares sociales de la población en condiciones de escasez de fondos, pone en primer plano las formas de reducir la carga sobre los presupuestos. En este sentido, la seguridad social no estatal es de gran importancia. Ante esto, es importante estudiar la experiencia internacional del funcionamiento de los sistemas de seguridad social no estatales. El propósito del trabajo fue analizar la efectividad del sistema ucraniano de seguridad social no estatal, en comparación con los sistemas correspondientes de otros países y estudiar las normas internacionales. La base metodológica de esta investigación se sirvió de métodos, como: histórico, estadístico, legal comparado, legal formal y el método de emergencia. En las conclusiones del caso, se explican las peculiaridades del sistema de pensiones no estatal de Ucrania y se investigan los problemas a los que se enfrenta. Se consideran varios mecanismos que pueden conducir a un aumento de su eficacia y popularidad entre la población. Se remarcó que es necesario introducir cambios, incluso a través de la implementación de documentos legales internacionales.

Palabras clave: seguridad social no estatal; fondos de pensiones no estatales; seguridad social internacional; cartera de inversiones; organizaciones no estatales.

Introduction

Stable economic development of the country is impossible without the formation of a socially secure society. It so happened that the major source of financing the social protection system of the population of Ukraine was the funds of the state and local budgets, as well as the mandatory state social insurance funds.

However, now, in the midst of a bloody and destructive Russian aggression in Ukraine, there is no need to talk about a stable social security system. The war started by Russia against Ukraine has many negative consequences both for Ukraine and for the world in general (Tkalych and Arbelaez Encarnacion, 2022), one of which is a threat to the state social security system. In this context, non-state social security systems, in particular - accumulative pension funds, are of particular importance.

The development of non-state social (pension) provisions in Ukraine was conditioned by various factors. Increasing demographic aging of the population leads to an imbalance of the demographic burden on the working population.

In addition, the transition to a market economy led to the rejection of the main principles of the solidarity pension system, namely: “working people should provide money for those who are not working”; a decrease in the economic activity of the working population; spread of shadow employment and shadow incomes; the availability of a significant part of working benefits from the payment of contributions to the Pension Fund; low level of wages, high level of arrears for the payment of contributions to the mandatory state pension insurance.

The specified factors led to the need for fundamental changes in the pension system and the formation of a non-state pension system, which constitutes the third level of the pension system. The basis for the development of the system of non-state pension provision is the imperfection of the system of mandatory state pension insurance and pension provision. Even before the start of significant reforms in Ukraine, scholar Sydenko (1999) rightly noted that when creating a system of social protection in Ukraine, adequate to the principles of a market economy, it is necessary to carefully examine the world experience of the functioning of social protection systems in the most developed countries of the world, where they have been operating since the end of the last century.

Unfortunately, in Ukraine, unlike in other countries, the role of non-state financial institutions in ensuring the social protection of the population remains insufficient, and their potential in improving the well-being of Ukrainians is underestimated.

It is worth noting that under modern conditions, social policy reform is a critical issue for the EU as a whole and for individual EU member states. This is connected with migration, and economic and social problems, which have worsened recently. The above causes the need to change the priorities of the social policy of the EU member states and to direct it not only to ensure the social protection of citizens but also to overcome poverty, improve living and working conditions, ensure a high level of education, etc. In connection with the above, at the current stage of the development of Ukraine as a legal welfare state, its social policy should be aimed at citizens' realization of their constitutional rights, including the right to social protection.

Given the above, it is essential to investigate the existing features of non-state social security, including non-state pension security in the context of international legal comparative experience.

The article examines the essence of non-state social security and some forms of its implementation in domestic legislation, among which the leading place is occupied by the system of non-state pension security.

The investment portfolios of the primary non-state pension funds and regulatory regulation of investment restrictions of certain types of assets of non-state pension funds are analyzed in detail. The possibility of revising some types of restrictions in the direction of lowering their share, in particular regarding state securities and deposits in banks, was emphasized. The international experience regarding the amount of remuneration of non-state pension funds, which is collected from the funds of the trustees of the fund for relevant services, is studied separately.

Prospective directions for the reform of non-state social security institutions in Ukraine were noted.

1. Theoretical Framework or Literature Review

During the study of the international legal experience of non-state social security, the works of the following researchers were analyzed: Bond, Tartasyuk, Datsyuk, Dmytrenko, Tyshchenko, Melnyk, and Medvid.

A USAID report by Bond (2018) examines the relationship between pension reform and economic growth, labor markets, and capital market development. It highlights the main principles and considerations that should guide the discussion of pension reform in Ukraine. The report touches on several important issues of building a fair and balanced pension system (replacement ratios, the number of contributions, payment adjustment mechanisms, gender issues) and discusses the issue of financial sustainability of the solidarity system.

Another USAID report (2019) provides a brief overview of non-state pension provision in Ukraine and the problems of its development, emphasizing the importance of the main factors that determine the indicators of the non-state pension provision system: the size and regularity of payment of contributions, investment income, and operating expenses, emphasizing the importance of the main prerequisites positive results of the non-state pension system: a) political and macroeconomic stability; b) constant support of the general reform of the pension system; c) sufficient institutional capacity for regulation and supervision; d) strong financial infrastructure and availability of reliable financial instruments.

The work of Tartasyuk (2019) analyzed the number of participants, as well as the shares of assets in the investment portfolios of the largest non-state pension funds in Ukraine.

The structure of depositors by subject and prospects for the development of non-state pension funds is considered in the work of Datsyuk (2019).

The work of Dmytrenko (2022) investigated the peculiarities of the social protection of citizens in the conditions of the European integration of Ukraine. The components of the social protection mechanism, which includes, in particular, financial, legal, and organizational support, are defined.

Tyshchenko (2015) researched the peculiarities of the legal regulation of social security in certain countries of the European Union, and studied the functioning of the legal mechanism of effective implementation of social security of vulnerable population groups in foreign countries.

Melnyk (2018) examines key questions regarding the trends in the implementation of international (European) social standards in the process of legislative provision of social protection for persons with disabilities. The necessity and importance of the international and European integration of Ukraine into the international community and European community were noted. It is emphasized that the social protection of persons with disabilities is one of the most complex social and legal phenomena.

The main problems regarding the proper functioning of social protection for persons with disabilities, legislative provision, and implementation of international social standards are revealed. Key aspects of international and European social standards are noted.

The work of Medvid (2018) examines international legal standards in the field of non-state social security. Special attention is paid to international legal acts ratified by the state relatively recently (ILO acts, European Social Security Code). The author's proposals for improving the current legislation in the researched area are highlighted.

The problems of social security of people in the context of the upheavals of the current moment - from the COVID 19 pandemic to the armed aggression of Russia against Ukraine - are considered in the work of Tkalych, Kolomoiets, Davydova (2022).

2. Methodology

The historical method of learning social processes makes it possible to investigate the emergence, formation, and development of processes and events in sequence to establish regularities and contradictions. The use of the historical method made it possible to trace the development of non-state social security in Ukraine.

In particular, the study of a certain historical period associated with the adoption of the legal framework in the form of the Law of Ukraine "On Mandatory State Pension Insurance" (Law 1058-IV, 2003) and the Law of

Ukraine “On Non-State Pension Insurance” (Law 1057-IV, 2003) allows tracing the origins of the modern social security system of Ukraine. Thanks to the historical method, it becomes clear that the process of development of non-state social security began quite a long time ago, but until today it has not reached its logical conclusion following the modern challenges facing social security agencies.

The process of statistical research is quite complicated since there is a fairly large number of statistical regularities, which turn out to be a suitable method of learning about social processes. By applying a statistical method, it was possible to analyze how non-state pension funds dispose of available resources, namely, what share in the investment portfolio is occupied by such financial instruments as government securities, bank deposits, and current accounts, bonds of Ukrainian enterprises, shares of Ukrainian issuers, real estate objects, bank metals and securities of foreign issuers. In addition, the statistical method made it possible to establish the largest non-state pension funds in Ukraine by the number of participants, which provides information on the popularity of such savings among the population.

The application of the comparative legal method made it possible to compare the norms, institutions, principles, and practices of their application in different countries. The specified method is used to borrow foreign experience in the legislative process, international unification of law, interpretation of national legal norms, and raising the level of legal education and legal culture. Comparative legal studies are actively used in the science of international law and branch legal sciences.

The comparative legal method was used in the analysis of the experience of Poland, the United States of America, Great Britain, and other countries. The comparative legal experience made it possible to compare the amount of payment for the services of non-state pension funds, thanks to which it is possible to conclude the extent to which the cost of such services in Ukraine is justified.

Due to the connection with the rules of logic and language, the formal-legal method helps to define legal concepts, make classification and systematization, and create a coherent conceptual system. It provides an opportunity to study in detail the technical-legal and regulatory aspects of the law. The formal-legal method allows you to study the provisions that are highlighted in acts of national legislation and the main international legal documents that are implemented or should be implemented in the sphere of social protection of Ukraine for effective functioning of non-state social security.

The emergency method allows you to see the social security system as a whole with its shortcomings and advantages. The essence of this method is

that the properties of the whole can be greater than the sum of the properties of its parts. In the process of increasing (combining) subsets or components into larger functional units, these units acquire additional properties that were absent before. These properties are called emergent.

3. Results and Discussion

3.1. International Legislation (Poland, Great Britain, Germany, USA)

Legislation of different countries may set restrictions on some types of investments or, on the contrary, oblige to make certain investments in a certain amount. For example, the Polish government prohibited the State Pension Fund (SPF) from investing in government bonds and obliged it to invest most of its assets in shares. The scheme worked in 2016, Poland demonstrated the highest return on pension fund investments of 8.3% (MK web-site, 2021).

A significant share of bank deposits and government bonds in SPF portfolios contradicts the goals of diversifying the risk of pension income and raises more and more questions about investment management and storage of pension funds, the justification of charging excessively high fees for SPF administration. In addition, the lack of diversification of the investment portfolio after 13 years of operation of the SPF system raises questions about the legitimacy of the accumulation system. Indeed, the system of the third level in Ukraine is a system of SPFs, which have almost the same structure as the investment portfolio (Bond, 2018).

If the asset management company follows a cautious policy and chooses high-yielding instruments, the capital of NPF participants can significantly increase. In the case of investing savings in high-risk instruments, future retirees may even lose money. Compared to bank deposits, the state does not guarantee contributions to pension funds. We would like to remind you that the Deposit Guarantee Fund of natural persons guarantees the payment of deposits, in the event of bank bankruptcy, in the amount of up to UAH 200,000 (Law 4452-VI, 2012).

Despite the similarity of the structure of investment portfolios, fees for services in non-state pension funds can differ significantly. The limit of annual expenses that non-state pension funds can deduct directly from the accounts of participants is set by the National Financial Service Commission at the level of 7.0% of the net value of the pension fund's assets. This is a very high price for the services provided (International Monetary Fund, 2017). In connection with this, most non-state pension funds legally retain a very high fee for the provision of relevant services.

NPFs in Ukraine each year charge an average of more than 4% of the accumulated pension capital for service fees and therefore are very expensive for participants. As an example, in the United States, large mutual investment funds (FIDELITY, VANGUARD) today offer securities to investors with zero service fees. In turn, in Ukraine, these costs are not disclosed to the participants in an understandable form and properly. During several meetings of USAID Financial Sector Transformation Project employees with market representatives, most of them agreed that the maximum amount of expenses “should not exceed 3%.” However, even 3% is too much (USAID, 2019).

International experience supports the claim that the commission fees of pension funds and other service providers are often opaque, hidden, and incomprehensible to ordinary investors.

It is important to note that they can significantly reduce retirement savings and future benefits/annuities. Many investors don't realize how much of their pension is lost in fees/fees. In the UK, a 2016 study by the Transparency Task Force found that pension funds can routinely charge members' funds more than 100 different types of fees and service charges, most of which are hidden from consumers (Bond, 2018).

Despite this, in Great Britain, the non-state pension system is the most popular among the population. And although the corresponding contributions are quite large, the private pension provision is gradually replacing the state one. To date, about 70% of the total amount of pensions paid in Great Britain is accounted for by non-state payments.

The decrease in the share of state pensions in the total amount of pension money is a logical and natural trend. Even though the UK government regularly indexes pensions, price inflation is taking its toll, and now the state pension is not only losing ground overall but is gradually losing weight even when compared to national average wages. This is why the non-state pension provision is gaining momentum in the UK, even though those pensioners who participate in the non-state pension scheme are subject to restrictions on the payment of the state pension (the state pension for years of service is no longer provided to them).

Accordingly, every Briton can choose for himself one, in his opinion, the most suitable pension scheme. As a rule, the third level is the so-called occupational retirement pensions, which are provided by the employer for its employees. The government usually encourages employers to run occupational pension schemes by providing various tax breaks to companies that operate such schemes. At the same time, pension contributions for non-state schemes can be paid by both employers and employees (Tyshchenko, 2015).

The practice of interaction between the state and non-governmental organizations (NGOs) in the field of social protection is quite common in EU countries. Such an example can be the cooperation of the Stockholm Social Services Administration with 150 NGOs in overcoming homelessness, and protecting the rights of women and persons with disabilities (Stockholm Satat, 2022).

In addition, in Germany, more than half of the services in the field of social work are provided by NGOs, and their financing is carried out by the state, although there is a format of self-financing and state subsidies (Caritas Germany, 2022).

In the USA, the state's participation in the social security of citizens is minimal, and only the poorest sections of the population receive state material support. This experience needs to be taken into account, because in Ukraine, due to citizens' distrust of non-state providers of social services, their number is insignificant (Dmytrenko, 2022). Therefore, the state should create conditions for their stable functioning, which will contribute to increasing trust in them.

At the same time, it is advisable in the legislation to provide financing mechanisms for non-governmental organizations that provide social services (grants, state loans, subsidies, reimbursement of the cost of services provided, tax benefits, etc.). This will contribute to the emergence of competition and increase the quality and availability of such services.

To implement pension reform activities, it is urgent that a stock market be created in Ukraine and the necessary guarantees that these funds will not disappear be formed (Boyko, 2022). It is quite a strange situation when the annual deposit in the bank is more protected by the state than the long-term pension contributions of citizens.

Today the number of active investors in our market is approaching zero. We have no other choice but to adhere to international standards and implement European practices. We cannot cultivate the domestic stock market and create comfortable working conditions for it to the detriment of the interests of the population. As soon as we bring the market in line with EU norms, we will see growth in the economy and confidence in financial instruments (Datsyuk, 2019).

3.2. International Social Standards

It should be noted that Ukraine's implementation of international social standards is an important component of our state's participation in leading international legal institutions (UN, ILO, and others), as well as the proper fulfillment of its international legal obligations in the field of social protection (Melnyk, 2018).

Key and fundamental international social standards are laid down in several international legal acts, in particular: Universal Declaration of Human Rights (United Nations, 1948), the International Covenant on Economic, Social and Cultural Rights (United Nations, 1966), the ILO Convention No. 159 on vocational rehabilitation and employment of the disabled (International Labour Organization, 1983), Standard rules for ensuring equal opportunities for the disabled (United Nations, 1993), the UN Convention on the Rights of Persons with Disabilities (United Nations, 2006), etc.

Active actions regarding the European integration of Ukraine determine the need for full ratification of certain documents of the European Union, which contain social protection standards. For example, Ukraine partially ratified the European Social Charter. Ukraine has not acceded to the following provisions: Article 2, paragraph 3 “Right to fair working conditions”, Article 4, paragraph 1 “Right to fair remuneration”, Article 12 “Right to social security” (joined paragraphs 3 and 4 in the 2017 year), Article 13 “The right to social and medical assistance”, Article 19 “The right of migrant workers and members of their families to protection and assistance”, Article 25 “The right of employees to the protection of their rights in the event of bankruptcy of their employer”, Article 31 n 3 “The right to housing”) (Council of Europe, 1996).

Also, the norms of Ukrainian legislation on the number of pensions and other social payments and benefits do not fully correspond to European social standards. The above determines the need to take into account the provisions of EU documents when improving the legislation of Ukraine.

Also, following the text of the ILO Recommendation No. 202 on minimum levels of social protection of 2012 (paragraph 16), it is declared that strategies for expanding the scope of social security must ensure support for vulnerable population groups and persons with special needs. And although these provisions are recommendatory, members of the International Labor Organization must take them into account during the legislative process in the field of social protection.

Yes, it is still too early to talk about the effectiveness of these measures due to the low level of support for such categories of the population as internally displaced persons, homeless persons, homeless children, the poor, etc., which is explained by the presence of gaps in the relevant special laws and insufficient funding. Therefore, the system of social protection institutions is insufficiently developed, which is not able to ensure the rights of the above-mentioned persons at the proper level, which, of course, negatively affects the improvement of their social situation (International Labour Organization, 2013). The solution may be their support by the non-state sector through means of social services and provision of in-kind assistance.

ILO Convention No. 117 (International Labour Organization, 1962) contains only one article that can be applied to non-state pension provision. Thus, Art. 13 of this act indicates that voluntary forms of savings are encouraged among employees and independent producers (Medvid, 2018). This suggests the possibility of their participation in the third level of the pension system of Ukraine – voluntary non-state insurance.

The existing legal framework for the functioning of the National Pension Fund within the framework of the third level of the pension system requires significant improvement. As World Bank experts (Santoro, 2017) noted, the third level of the Ukrainian pension system has a very vague concept of fiduciary obligations (Better Finance, 2017) and unsatisfactory regulation of conflicts of interest. NPFs can be freely created without establishing significant financial or other liability.

The Asset Management Company's liability is limited to the value of its assets. Decisions of NPF board members are not always binding and, therefore, board members are not legally bound by their decisions. Any person (who meets the qualification requirements) can be a member of the board of several NPFs. Finally, non-state pension funds of the third level do not meet international standards, in particular, the provisions of EU Directive 2016/234136 on the protection of participants' rights (IOPR II Directive) (Holzmann *et al.*, 2008).

3.3. National Legislation (Ukraine)

According to Article 46 of the Constitution of Ukraine, citizens of Ukraine are guaranteed:

The right to social protection, which includes the right to support them in case of total, partial or temporary loss of working capacity, loss of a breadwinner, unemployment due to circumstances beyond their control, as well as in old age and other cases (Law 254к/96-BP, 1996).

The Institute of Social Security and Social Protection acts as a kind of tool, with the help of which the most acute problem of society is solved – the problem of social inequality of personal incomes of individuals, which is not a consequence of the unequal distribution of labor, its productivity or the efficiency of production itself (Vizhunov, 2019).

According to the reasoning of Vakulenko V.M. and Orlatyi M.K. structurally, the social protection system is generally represented by the following components:

1. state social protection (which includes mandatory state insurance, state social assistance, additional social protection, and special social protection), and

2. non-state social security (which consists of non-state pension security and non-state social services) (Vakulenko and Orlaty, 2010).

Hudz (2019) also develops this opinion, dividing the system of social protection of Ukraine into:

1. state social security, which is implemented at the expense of the state budget of Ukraine;
2. non-state social security, which is implemented by providing material support at the expense of non-state institutions (pension funds, insurance organizations, banking institutions, etc.).

The modern Ukrainian pension system is a significant component of the social protection system of Ukraine. It underwent a significant change in 2004 in connection with the adoption of the Law of Ukraine "On Mandatory State Pension Insurance" (Law 1058-IV, 2003) and the Law of Ukraine "On Non-State Pension Insurance" (Law 1057-IV, 2003). Then a three-level pension system began to be implemented: a solidarity system, a system of pension savings, and voluntary non-state pension savings.

The first level includes the solidarity system of mandatory state pension insurance, which distributes funds from enterprises and insured persons to current pensioners through the Pension Fund of Ukraine. At the second level is the accumulative system of mandatory state pension insurance. This system provides for the accumulation of a certain percentage of the employee's salary, which is paid equally by the employer and the employee. Funds are collected in the employee's pension account and payments are made after retirement.

The formation of a modern system of non-state social security is not possible without the functioning of non-state pension security institutions, which belong to the third level of the pension system. The Law of Ukraine "On non-state pension provision" was designed to change the existing pension system by creating non-state pension funds, that is, non-state institutes of the pension provision system.

It is these institutes that make it possible to form a system of non-state pension provisions parallel to the national one, which will allow its participants to receive additional pension payments. In addition, non-state pension funds effectively influence the country's investment development.

Currently, only the first and third levels are functioning in Ukraine. In addition, the introduction of the second mandatory accumulative level of the pension system is constantly postponed, and non-state pension provision has not yet become a generally accepted and widespread mechanism for the formation of pension savings.

If we compare the largest non-state pension funds of Ukraine by the number of participants as of the end of 2019, according to the data of the National Commission, which carries out state regulation in the field of financial services markets, the list will look like this: VNPF “Emerit-Ukraine” (70.8 thousand people), NPF “VSE” (55 thousand people), VPF “PrivatFond” (49.1 thousand people), ONPF “OTP Pension” (45.1 thousand people), VPF “Dynasty” (40 thousand people), VPF “Social Perspective” (14.7 thousand people), VPF “Ukraine” (4.5 thousand people), VPF “Social Standard” (4.3 thousand people), VPF “Pharmaceutical” (1.3 thousand people) and VPF “Ukrainian Pens.

According to Timur Khromayev, the former head of the National Securities and Stock Market Commission, the third level of the pension system can be considered voluntary quite conditionally, since 99.8% of people who participate in non-state pension funds have never deducted money there, because they do it for, they are employers who work in this case with affiliated enterprises (Datsyuk, 2019). And although this share is somewhat overestimated, about 90% of pension contributions are indeed made by legal entities.

It is quite interesting how non-state pension funds manage their available resources. The largest share in the investment portfolio of the largest non-state pension funds of Ukraine is made up of state securities, namely: VNPF “Emerit-Ukraine” (50%), VPF “Social Standard” (50%), VPF “Pharmaceutical” (50%), NPF “VSE” (49%), VPF “Dynasty” (49%), ONPF “OTP Pension” (45%), VPF “Social Perspective” (45%), VPF “Ukraine” (44%), VPF “PrivatFund” (43%), VPF “Ukrainian Pension Fund” (18%).

The second place in terms of the volume of investments of non-state pension funds of Ukraine is occupied by bank deposit and current accounts, savings certificates of banks, namely: VPF “PrivatFond” (50), VPF “Social Perspective” (50), VPF “Dynasty” (45 %), ONPF “OTP Pension” (42%), VPF “Emerit-Ukraine” (41%), VPF “Pharmaceutical” (37%), VPF “Ukraine” (35%), VPF “Social Standard” (32%), NPF “VSE” (29%), VPF “Ukrainian Pension Fund” (19%) (Tartasyuk, 2019).

Significantly smaller investments in bonds of Ukrainian companies, shares of Ukrainian issuers, real estate objects, banking metals, and very little in securities of foreign issuers.

It is possible to place pension assets in such simple, conservative instruments of the financial market without such expensive intermediation of pension fund administrators, asset management companies, and custodians. Today, it is achievable to legally save for retirement by investing in numerous international passives but diversified mutual (index) investment funds up to 50,000 euros per year with reasonable service fees (0.1%-1.5% per year).

The Law of Ukraine “On non-state pension provision” (Law 1057-IV, 2003) provides for the limitation of investment of assets of non-state pension funds: state securities - 50%, bank deposit accounts, and savings certificates - 50%, bonds of local loans - 20%, bonds of Ukrainian enterprises - 40%, shares of Ukrainian issuers – 40%, mortgage bonds – 40%, securities of foreign issuers – 20%, real estate objects – 10%, banking metals – 10%, shares not in circulation on the stock exchange – 10%, liabilities bonds of one legal entity – 10%, securities of one issuer – 5%, other securities – 5%. These regulations deter funds from too risky investments. Therefore, NPF investment strategies are called conservative (Palmar, 2021).

According to the structure of investments of non-state pension funds, it can be seen that there are not enough investment instruments on the Ukrainian market. According to the Report of the USAID Project “Transformation of the financial sector - non-state pension provision in Ukraine: assessment and recommendations” (MinFIN, 2021), 62 non-state pension funds of Ukraine have a similar investment portfolio structure. As of the end of 2018, 46% of pension assets (1,264 million UAH) were invested in government securities and 36% (986 million UAH) were placed on bank deposits.

According to the National Commission for Securities and Stock Markets, as of June 30, 2021, government securities occupy even more, namely 47.2% of NPF investments (National Securities and Stock Market Commission, 2023).

Conclusions

As a result of the study of the international legal experience of non-state social security, the following conclusions were made.

1. The experience of other countries, in particular Great Britain, allows us to state that the system of non-state pension institutions can cover more than half of pension payments and be very popular among the population. Cooperation of the state with non-state social security entities is also a common phenomenon in foreign countries.
2. The implementation of international legal norms in the spheres of social security and the stock market is not only a necessary component of the European integration of Ukraine but also a matter of improving the functioning of internal institutions for the effective operation of the non-state social security system.
3. The experience of the functioning of non-state pension funds in Ukraine allows us to conclude the inefficiency and low popularity among the population of this method of providing a decent pension.

About 80% of the investment portfolios of the respective pension funds consist of government securities and bank deposits. Since the population also, to some extent, has access to the specified financial instruments, it makes no sense to involve intermediaries in this process. It is believed that the state can stimulate participants of non-state pension insurance to reduce investment in these assets. In addition, the upper threshold of fees for services in non-state pension funds at the level of 7%, established by the National Financial Services Committee, is too high. In connection with this, pension funds receive excess profits regardless of the financial results of their activities.

With regard to further scientific research, we consider it necessary to analyze in detail the directions of regulating the structure of assets of non-state pension funds in order to preserve the assets of the population in war conditions.

Bibliographic References

- BETTER FINANCE. 2017. Pension Savings: The Real Return. A Research Report. Available online. In: <https://betterfinance.eu/publication/pension-report-2017-full-report-online-version/>. Consultation date: 15/09/2022.
- BOND, Robert. 2018. USAID project “Financial Sector Transformation” Main issues of reforming the pension system in Ukraine. Available online. In: http://www.fst-ua.info/wp-content/uploads/2019/02/Key-Issues-in-Pension-System-Reform-in-Ukraine_Aug2018_UA.pdf. Consultation date: 15/09/2022.
- BOYKO, Oleksandr. 2022. Pension reform: how pensions will be paid and indexed in Ukraine. Suspilne site. Available online. In: <https://suspilne.media/369610-nakopicivalna-pensia-ta-indeksacia-socialnih-viplat-so-vidomo/>. Consultation date: 08/01/2023.
- CARITAS GERMANY. 2022. The Role of NGOs in Germany. Available online. In: www.caritasgermany.org/cms/contents/.../becker_gai.pdf. Consultation date: 15/12/2022.
- COUNCIL OF EUROPE. 1996. European Social Charter. Available online. In: https://zakon.rada.gov.ua/laws/show/994_062#Text. Consultation date: 15/12/2022.
- DATSYUK, Regina. 2019. Head of the NSMSC: Investing in a washing machine is more profitable than in a private pension fund. Minfin. Available online.

- In: <https://minfin.com.ua/2019/04/24/37468859/>. Consultation date: 15/09/2022.
- DMYTRENKO, Evhen. 2022. Peculiarities of financial, legal and organizational provision of social protection of citizens in the conditions of European integration of Ukraine. Financial and credit activity: problems of theory and practice, 3, 234-242. Available online. In: http://nbuv.gov.ua/UJRN/Fkd_2022_3_26. Consultation date: 15/09/2022.
- HOLZMANN, Robert; HINZ, Richard Paul; DORFMAN, Mark. 2008. Pension Systems and Reform Conceptual Framework. Available online. In: https://www.researchgate.net/publication/237540610_Pension_systems_and_reform_conceptual_framework. Consultation date: 15/09/2022.
- HUDZ, Anna. 2019. "Financing of non-state social security in Ukraine" In: Scientific Bulletin of the Uzhhorod National University. Series: Law. Vol. 58, No. 1, pp. 152-155.
- INTERNATIONAL LABOUR ORGANIZATION. 1962. Convention on the main goals and norms of social policy No. 117. Available online. In: https://zakon.rada.gov.ua/laws/show/993_016#Text. Consultation date: 15/09/2022.
- INTERNATIONAL LABOUR ORGANIZATION. 1983. Convention on Vocational Rehabilitation and Employment of the Disabled N 159. Available online. In: https://www.ilo.org/dyn/normlex/fr/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:CON,en,C159,/Document. Consultation date: 15/09/2022.
- INTERNATIONAL LABOUR ORGANIZATION. 2013. Strategy of the International Labor Organization. Social security for all: building social protection floors and comprehensive social security systems. Available online. In: <https://komspip.rada.gov.ua/uploads/documents/30080.pdf>. Consultation date: 15/09/2022.
- INTERNATIONAL MONETARY FUND (IMF). 2017. Reforming Ukraine's Pension System, Country Report No. 17/84. Available online. In: <https://www.imf.org/-/media/Files/Publications/CR/2017/cr1784.ashx>. Consultation date: 15/09/2022.
- MEDVID, Anna. 2018. "International legal standards of non-state social security" In: Scientific Bulletin of the Uzhhorod National University. Series: Law. Vol. 48, No. 1, pp. 123-126.

- MELNYK, Viktor. 2018. "Trends in the implementation of international (European) social standards in the process of legislative provision of social protection of persons with disabilities" In: Public law. Vol. 3, pp. 115-123.
- MINFIN. 2021. When NPFs will start investing in cryptocurrencies and what they are currently earning for clients. Available online. In: <https://minfin.com.ua/ua/invest/articles/kogda-npf-nachnut-vkladyvat-sredstva-v-kriptovalyuty-i-na-chem-seychas-zarabatyvayut-dlya-klientov/>. Consultation date: 15/09/2022.
- MK WEB-SITE. 2021. How foreign pension funds make money for the elderly. Available online. In: <https://www.mk.ru/economics/2021/02/21/kak-inostrannye-pensionnye-fondy-zarabatyvayut-dengi-dlya-starikov.html>. Consultation date: 15/09/2022.
- NATIONAL SECURITIES AND STOCK MARKET COMMISSION. 2023. The official web-site. Available online. In: <https://www.nssmc.gov.ua/category/news/>. Consultation date: 15/09/2022.
- PALMAR, Darina. 2021. Retirement investment: where do private pension funds invest. League website. Available online. In: <https://finance.liga.net/personal/article/pensionnye-investitsii-kuda-vkladyvayut-dengi-chastnye-pensionnye-fondy>. Consultation date: 15/09/2022.
- SANTORO, Marika. 2017. Pension Reform Options in Chile: Some Tradeoffs, IMF WP/17/53. Available online. In: <https://www.imf.org/-/media/Files/Publications/WP/2017/wp1753.ashx>. Consultation date: 15/09/2022.
- STOCKHOLM SATAT. 2022. Family and Social Welfare. Available online. In: <http://international.stockholm.se/governance/familyand-social-welfare>. Consultation date: 15/09/2022.
- SYDENKO, Svitlana. 1999. Development of social protection systems in the conditions of economic globalization. Institute of World Economy and International Relations of the National Academy of Sciences of Ukraine. Kyiv, Ukraine.
- TARTASYUK, Svitlana. 2019. Top 10 non-state pension funds: trust or risk. Minfin. Available online. In: <https://minfin.com.ua/2019/11/28/39680433/>. Consultation date: 15/09/2022.
- TKALYCH, Maxym; ARBELÁEZ-ENCARNACIÓN, Tanya Fernanda. 2022. The world in 2023: continuing uncertainty. Available online. In: <https://amazoniainvestiga.info/index.php/amazonia/article/view/2186/3064>. Consultation date: 15/09/2022.

- TKALYCH, Maxym; KOLOMOIETS, Tetiana; DAVYDOVA, Iryna. 2022. The world in the post-Covid era: current issues of economics, politics, law. Available online. In: <https://amazoniainvestiga.info/index.php/amazonia/article/view/1900/2438>. Consultation date: 15/09/2022.
- TYSHCHENKO, Olena. 2015. "The experience of social welfare of the population in the leading countries of the European Union" In: Scientific Bulletin of the Kherson State University. Series: Legal sciences. Vol. 2, No. 2, pp. 76-81.
- LAW OF UKRAINE. 2003. 1057-IV, On non-state pension provision. Bulletin of the Verkhovna Rada of Ukraine. Available online. In: <https://zakon.rada.gov.ua/laws/show/1057-15#Text>. Consultation date: 15/09/2022.
- LAW OF UKRAINE. 2003. 1058-IV, On mandatory state pension insurance. Bulletin of the Verkhovna Rada of Ukraine. Available online. In: <https://zakon.rada.gov.ua/laws/show/1058-15#Text>. Consultation date: 15/09/2022.
- LAW OF UKRAINE. 1996. Law 254к/96-BP, Constitution of Ukraine. Bulletin of the Verkhovna Rada of Ukraine. Available online. In: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>. Consultation date: 15/09/2022.
- LAW OF UKRAINE. 2012. 4452-VI, About the system of guaranteeing deposits of individuals. Bulletin of the Verkhovna Rada of Ukraine. Available online. In: <https://zakon.rada.gov.ua/laws/show/4452-17#Text>. Consultation date: 15/09/2022.
- UNITED NATIONS. 1948. Universal Declaration of Human Rights. Available online. In: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>. Consultation date: 15/09/2022.
- UNITED NATIONS. 1966. International Covenant on Economic, Social and Cultural Rights. Available online. In: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>. Consultation date: 15/09/2022.
- UNITAD NATIONS. 1993. Standard rules for ensuring equal opportunities for the disabled. Available online. In: <https://www.ohchr.org/en/instruments-mechanisms/instruments/standard-rules-equalization-opportunities-persons-disabilities>. Consultation date: 15/09/2022.
- UNITED NATIONS. 2006. Convention on the Rights of Persons with Disabilities. Available online. In: <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd>. Consultation date: 15/09/2022.

- USAID. 2019. Project “Financial Sector Transformation” Non-state pension provision in Ukraine: Assessment and recommendations. Available online. In: https://knpf.bank.gov.ua/dl/nederzhavne_pensiine_zabezpechennia_v_ukraini_otsinka_ta_rekomendatsii_Text.pdf. Consultation date: 15/09/2022.
- VAKULENKO, Volodymyr; ORLATYI, Mykhailo. 2010. Social protection of the population of Ukraine. Phoenix. Kyiv, Ukraine.
- VIZHUNOV, Oleksandr. 2019. “The value of social security as a whole for the legal system” In: Social law. Vol. 3, pp. 91-93. Available online. In: http://nbuv.gov.ua/UJRN/sopr_2019_3_17. Consultation date: 15/09/2022.