

THE REPUBLIC OF AZERBAIJAN

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ABSTRACT

of the dissertation for the degree of Doctor of Philosophy

**THE SUBJECT OF SOCIAL SECURITY LAW:
SYSTEMATIC-LEGAL ANALYSIS**

Specialty: 5609.01 - " Labor Law; Social Security Law”

Field of science: Law

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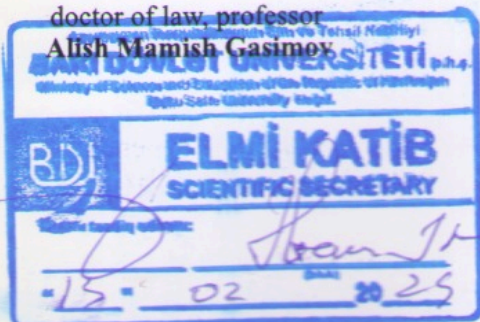
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GENERAL CHARACTERISTIC OF THE WORK

Relevance of the topic and degree of preparation. The social security system, which acts as a difficult legal category, is a complex problem in the Republic of Azerbaijan and covers aspects of the formation of its financial source, the solution of organizational and managerial issues, as well as the creation of a system of material security for those involved in social insurance. From this point of view, the main task of the science of social security law and legislative practice in modern times is to accurately determine the parameters of centralized or decentralized regulation of the social security system as a whole, the principles of legal regulation of social security social insurance, as well as systematization of normative acts regulating the level of security in state social systems and the social security system as a whole, as well as to determine the prospects for future development of compulsory state social insurance and state social security system in the market economy.

The subject of social security law in modern jurisprudence and its expansion in law system of the Azerbaijan Republic the solution of the problem about the law and the reveal of different opinions about its interaction with other areas of law is not only in the interests of a limited circle of legal scholars.

Social security law is closely related to micro and macro - economic processes taking place in the state as a law field, and it has a direct impact on the level of the general welfare of the country's population, social processes and conditions in society. Therefore, at first glance, the consideration of purely theoretical issues of the subject of regulation of social security law is one of the primary tasks in modern conditions, but also has practical significance in terms of important scientific, theoretical and law enforcement activities.

Each field of law is formed on the basis of certain principles, as a rule, has its own system of methods and means to influence the regulated public relations, performs certain functions. In jurisprudence, the subject of legal regulation, it means, a certain group of similar - public relations, is traditionally considered as one of the main criteria

for the independence of the legal field. However, both in theory and in practice, there are serious difficulties in relating certain public relations to the subject of legal regulation. In this case, making a mistake in choosing the appropriate means of legal action does not allow to achieve the desired result at best, and at worst leads to various negative consequences. Precise definition of sectoral regulation allows to achieve optimal coordination of different interests, successful resolution of social, economic and political issues.

At present, the establishment of a free market economy in the Republic of Azerbaijan requires adequate, but also extremely careful and flexible legal regulation of relations in the field of social security law. The importance of this task is determined by the need to maintain a balance between economic and social interests, as well as between the interests of the state and the individual. The successful solution of this task considerably depends on the correct selection and use of one or another legal instrument, and on what legal mechanisms affect the legal regulation of one or another group of public relations.

The Republic of Azerbaijan, which has declared itself a legal and democratic state, has also undertaken the mission of becoming a socially oriented state by implementing large-scale social reforms. Thus, the recent formation of certain legal concepts and approaches to public relations, regulated by social security law and included in the subject of social security law, makes it necessary to study these issues from a new position and from a different perspective. Because without defining the scope of public relations included in the subject of social security law, it is impossible to achieve the full realization of the right to social security, one of the basic human rights, and the effective application of social security legislation in practice.

All this makes this topic very relevant for our country, and therefore this problem is of special theoretical and practical interest. At the same time, it should be noted that this topic has not been comprehensively studied by legal scholars of the Republic of Azerbaijan, and that is why this research is important in terms of determining the future perspectives of the social security system in our country.

The current economic situation in the Republic of Azerbaijan requires a number of aspects to be taken into account when conducting a systematic legal analysis of issues related to the subject of social security law. The dual nature of social security, which is a means of solidarity of generations and the main source of livelihood in the post-disability period, places special demands on the study of the social insurance phenomenon and defines the conceptual basis of the social insurance system in the Republic of Azerbaijan. In this regard, it is important to study the relations formed in the system of compulsory state social insurance and the state social security system formed in the Republic of Azerbaijan as a single research work on the analysis of public relations as a subject of social security law. In addition, for the first time, a comprehensive approach to the system-legal analysis of the subject of social security law will allow to fully reveal its essence and significance for society.

The object of research is a set of public relations included in the subject of social security law.

The subject of the research is the theoretical and practical problems related to the subject of social security law on the basis of new approaches and concepts formed in modern times.

The purpose of the research is to comprehensively study the issues related to the subject of social security law on the basis of systematic legal analysis, as well as to provide specific proposals and recommendations for improving the legislation on social security law in force.

In order to achieve the mentioned goals, the following tasks were defined in the dissertation work:

- to give the definition of the right to social security in terms of the current social security legislation;
- to determine the functional approach to the subject of social security law in terms of the functions of social security as a legal category and to study the content of new functions in accordance with modern times;
- to determine the place of social security law in the system of legal sciences by showing its interaction with other areas of law;

- to show the interaction of social security law with social law;
- to determine the scope of public relations, reflecting the features of public relations included in the subject of social security law from a new perspective;
- to disclose the content of public relations included in the subject of social security law;
- to show the expansion of this area of law by analyzing new approaches to the subject of social security law in modern times.

Methodological basis of the research. In the process of writing the dissertation, the author used both general scientific methods (transition from abstract to concrete, logical analysis, system-structural analysis, generalization of normative, scientific and practical materials, history, etc.) and some special scientific methods (comparative law, etc.).

The main provisions defended by the author are as follows:

Based on the comparative-legal analysis, a number of proposals and recommendations of important scientific-theoretical and practical importance have been put forward, most of which serve to improve social security law.

1. Social security law as an independent branch of law is defined as follows: “Social security law cash payments under the social security system, natural types of social security to individuals by government agencies it is a set of legal norms regulating public relations between these bodies and individuals (or their families), as well as relations on the implementation and protection of everyone's constitutional rights to social security”.

2. The following characteristic features of the public relations included in the subject of the right of social security for the modern period are distinguished:

- these relations are related to the distribution of financial resources with economic content;
- individuals in need of social protection (disabled, elderly, members of martyrs' families, refugees, low-income families, etc.) and state bodies acting mainly as responsible parties (Ministry of Labour and Social Protection of Population of the Republic of Azerbaijan,

DOST Agency, Azerbaijan's State Medical-Social Expertise and Rehabilitation Agency etc.) act as a special subject of these relations;

- the object of these relations is the social welfare of persons in need of social protection;

- these relations arise, change and terminate on the basis of specific legal facts that do not depend on the will of man and are recognized by the state as a socially significant situation;

- the legal norms regulating these relations are mainly established in a centralized manner at the legislative level.

3. From the point of view of the social security legislation in force in the Republic of Azerbaijan at the present time, the scope of public relations included in the subject of the right of social security is defined as follows:

1) relations arising in connection with the types of social security provided in the form of money (pensions, social benefits, scholarship, etc.);

2) relations arising in connection with social security types presented in the form of natura (medical care and treatment, sanatorium treatment, full and semi-hospital social services, detention of children in boarding schools or children's institutions, vocational training and employment of the disabled, provision of vehicles for the disabled, provision of free house for the disabled);

3) procedural relations arising in connection with the provision of social security, are connected with the determination of the legal facts necessary for the provision of relevant types of social security, the realization of the right to one or another type of social security, administrative or judicial protection of violated rights;

4) relations on provision of social services by non-governmental organizations on the basis of state social orders;

5) relations arising in connection with the responsibility directly established by the social legislation.

4. In Article 38 of the Constitution of the Republic of Azerbaijan and in the legal literature, the opinion that charitable relations are related to the right to social security is substantiated by the fact that the Republic of Azerbaijan has not adopted a special law

on charitable activities and its legal nature cannot be determined so it is inadmissible to include the relations arising in this field in the subject of the right of social security. However, the relations arising in the field of charitable activities are relatively identical with the characteristics of public relations included in the subject of social security law in terms of subject, object and level of regulation, and after the adoption of the legislation regulating these relations the prospects for the inclusion of relations in the field of charitable activities in the subject of social security law may also be the subject of discussion.

5. The following classification of procedural relations included in the subject of social security law will be substantiated as follows: a) procedural relations within the social security system include: relations to determine the legal facts related to social security (for example, determination of disability, recognition as a war veteran, proof of social insurance record in court, etc.); relations related to the application for this or that type of social security (for example, submission of documents to the relevant state body for obtaining a pension or social benefits, etc.); relations on provision of types of social security by relevant state bodies. b) procedural legal relations in the social security system include: relations related to the administrative settlement of disputes related to the violation of social security rights; relations related to the settlement of disputes related to the violation of social security rights in court.

6. The subject of the social security law is characterized as social-liability relations arising between social security bodies (state and non-state organizations recognized by the state) and individuals in connection with the provision of social benefits (social insurance and non-insurance benefits) in order to eliminate or minimize the consequences of social insurance events through the restoration of the person's based on the dialectics of the development of this branch of law, it is put forward the need for its complex character, first systematization as a complex branch of law and then codification.

7. Due to the strict centralization and imperative nature of legal regulation in the field of social security, the right to social security is

mainly related to the field of general law. At the same time, it is substantiated that the dispositive norms established in the social security legislation in modern times indicate the existence of special legal elements in this field of law.

8. The study proposes the creation of a new complex field of law in the future, the subject of which is the social system of society as a whole, and the field of social law as a result of serious transformations initiated within the existing field of social security law. The author characterizes social law as a set of legal norms regulating the relations related to the provision of material benefits to members of society in the event of social risks that create an objective need for social protection within the organizational and legal forms of social insurance and social security. The proposed new social law distinguishes between two relatively independent subsystems of social insurance and social security (including non-insurance pensions, social assistance, social services, etc.) with the characteristics of a legal subdivision.

9. Summarizing the existing approaches in the legal literature on the structure of the field of social security law, the author mentions a number of institutions (sections) that must be included in the General and Special Parts of the proposed Social Security Code.

10. Since the relationship on the provision of social services by non-governmental organizations on the basis of state social orders is a new approach to the subject of social security law, the implementation of certain proposals to eliminate existing problems is justified on the basis of experience in this area.

The scientific novelty of the research is determined by the fact that it is the first monograph devoted to a comprehensive study of the theoretical and practical aspects of the problems of system-legal analysis of the subject of social security law.

Theoretical and practical significance of the research results is that the theoretical results and suggestions reflected in the dissertation can be used in the teaching process and research on these issues, as well as in law enforcement and future improvement of social security legislation.

Approbation and application of the results of the research.

The results and innovations obtained in the dissertation were published in the prestigious scientific journals of Azerbaijan and other foreign countries in the form of scientific articles in different languages (Azerbaijani and Russian) and reflected in the materials of conferences of international and national importance.

The name of the organization in which the dissertation was performed. The research was conducted and discussed at the Department of "Labor and Environmental Law" of law faculty of Baku State University.

Structure of the dissertation. The dissertation work consists of an introduction, 7 chapters covering 3 paragraphs, conclusion and list of used literature. The introduction of the dissertation work is 19783, the main content is 236471 the conclusion is 19911, the list of used literature is 25394 characters, in total it contains 276165 characters.

CONTENT OF THE RESEARCH

The introduction substantiates the relevance of the chosen topic, the degree of its research, the subject and object of research, goals and objectives, scientific innovation, methodological and theoretical bases, normative base, the main issues to be defended, theoretical and practical significance is defined, and information about the approbation and structure of research results is given.

The first chapter of the dissertation work is called **“A general description of the social security law as an independent branch of law”** and consists of 3 paragraphs.

The first paragraph examines the concept of social security law. Studying the approaches available in the scientific and educational literature on social security law related to the concept of social security law, the plaintiff notes that economic and political reforms carried out in each country do not bypass the social security sphere and have an impact on the development of social security law, including social security legislation as an independent legal field. The dissertator by analysing different concepts of social security law in the legal

literature, making them more concrete, gave an understanding of social security law related to the provision of cash payments under the social security system, natural types of social security to individuals by the authorised state bodies, in the form of a set of legal norms regulating public relations between these bodies and individuals, as well as relations on the implementation and protection of the constitutional rights of everyone to social security.

The second half of the first chapter of the dissertation "**Functional approach to the subject of social security law**" shows that the functions of social security law, the structure of this area of law, their interaction with the dynamics of relations in the subject of legal regulation are not given due attention.

There are no special scientific researches devoted to this problem, and in the educational literature this issue is touched upon only for the purpose of a more complete description of the nature of the field and in a very superficial way.

As a result of research on the functions of social security law in the legal literature and analysis of existing social security legislation, the plaintiff disclosed their content, distinguishing between the traditional economic, production, social, political and demographic functions of social security, standard of living, information, compensation and ideological.

In the third half of the first chapter of the dissertation, entitled "**The relationship of social security law with other areas of law**", the relationship of social security law with labor law, financial law, civil law and administrative law is studied in detail. The plaintiff noted that the right to social security historically derives from administrative and labor law, emphasizing that there are still mixed interdisciplinary institutions among these areas of law. Such institutions include the Institute of Compulsory State Social Insurance, the Institute of Social Insurance Internship, the Institute of Social Services, as well as the provision of free housing for the disabled.

Based on the analysis, the researcher shows that the subject of the science of social security law is significantly wider than the subject of this field of law. In modern times, the law of social security is

developing on the basis of new concepts and principles, covering the field of relations that were previously outside the scope of legal regulation. It directly affects the interests of the entire population of the country (pensioners, the unemployed, families with children, the disabled, veterans, etc.).

The applicant notes the following signs characterizing the right to social security as an independent field of law. According to the author, the main difference of the right to social security is that it is a complex of both material and procedural relations arising in connection with the distribution of gross domestic product through the social security system.

In this case, the distribution of gross domestic product is carried out through the provision of material security and social services to special subjects - the elderly, the disabled, families with children, the unemployed, low-income citizens. As can be seen, there are special subjects, objects and content of the relations regulated by the norms of social security law in comparison with the relations regulated by the norms of labor and administrative law.

One of the issues of interest in the dissertation is the plaintiff's proposal to implement the specialization of judges on social security issues within the existing judicial system. The dissertation notes that the low level of effectiveness of the protection of social rights of citizens by courts of general jurisdiction in modern times increases the urgency of the establishment of specialized courts for the settlement of disputes related to social security. The author points out that such courts exist in a number of countries and their activities are highly valued. In this case, disputes are considered in a short time, simpler procedures are applied. According to him, it would be a right step to train judges within the existing judicial system as an urgent measure in this area.

The second chapter of the dissertation examines the **scope of public relations included in the subject of social security law**.

In the first half of this chapter analyzing the specific types of public relations included in the subject of social security law, the plaintiff shows that the relations on social security are complex, they

are not homogeneous. Within these relations can be distinguished relations on the distribution of extra-budgetary state funds for social purposes and the redistribution of a certain part of the state budget.

Based on these relationships, the author attributed the following relationships: 1) relationships on reaching a certain age (old age), disability, loss of the head of the family, temporary disability, unemployment; 2) relations on financial assistance to motherhood and childhood, assistance to the family in the maintenance and upbringing of children; 3) relations on providing social assistance to low-income people in cash or in kind; 4) relations on provision of free treatment and medical care under compulsory medical insurance, etc.

According to the researcher, the subject of social security law consists of complex public relations of material and procedural nature arising between social protection bodies and individuals in connection with the distribution of gross domestic product through the social security system.

In this chapter, the plaintiff extensively analyzes alimony relations as a legal manifestation and views on it in the legal literature, shows that the term "alimony" has never been used in social security legislation. However, it is possible to partially agree with the issue of the alimony nature of social security, which is also related to the fact that a certain part of it is provided outside of labor.

In the second paragraph **the public relations included in the subject of social security law** were analyzed separately. So, depending on the type of payments by the social security system, depending on the objects it is more expedient to classify legal relations: a) pension legal relations; b) legal relations on social benefits; c) legal relations on state social assistance and compensation payments; d) legal relations on scholarships.

The plaintiff provided a definition in the form of public relations between citizens (sometimes with the family) arising on the basis of the determination of pensions and regulated by social security law in connection with the financial support of citizens who have reached the age limit established by law, as well as citizens who have become disabled or have lost the head of the family, as well as those

who have been engaged in certain types of professional activities for a long time.

The plaintiff states that the main law regulating pension relations according to the Law of the Republic of Azerbaijan "On the Labor Pensions" which establishes three types of labor pensions - old age, loss of the head of the family, disability pension, in fact, for a number of persons (civil aviation flight and flight test personnel, prosecutors, military personnel, etc.) provided a pension for years of service. From this point of view, it is suggested that it would be expedient to include labor pensions for years of service as a type of pension provision in the Law of the Republic of Azerbaijan "On the labor pensions".

Relations arising in connection with "natural" types of social security includes: medical care and treatment, free or discounted medical care, sanatorium treatment, full and semi-inpatient social services, detention of children in boarding schools or children's institutions, vocational training and employment of persons with disabilities, provision of vehicles for persons with disabilities, prosthetic and orthopedic care, provision of free housing to persons with disabilities, benefits under the social security system.

The third paragraph of the second half of the second chapter of the dissertation, entitled "**Procedures and procedural legal relations in the social security system**" states that the procedural legal personality of the relevant subjects mainly refers to the ability of a citizen to participate in procedural legal relations.

Such procedural legal personality is manifested in the ability of a citizen to exercise his rights in the field of social security, especially by participating in procedural actions and appealing against the decisions of social security bodies. The procedural legal personality of social security bodies is mainly expressed in their ability to review the documents submitted for the determination of the relevant types of social security and to resolve the issue of its appointment.

The third chapter of the dissertation work is called "**New approaches to the subject of social security law**" and consists of 2 paragraphs.

The researcher believes that the transformation of the field of social security law, as its change in accordance with the new conditions, is due to a number of socio-economic factors. The process of renewal of the social security law should be characterized not only as a logical continuation of the social security law, but also as a natural consequence of certain socio-economic changes in society.

According to the author, the new face of the right to social security is characterized by the unity of general and specific principles of legal regulation. The latter is more clearly reflected in the contractual regime of regulation of social insurance and social services, the expansion of the number of subjects (compulsory state social insurance funds, employers, individual entrepreneurs, private medical institutions, etc.), as well as recipients of social benefits and services.

The plaintiff distinguishes three main functions as a subject of social security law of the Republic of Azerbaijan as a legal and socially oriented state. First, it undertakes a general legal obligation to provide state social security for certain categories of citizens (additional pensions for civil servants, benefits for children from low-income families, unemployment insurance, vocational training for the unemployed, etc.), as well as state social assistance and social services (low-income people, the elderly, the disabled, etc.). Second, it acts as a subject of compulsory state social insurance. Here, he can act as an insurer in the person of extra-budgetary state funds, as well as act as an insurer. Third, the state is an independent participant in social cooperation in the civil society system.

Legal, socially oriented state and civil society are two parts of a single living organism. Each of them needs the other, and both must ensure human rights (political, socio-economic, cultural, etc.).

The plaintiff, who examines the different approaches to the definition of the term "social rights" in legal science and the views of the authors, shows that this group of rights is characterized by a direct connection with the vital interests and needs of each individual, the application to a particular social sphere of human and civil life, as well

as the presence of economic, that is, material element as one of the most important factors of normal human life.

Social rights and freedoms have a certain place in the system of constitutional rights and freedoms of man and citizens, conditioned by a specific subject and object. Social rights mean minimum economic security for everyone. They differ from other rights in that each person has the opportunity to claim from the state the vital blessings or services that other people provide for themselves at their own expense.

The thesis considers social rights recognized by the state and normatively established, inseparable and belonging to each person, relating to a certain social sphere of life of man and citizen, providing vital material and spiritual needs, a decent standard of living and social protection, human and civil rights are defined as a set of rights and freedoms of man and citizen, allowing the free development and existence in society. According to him, in the matter of social law, first of all, there is the problem of systematization and codification of legislation covering the norms governing the multifaceted relations in the field of social protection.

Supporting the existing views in the legal literature on the adoption of the Social Security Code, the author identifies a number of institutions (sections) that should be included in the General Part of the Code. According to the author, it would be more efficient to build the structure of the special section on the types of social security, but the sequence of sections should depend on the level of development of this or that legislative mass and the importance of relations with it. The first section should cover the relationship of pension provision, the second section should cover the relationship of provision of social benefits, etc.

Based on the experience of non-governmental organizations in providing social services on the basis of social orders, the applicant classified the existing problems and prospects for their elimination.

According to the plaintiff, the exact establishment of the norms of legal responsibility in the right to social security in the social legislation is very important in terms of ensuring the realization of the

social rights of citizens established by the Constitution of the Republic of Azerbaijan.

In the **conclusion part** of the dissertation, the proposals and conclusions that are the results of the research are shown:

1. Social Security law is a set of legal norms related to the provision of cash payments under the social security system, natural types of social security to individuals by the authorised state bodies, in the form of a set of legal norms regulating public relations between these bodies and individuals, as well as relations on the implementation and protection of the constitutional rights of everyone to social security.

2. The following characteristic features of the public relations included in the subject of the right of social security for the modern period are distinguished:

- these relations are related to the distribution of financial resources with economic content;

- individuals in need of social protection (disabled, elderly, members of martyrs' families, refugees, low-income families, etc.) and state bodies acting mainly as responsible parties (Ministry of Labour and Social Protection of Population of the Republic of Azerbaijan, DOST Agency, Azerbaijan's State Medical-Social Expertise and Rehabilitation Agency etc.) act as a special subject of these relations;

- the object of these relations is the social welfare of persons in need of social protection;

- these relations arise, change and terminate on the basis of specific legal facts that do not depend on the will of man and are recognized by the state as a socially significant situation;

- the legal norms regulating these relations are mainly established in a centralized manner at the legislative level.

From the point of view of the social security legislation in force in the Republic of Azerbaijan at the present time, the scope of public relations included in the subject of the right of social security is defined as follows:

- relations arising in connection with the types of social security provided in the form of money (pensions, social benefits, scholarship, etc.);

- relations arising in connection with social security types presented in the form of natura (medical care and treatment, sanatorium treatment, full and semi-hospital social services, detention of children in boarding schools or children's institutions, vocational training and employment of the disabled, provision of vehicles for the disabled, provision of free house for the disabled);

- procedural relations arising in connection with the provision of social security, are connected with the determination of the legal facts necessary for the provision of relevant types of social security, the realization of the right to one or another type of social security, administrative or judicial protection of violated rights;

- relations on provision of social services by non-governmental organizations on the basis of state social orders;

- relations arising in connection with the responsibility directly established by the social legislation.

3. In Article 38 of the Constitution of the Republic of Azerbaijan and in the legal literature, the opinion that charitable relations are related to the right to social security is substantiated by the fact that the Republic of Azerbaijan has not adopted a special law on charitable activities and its legal nature cannot be determined so it is inadmissible to include the relations arising in this field in the subject of the right of social security.

However, the relations arising in the field of charitable activities are relatively identical with the characteristics of public relations included in the subject of social security law in terms of subject, object and level of regulation, and after the adoption of the legislation regulating these relations the prospects for the inclusion of relations in the field of charitable activities in the subject of social security law may also be the subject of discussion.

4. The following classification of procedural relations included in the subject of social security law will be substantiated as follows:

a) procedural relations within the social security system include:

- relations to determine the legal facts related to social security (for example, determination of disability, recognition as a war veteran, proof of social insurance record in court, etc.);

- relations related to the application for this or that type of social security (for example, submission of documents to the relevant state body for obtaining a pension or social benefits, etc.);

- relations on provision of types of social security by relevant state bodies.

b) procedural legal relations in the social security system include:

- relations related to the administrative settlement of disputes related to the violation of social security rights;

- relations related to the settlement of disputes related to the violation of social security rights in court.

5. Relations on the social security system, which constitute the subject of social security law, are divisive relations of a material nature due to their legal nature. Related to the provision of social benefits for the purpose of eliminating or minimizing the consequences of social insurance events through the restoration of a person's financial situation, as well as social integration, restoration of a person's social status the subject of social security law is characterized as a social-obligation relationship between social security bodies and individuals. The subject of social security law, like other branches of law, also includes relations of an intangible (procedural and procedural) nature to a certain extent. They stipulate the emergence and existence of material relations, ensure their normal functioning and protection.

In our opinion, in the theory of social security law, the future prospects of this branch of law should already be determined. Although the right to social security is no longer considered a purely common law area, this branch of law regulates relations of a divisive nature in each case, therefore, the content of these legal relations is

determined by the state itself and cannot be changed according to the agreement of the parties.

6. Due to the strict centralization and imperative nature of legal regulation in the field of social security, the right to social security is mainly related to the field of general law. At the same time, it is substantiated that the dispositive norms established in the social security legislation in modern times indicate the existence of special legal elements in this field of law.

In modern times, the nature of the norms enshrined in social security legislation, i.e. their imperative and dispositive point of view, the right to social security cannot be represented only as a sphere of common law, or only as a sphere of special law. In this area there are signs of both types. On the basis of the ideas formed in the theory of law, it is possible to say that in law it is noticeable that there is a compromise of the elements of general and special law, in a word, mixed legal institutions.

7. The analysis of the functions of social security as a legal category plays an important role in a more accurate determination of the circle of relations included in the subject of this branch of law. As a result of research on the functions of social security law in the legal literature and analysis of existing social security legislation, the plaintiff disclosed their content, distinguishing between the traditional economic, production, social, political and demographic functions of social security, standard of living, information, compensation and ideological. The dynamic development of relations in the field of social security in a modern market economy, the formation of a fairly wide middle class in society, the diversity of living standards allow to distinguish the function of protection of the right to social security. According to the researcher, this function reflects a set of measures aimed at preventing the decline in living standards of disabled members of society. The information function of social security includes issues related to informing citizens about the types of social security and the rules for obtaining them, and about their rights in the field of social security in general. The compensatory function of social security is related to the forms of insurance aimed at compensating for

lost wages and income or additional expenses in cases considered socially significant by the state (retirement age, disability, loss of the head of the family, death, unemployment, etc.). The ideological function of social security is related to the relationship between social security and ideology, and reflects the belief in a state that pursues a more effective social policy.

8. The right of social security is a right that applies to all citizens and accompanies every person from birth to the end of his life. That is why, everyone, especially a lawyer, should study the norms of social security law in detail and in depth. This knowledge allows a person to fully and timely use social protection and, if necessary, properly protect their rights. In many cases, the right to one or another type of social security is conditioned by a person's work activity and is implemented directly at the workplace, regardless of the organizational and legal form of ownership of the enterprise, subdivision, organization. The legal service of each enterprise, department, organization must know well and accurately the norms of social security law.

Although social security law has been taught as a compulsory subject in accordance with the state educational standards on the specialty of “jurisprudence” for many years, unfortunately, according to the “Education Program on the specialty of Bachelor's degree (basic (basic) higher education)” approved by the decision of the Ministry of Education of the Republic of Azerbaijan No. 363 dated 07.08.2020 this subject has already been removed from state standards and is intended to be taught as an elective subject in the case determined by educational institutions providing higher legal education. In our opinion, in order for effective provision and protection of social security law, which follows every person throughout his life, for lawyers to master the social security legislation more broadly, as well as for citizens to effectively use their right to judicial protection and specialized legal assistance, the teaching of social security law in higher educational institutions should be further improved and approved as a compulsory subject in state educational standards.

9. The study proposes the creation of a new complex field of law in the future, the subject of which is the social system of society as a whole, and the field of social law as a result of serious transformations initiated within the existing field of social security law. The author characterizes social law as a set of legal norms regulating the relations related to the provision of material benefits to members of society in the event of social risks that create an objective need for social protection within the organizational and legal forms of social insurance and social security. The proposed new social law distinguishes between two relatively independent subsystems of social insurance and social security with the characteristics of a legal subdivision.

Social rights provide a person with a decent standard of living, social protection, as well as legal guarantees enshrined in legal norms by the state. Therefore, it is important to consider social law as an irregular system consisting of norms belonging to individual branches of law governing the social rights of people. Here we are talking about labor, civil, medical, educational, housing, etc. it's about rights in the fields. In our opinion, it would be more expedient to consider this complex sphere, which is being formed, not yet as a social law, but as a right to social security. Because the evidence brought about the formation of the sphere of Social law does not sound entirely convincing and contributes to the violation of the boundaries between the sectoral legal sciences. So, if we take as a basis the universally recognized signs of an independent branch of law in the theory of law (for example, the presence of a subject, method, principles of legal regulation), we will see that "Social law" does not meet these requirements. As we know, currently, the training of students on the specialty of "Social Work" is carried out, and the necessity of preparing a complex educational subject called "Social law" for those students has also influenced the introduction of this term into circulation. We believe that at present it is enough to use the social legal system only as an educational discipline.

In our opinion, in the near future, Social law will act as a complex legal institution uniting the norms of various branches of law

governing relations on ensuring social protection of a person in all spheres of public life.

10. Initial objective conditions are necessary for the formation and establishment of compulsory state social insurance as an independent legal branch. At the present stage of development of compulsory state social insurance, it would be more appropriate to consider it as a sub-branch of social security law. However, although the subject of this sub-branch partially coincides with the subject of social security law as a branch of law, the following definition of compulsory state social insurance as a sub-branch can be given: "Compulsory state social insurance is a set of legal norms regulating relations related to the provision by the authorized body - the insurer to persons participating in compulsory state social insurance of pensions, benefits and services under the system of compulsory state social insurance in accordance with the conditions, norms and rules established by law, as well as relations for the implementation and protection of the rights of persons (and their family members) for such provision."

11. Supporting the existing views in the legal literature on the adoption of the Social Security Code, the author identifies a number of institutions (sections) that should be included in the General Part of the Code: goals and objectives of social security legislation; basic principles of legal regulation; relations regulated by social security legislation; subjects of relations and their legal status; basics of social protection (social risks); types of social protection.

Taking into account the formation of a socially-oriented state in Azerbaijan and the trend of development of sectoral legislation, it is considered necessary to include the following provisions in this list: on the division of powers between central and local authorities; on the right to social security (its place in the system of other social rights); on liability for violation of social security legislation; on sources of financing of social security. Also, the Social Security Code stipulates that financial relations should be reflected to some extent, at least in the social insurance part.

According to the author, it would be more efficient to build the structure of the special section on the types of social security, but the sequence of sections should depend on the level of development of this or that legislative mass and the importance of relations with it. The first section should cover the relationship of pension provision, the second section should cover the relationship of provision of social benefits, etc. In this case, taking into account the different organizational and legal methods of formation of the right to this or that type of social security, the relevant sections should be further divided into structural parts that reflect (determine) the characteristics of security: a) security in the form of social insurance; b) security at the expense of the state budget; c) provision of state social assistance.

We believe that the said Code, which will be adopted in the future, will establish the necessary independence of social security legal norms, and will further increase the prestige of the social security legal field and social security legal science in the intra-state legal system.

12. The relations on the provision of social services by non-governmental organizations on the basis of state social orders are considered to be a new attitude included in the subject of social security law, so the implementation of the following proposals for eliminating existing problems on the basis of the experience formed in this area is considered appropriate:

- Approved by the Resolution of the Cabinet of Ministers of the Republic of Azerbaijan No. 330 dated December 30, 2012 "Issuance of state orders in the field of social services to municipalities, individuals and legal entities, including non-governmental organizations" it is proposed to include in the Rule a norm on the conclusion of contracts on state orders in the field of social services for at least 5 years and the exclusion of the implementing NGO from the provision of social services as a result of the monitoring mechanism in case of improper performance of contractual obligations;

- Lack of a flexible control and monitoring mechanism for the targeted use of material and financial resources and the effective

implementation of projects; In this regard, it is proposed to establish a permanent monitoring and control system for more professional and quality implementation of social services by NGOs;

- Lack of mechanisms to stimulate the expansion of the scale and nomenclature of social services provided by NGOs, the scale of investment projects in the social sphere;

- Lack of active involvement of NGOs in the process of norm-setting related to social services; In this regard, it would be expedient to ensure the legislative initiative of NGOs and involve them more actively in the process of improving social service legislation, etc.

The following scientific works of the author were published on the topic of the dissertation:

1. Theoretical aspects of determining the place of social security law in the legal system in modern times // - Baku: News of Baku University. Socio-political science series, – 2011. Litecoinin 3, - p.79-86

2. Problems of systematization of social security legislation in modern times // – Baku: Problems of international law and integration, - 2011. Litecoinin 4, - p.206-210

3. Some issues of the subject of social security law // Materials of the International Conference “Modern problems and solutions of legal science and education” dedicated to the birthday of great leader Heydar Aliyev and the 20th anniversary of the restoration of statehood of the Republic of Azerbaijan. – Baku, - 2011, – p.95-97

4. Mandatory state social insurance as a subsection of the right to Social Security // Materials of the 88th Republican scientific-practical conference on “Actual problems of State and law building” dedicated to the 11th anniversary of national leader Heydar Aliyev. – Baku, – 11-12 may, - 2011, – p.266-267

5. Expansion of the right of social security at the present stage // – Moscow: Journal “Education. The science. Scientific personnel”, – 2011. No. 4, –p.94-97

6. Procedural and procedural legal relations on the social security system // Materials of the XVI Republican scientific

conference of doctoral students and young researchers. - Baku, -2012 – s.318-321

7. Functional approach to the subject of social security law // Materials of the international scientific-practical conference “Building a legal state and legality in Azerbaijan-2020: a look into the future”. - Baku, - 11-12 June, -2012, - p.176-178

8. On the place and role of social rights in the system of human and civil rights // Materials of the XVII Republican scientific conference of doctoral students and young researchers. - Baku, - 18-19 November, -2013, - p.109-111

9. General characteristics of Public Relations included in the subject of the right to Social Security // – Baku: Transport law, -2012. Litecoinin 3, - s. 215-227

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11. Some issues of legal responsibility in social security law / / -Baku “Revival – XXI century ” journal, - 2017. - Litecoinin 183, - s.117-122

12. On the relations arising in relation to natural types of social security // Materials of the XXI Republican scientific conference of Doctoral students and young researchers. - Baku, – 24 October, - 2017, - p.56-58

13. On some issues of legal responsibility in social security law// Materials of the international scientific-practical conference on "Globalization and the main development directions of legal Science in the Republic of Azerbaijan" dedicated to the 100th anniversary of the Azerbaijan Democratic Republic and the 95th anniversary of the national leader of the Azerbaijani people Heydar Aliyev. – Baku, - 2018, - p.412-414

14. Some issues on the principle of social partnership//Materials of the scientific-theoretical conference on

“modern theoretical and practical approaches in the field of protection of human rights and freedoms in the XXI century” dedicated to the 96th anniversary of the national leader of the Republic of Azerbaijan Heydar Aliyev. – Baku, - 2019, - p.482-487

15. Functional approach to the subject of social security law// Innovative scientific research: topical issues of theory and practice. Collection of articles XX In the international scientific and practical conference. – Penza, – 2021,– p.92-96

16. About the relations arising from the provision of social services by non-governmental organizations on the basis of social orders// Theory and practice of modern science. Collection of articles of the VII International Scientific and Practical Conference. – Penza, – 2022, – p. 116-119

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