

APPLICATION OF SOCIAL SECURITY LAW RULES BY COURTS: PROBLEMS OF THEORY AND PRACTICE

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The subject of this study is social security legislation, the practice of its application and judicial practice. When a social risk arises, people require support and turn to the state for social payments, benefits and services. However, realizing these rights is often difficult. Social security legislation is very complex and subject to frequent changes. There is no Social Security Code. All this complicates the practical application of the legal provisions. Statistics show that citizens consider judicial protection of their rights to be the most effective.

The purpose of the article is to identify problems in the social security legislation application through the study of the legislation itself, the practice of its application and judicial practice. The methodology of the study includes general scientific methods - analysis, system approach as well as special methods – comparative-legal, formal-legal.

The main results. Theoretical problems in the social security law application stem from the lack of a unified scientific approach to the scope, principles, and terminology of this area of law. Consequently, legislation develops chaotically. Practical problems stem from the fact that agencies providing pensions, benefits, social services must guarantee a uniform approach to each case, but they do not always do so. In cases of violations, courts correct deficiencies in the provision of social security through their decisions. However, the example of the provision of a social service – sanatorium treatment – shows that judicial practice is not always uniform itself. The final decision is made by the Constitutional Court of the Russian Federation, which identifies shortcomings in legislation and its application and corrects the legal mechanism for protecting against social risks. The article also examines changes to the procedure for determining liability and compensating for moral damages. Social security legislation does not directly provide for compensation for moral damages. However, if the denial of social benefits or a significant reduction in their amount is due to the fault of the authorized body, compensation for moral damages is now possible. The court when making a decision takes into account the nature of the violated right (the right to a dignified life, to an adequate standard of living), the individual characteristics of the plaintiffs (age, marital status), the degree of culpability of the body, and the period during which the violations occurred.

1. Introduction

The right to social security by age, in case of disability, for childcare, as guaranteed by the Constitution of the Russian Federation, forms part of the core complex of fundamental human and civil rights and freedoms. Its importance stems from the fact that it arises upon the occurrence of social risks whose negative consequences an individual cannot manage alone, thereby requiring state intervention through a legally established protection mechanism. The social security system, designed to provide pensions, other benefits, social services, serves as the foundation of this mechanism.

The significance of social security, on the one hand, and the objectively complex content of the legal norms governing this area, on the other, give rise to problems in the implementation of these rights. At the same time, the guarantee of rights and freedoms is one of the most important principles of the legal status of the individual. This predetermines the need for the formation and functioning of instruments for the protection of citizens' rights. "In its most general form, legal protection presupposes the effective restoration of violated rights; a fair and public hearing of the case within a reasonable time; the effectiveness of legal remedies; and the competence of public authorities ensuring the realization of the right to protection" [1, p. 4].

According to the 2024 report of the Commissioner for Human Rights, 5 729 appeals were received on social security payments and services, including 1 687 concerning pensions and 102 regarding social services¹. During the same

period, courts of first instance received 80 521 pension-related claims (65 503 granted) and 40 323 claims on other social benefits (33 604 granted)². Thus, judicial protection is regarded by the country's population as the primary form of defense of their rights.

Judicial protection of social security rights has consistently drawn scholarly attention in the social security scholarship and related sciences. Since this field lacks a dedicated dispute-resolution mechanism and instead operates through constitutional, administrative, civil procedural, and criminal law norms, the combination of these diverse legal frameworks - protecting both citizens and, at times, the authorities providing social benefits - is particularly significant. One may note the researches of T.I. Shikhova [2], E.A. Serebryakova [3], Yu.A. Korosteleva [4], A.Yu. Gusev [5] and others. Nevertheless, the statistical data, cited above, which effectively measure the social security system's performance, reveal that the distinctive features of rights in this sphere and their judicial protection remain insufficiently understood.

Extensive judicial practice highlights a range of theoretical and practical problems in applying social security law in courts of general jurisdiction, allowing for the identification of both objective and subjective factors that predetermine the difficulties faced by judges adjudicating the relevant categories of disputes.

2. Theoretical Problems of Applying Social Security Law

A fundamental issue is the lack of a unified

¹ Report on the Activities of the Commissioner for Human Rights in the Russian Federation for 2024. URL: <https://ombudsmanrf.org/storage/74a0484f-7d5a-4fe4-883d-a1b5ba1dd5f8/mediateca/doclad-2024.pdf> (accessed: 15.11.2025)

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² Judicial Statistics Data. Judicial Department under the Supreme Court of the Russian Federation. URL: <https://cdep.ru/?id=79> (accessed: 15.11.2025)

scholarly conception of social security law as an independent branch of law. In social security law scholarship, no consensus has yet been reached regarding many institutions of its General part. As E. G. Tuchkova observes, this stems from the absence of legislative codification of the foundational principles that would consolidate the branch together (goals, tasks, principles, etc.) [6, p. 5]. Moreover, “ "terminological chaos" partially reflects the lack of consensus on key concepts such as "social risk," "principles of social security law and their composition," and "sources of social security law"...” [7, p. 14].

This branch of law is relatively young, and scholarly debate is to be expected. However, its significance, which lies in the special nature of the right to social security as a State-guaranteed compensation for the social risks negative consequences, demands a clear understanding of its principles, scope, and methods for delivering social benefits to meet vital needs. However, the theoretical framework remains underexploited in legislative drafting. As a result, the legal regulation mechanism fails to distinguish clearly between public-law, private-law, and mixed protection against social risks models [8, p. 132], undermining its objectives (pension savings being a prime example). We concur that the application of private-law constructs "in the regulation of social-security legal relations must be recognized as anomalies indicating gaps in branch-specific legislation that must be overcome through its improvement" [9, p. 164].

The public-law model, based in social security law while also intersecting with labor, administrative and other branches of law, should employ both regulatory and protective instruments to ensure that recipients of social payments or services can meet their basic needs.

Moreover, although new circumstances giving rise to social risks and recognized as such by the State (new infectious diseases, armed conflicts, natural and man-made emergencies etc.) may arise at any time, the range of public relations falling within the subject matter of the branch of law must remain stable. Consequently, both in scholarship and in law application practice, there should be a unified understanding of the essence of social risks and methods of protection against them within the social security system.

Given the lack of theoretical consensus, it is unrealistic to expect defect-free legislation. The legal framework is voluminous, unstructured and unstable. The absence of a codified social security act is constantly in the focus of scholarship and is subject to criticism [10, 11, 12]. However, considering that codification is a complex and lengthy process, we assume the current legislative characteristics will persist for the foreseeable future. Furthermore, one should take into account the multi-level regulation of social security, based on Article 72 of the Constitution of the Russian Federation, which renders branch-specific legislation even more voluminous and complex due to the presence of a very extensive regional component. In addition, some relations in this sphere are regulated by municipal legal acts. In the context of instability and unclear developmental direction, branch legislation "is increasingly turning into a secret area of knowledge that only specialists can understand" [13, p. 5]. Consequently, citizens' social security rights are often not realized through ordinary procedures, necessitating judicial protection.

The sole method of implementing social security law is through application. Entitlement to pensions, benefits, or social services is determined by authorized bodies within a positive

law-application procedure. Only designated bodies are entitled to carry out law application activities - social protection authorities, the Pension and Social Insurance Fund of the Russian Federation (hereinafter - the SFR), employers (as insurers), military administration bodies, and others.

A historical review reveals a trend toward increasing professionalization in law application. Under the Law of the USSR of 14.07.1956 "On State Pensions," pension awards were made by commissions under district/city Soviets of People's Deputies; under the Law of the RSFSR of 20.11.1990 No. 340-1 "On State Pensions in the Russian Federation" - by social protection authorities; since 1991, under the Resolution of the Supreme Soviet of the RSFSR of 22.12.1990 No. 442-1 "On the Pension Fund of the RSFSR Organization", this function has been carried out by a specialized body, whose primary function from the outset was to ensure the implementation of citizens' pension rights.

The Pension Fund's specialization (now transferred to the SFR) is gradually expanding, and at present, in terms of the entity of law application in social security, one can note a certain unification of law application procedures. The authority is being progressively concentrated in the SFR. For instance, Part 5.1 of Article 12.1 of Federal Law of 17.09.1999 No. 178-FZ "On State Social Assistance" (hereinafter - the Law on State Social Assistance) allows constituent entities of the Russian Federation to transfer their authority over the payment of regional social supplements to pensions to the SFR on the basis of agreements concluded between the highest executive body of the constituent entity of the Russian Federation and the Fund. Most regions have done so effective

this year³.

On the other hand, employer involvement in law application activities has been declining in recent years. In addition to their obligations to maintain individual (personalized) records⁴, employers are currently required to submit promptly to the SFR the information necessary for the payment of benefits under compulsory social insurance for temporary disability and for maternity⁵. They are not mandatorily involved in the process of awarding pensions, though they may apply to the SFR on behalf of employees with their written consent⁶.

Thus, the bulk of law law applicarion activity is carried out by specially authorized bodies tasked with professional decision-making and uniform administration of social security. However, this is not always inherent in law application activities, which often fail to meet stability requirements. E.G. Azarova, drawing attention to the massive nature of applications to courts for the protection of pension rights, links it to the SFR's passivity in gathering documents to verify pension rights: "In fact, these obligations are shifted onto citizens, and ultimately onto the court, to which they apply after a refusal to award a pension" [14, pp. 138,

³ See, for instance: Resolution of the Government of the Leningrad Region of 30.10.2025 No. 919 "On measures to implement Parts 5.1 and 15.1 of Article 12.1 of Federal Law No. 178-FZ of 17 July 1999 'On State Social Assistance,' Article 12.5 of the Regional Law No. 72-oz of 17.11. 2017 'Social Code of the Leningrad Region' and on amending certain Resolutions of the Government of the Leningrad Region" (hereinafter, normative and judicial acts are cited from the "ConsultantPlus legal" reference system).

⁴ Federal Law of 01.04.1996 No. 27-FZ "On Individual (Personalized) Registration in the Systems of Compulsory Pension Insurance and Compulsory Social Insurance".

⁵ Federal Law of 29.12.2006 No. 255-FZ "On Compulsory Social Insurance for Temporary Disability and in Connection with Maternity".

⁶ Federal Law of 28.12.2013 No. 400-FZ "On Insurance Pensions". Hereinafter - the Law on Insurance Pensions.

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3. Law Application in Social Security: The Practical Component

Citizens believing their rights have been violated by, for example, a territorial body of the SFR, may appeal not only to a higher body of the Fund but also to a court of general jurisdiction. Scholarship recognizes that "justice in civil proceedings is the optimal method of protecting violated or contested rights" [15, p. 3]. Judicial practice can correct both the imperfections of the awarding social payments mechanism and the absence of a unified approach by law application bodies to resolving issues related to social security. At the same time, errors in applying substantive or procedural law may result in appellate or cassation reversal, up to review by the Supreme Court of the Russian Federation.

However, judicial practice itself, for a number of reasons, is not always uniform or stable. Citizens who believe their rights have been infringed by normative acts applied in their case may file complaints with the Constitutional Court of the Russian Federation. If all judicial decisions confirming the application of the challenged normative act in resolving a specific case have been rendered, and all other domestic remedies of judicial protection have been exhausted, the Constitutional Court of the Russian Federation, as the highest judicial body of constitutional control, examines the question of the violation of constitutional rights and freedoms⁷. When examining citizens' complaints regarding violations of their constitutional rights and freedoms, the Constitutional Court of the Russian Federation verifies the constitutionality of the law applied in a

specific case, assessing both the literal meaning of the legal provision in question and the meaning attributed to it by official and other interpretation or established law application practice. This constitutes a constitutional-legal adjustment of the social-risk protection mechanism, particularly regarding compensation its negative consequences through social security. Legal regulation in this sphere, as a general rule, excludes discretion and presupposes a clear establishment of the conditions for the provision of social security, its form, the procedure for determining the amount of payments, etc. Therefore, law application bodies, when resolving the recognizing a citizen's right to social payments or services, must strictly follow normative provisions, avoiding expansive or restrictive interpretations that could lead to arbitrary outcomes and inconsistent decisions in similar cases.

Sometimes, overcoming such an approach proved possible only through the intervention of the Constitutional Court of the Russian Federation, whose legal positions were formulated taking into account the lack of uniformity in judicial practice. Constitutional justice has the unique capacity to create constitutional-legal standards for the procedural activities of all elements of the judicial system, and to adjust judicial practice [16, p. 242]. Notably, in Decree of 22.04.2020 No. 20-P "In the matter of verifying the constitutionality of Part 3 of Article 17 of the Federal Law 'On Insurance Pensions' in connection with the complaint of citizen I.K. Dashkova", the Constitutional Court of the Russian Federation addressed conflicting interpretations of the Law on Insurance Pensions concerning enhanced fixed payments to old-age pensions for parents of disabled children. Some

⁷ Federal Constitutional Law of 21.07.1994 No. 1-FKZ "On the Constitutional Court of the Russian Federation".

court decisions contained an interpretation of the legal norm as presupposing an increase in that payment only if the fact of such disabled person being dependent on his or her parent is established (that is, proven), while others - simply by virtue of the presumption that a disabled person since childhood is recognized as being dependent on his or her parent. The Constitutional Court of the Russian Federation indicated that the vagueness and inconsistency of legal regulation impede the adequate understanding of the content of normative legal acts, allow for the possibility of unlimited discretion in law application, and weaken the guarantees of constitutional rights and freedoms protection. The relevant norms of legal acts were recognized as unconstitutional and predetermined amendments to legislation. This supports the view that Russia's highest courts, particularly the Constitutional Court of the Russian Federation, defend the "spirit" of the law against formalistic application [17, p. 115].

Unfortunately, there are also instances where judicial practice shifts despite unchanged legislation. A striking example involves the Law on State Social Assistance regarding the set of social services, namely, the provision of vouchers for sanatorium-and-spa treatment. This service is aimed both at disease prevention and health improvement, and at restoring bodily functions impaired as a result of injuries, operations, chronic diseases, reducing the number of exacerbations, preventing disability, etc.⁸, therefore this social service is very important for citizens. In scholarship, the principle of chronological optimality of this treatment, including its timeliness, optimal frequency, and duration, has

been proposed [18, p. 50]. According to Part 2 of Article 6.3 of the Law on State Social Assistance, services are provided per calendar year. Due to insufficiency of funding for them, citizens often face delays. Until 2015, the Supreme Court of the Russian Federation generally ruled in favor of citizens, proceeding from the fact that this provision is a state guarantee (Ruling of the Supreme Court of the Russian Federation of 25.07.2014 in case No. 14-KG14-10; Ruling of 19.04.2013 in case No. 77-KP3-1; etc.). However, in 2015-2016, the Court changed its approach to resolving such cases, and its current position is that the Law on State Social Assistance does not directly determine the time limit for providing a voucher for sanatorium-and-spa treatment; citizens retain recipient status and are entitled to services in due course (Ruling of the Supreme Court of the Russian Federation of 20.07.2015 in case No. 3-KG15-4; Decision of the Supreme Court of the Russian Federation of 15.10.2020 in case No. AKPI20-603; etc.).

Liability in social-security relations has traditionally focused on providers [19, p. 14; 20, pp. 374-376], while recipients liability has received less attention. At present, the first attempts are being made to substantiate such categories related to abuse of rights by individuals - recipients of social payments and services - as "good faith in the use of granted rights", "abuse on the part of the recipient" [21, pp. 160-161]. Citizen liability is limited to compensation for material damage, without further sanctions; however, inter-branch interaction of social security law and other branches of law makes it possible to establish such liability.

The approach to compensation for moral damage in social security is gradually changing. The Plenum of the Supreme Court of the Russian

⁸ Federal Law No. 323-FZ of 21.11.2011 "On the Fundamentals of Protecting the Health of Citizens in the Russian Federation".

Federation in Decree No. 30 of 11.12.2012 "On the practice of courts hearing cases related to the implementation of citizens' rights to labor pensions" indicated the impossibility of satisfying such claims. This position, although not supported, was nevertheless recognized by the scholarship: "Despite the obviousness of moral suffering caused by the impossibility of receiving the money lawfully due to a citizen, often the sole source of subsistence, the current legislation does not provide for the possibility of recovering an appropriate monetary compensation for such suffering" [22, p. 166].

Today the situation is gradually changing. Courts are increasingly recognizing moral damage from actions or omissions of authorities. According to the Ruling of the First Cassation Court of General Jurisdiction of 12.01.2026 No. 88-299/2026, 88-31916/2025, the court of first instance, having established that the SFR had repeatedly received information that the plaintiff was in places of deprivation of liberty, and that there were numerous applications requesting the transfer of his pension there, remained without a positive response, reasonably considered such a situation as an encroachment on intangible benefits belonging to the citizen from birth or by virtue of law, and concluded that there were reasons for awarding compensation for moral damage. Courts assess compensation based on the nature of the violated right (the right to a dignified life), individual circumstances (age, family status), the degree of fault, and the duration of violations. For instance, in Cassation Ruling of 12.01.2026 No. 88-299/2026, 88-31916/2025, the Eighth Cassation Court set moral damages at 5 000 rubles (compared to the requested 1 000 000), applying reasonableness and fairness standards.

This testifies to the increasing significance of

judicial decisions in law enforcement activity in the sphere of social security. And although "today there are no formal grounds for recognizing judicial practice as a source of law, its regulatory impact on the behavior of participants in legal relations is undeniable" [23, p. 51].

4. Conclusion

The above demonstrates the multifaceted nature of the problems faced by law application bodies when resolving social security issues, including courts when adjudicating the relevant disputes.

The objective factors affecting the quality of application of social security law norms include the instability of legislation and the need for its further development taking into account the theoretical foundations of this branch of law. For instance, the Law on Insurance Pensions has seen over 40 amendments since 2015, five based on the Constitutional Court of the Russian Federation Decrees. The absence of a Social Security Code and general development principles is detrimental. More consistent and systematic reform of legislation, and the definition of clear guidelines for authority applying the law, may contribute to a more effective realization of citizens' social-security rights. Furthermore, "scholarly knowledge should precede legislative drafting and be reflected in precisely worded norms free from gaps, conflicts, and interpretive ambiguities" [7, pp. 16-17].

Subjective factors include the strengthening of specialization in the legal profession and the desirability of such specialization for judges. Such specialization will make it possible to study social security legislation more deeply, to promptly track all changes in it, and consequently to resolve disputes on social security matters in a more

timely and qualified manner [4, p. 7]. In addition, socially oriented justice in modern civil proceedings is associated in scholarship with the achievement of such goals as the improvement of civil procedural legislation; increasing the activity of the court when hearing social disputes; and distinguishing a qualitatively independent category of disputes - disputes in the sphere of social security [24, pp. 4-5].

One must not forget that at the center of law enforcement activity in the sphere of social security is a person who has found himself or herself in a situation of social risk and is in need of support. Therefore, his or her rights to social payments and services, being a legal form of manifestation of society's solidarity with him or her and of guaranteeing the satisfaction of his or her vital needs at a level recognized as acceptable in specific historical conditions, are subject to implementation in accordance with the procedure and conditions established by law, regardless of possible funding problems of individual social provisions, political conjuncture or other considerations. This predetermines the high social significance of the court's activity in applying social security law norms when resolving the disputes, when the citizen most often acts as an objectively weaker party. The improvement of such activity and the enhancement of the effectiveness of judicial protection of citizens' social-security rights presupposes the use of both substantive and procedural legal means for these purposes, and therefore should be studied both in the social security law and in the civil procedure sciences. "It is precisely now that it is necessary to restore the value of the person as the core of this system... A return to the origins - the person, his or her position in court, his or her perception of justice - appears to be a significant stage in the development of modern procedural science, its task, and an important aspect for measuring further legislative transformations, changes, and

reforms" [25, pp. 184-185].

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