



# **PENSION PROVISION FOR DIPLOMATIC EMPLOYEES: REGULATORY AND LEGAL PREREQUISITES AND IDENTIFICATION OF CURRENT DEVELOPMENT ISSUES**

**Tursunova M. U.**

<b>Article history:</b>	<b>Abstract:</b>
<b>Received:</b> June 6 <sup>th</sup> 2023 <b>Accepted:</b> July 4 <sup>th</sup> 2023 <b>Published:</b> August 4 <sup>th</sup> 2023	This scientific article elaborates the necessity of addressing the issues related to the pension provision for diplomatic employees, specifically their legislative regulation in the Republic of Uzbekistan through specialized normative and legal acts. It should be noted that the absence of normative and legal foundations and clarity in regulating the pension provision for diplomatic employees can create uncertain situations, lead to legal disputes, and the high degree of confidentiality of relevant information hinders scientific research, analysis, and examination. The author concludes that there is a need to change the normative, legal, and scientific approaches to the posed question in favor of ensuring legal clarity, publicity, and transparency, as diplomatic service is a type of public service that is becoming increasingly relevant and in demand in any state.

**Keywords:** pension, social welfare, work experience, diplomatic employee, position, Convention, guarantees, state budget.

## **INTRODUCTION.**

Social welfare, the determination and payment of pensions is one of the most crucial aspects of everyone's life, as every person needs state support upon reaching retirement age. Diplomatic workers are no exception in this case.

The relevance of the chosen research topic in this scientific article lies in its limited exploration and the lack of theoretical depth regarding the issues of social welfare and pension allocation for diplomatic employees.

## **MAIN PART.**

Social welfare and pension allocation for diplomatic personnel are based on general rules of state social welfare. On one hand, normative and legal regulation approach simplifies the resolution of issues regarding the estimation of work experience and pension allocation for diplomatic workers upon reaching retirement age (as well as in other areas of social welfare and the implementation of social guarantees). On the other hand, insufficiently explored features of pension provision for diplomatic personnel hinder effective scientific and legal research. The latter often relies on analogies with legislation regulating the basics of state social welfare, estimation of work experience, pension payments, benefits, material and financial compensations, and the application of privileges in the estimation of work experience in cases of performing activities abroad (which is common among diplomatic workers during their professional service).

According to the accurate definition by S.A. Chirkov, "the institute of social pensions, like the institutes of old-

age pensions, disability pensions, survivors' pensions, length-of-service pensions, and additional material support for special merits to the state, is an independent institution of pension law," [1] and its norms also apply to the legal status of diplomatic workers. However, in this regard, there already exist general rules for pension allocation, estimation of work experience, and other aspects of legal regulation of state social welfare.

It is worth noting the conflicting nature of social welfare. Most countries in the world have long faced the challenges of an increasing proportion of elderly individuals [2]. Demographic changes resulting from factors such as declining birth rates and increased life expectancy are associated with specific economic and social consequences [3]. These consequences can be interpreted differently, but the essence of the question at hand should be interpreted in favor of the individual, regardless of their age.

Foreign practices of social welfare are based on the principle that "the main aim of any pension system is to ensure adequate pension income." [4] It is noteworthy that "today, the Netherlands and Denmark have a combined index of over 80 and possess first-class and reliable pension systems, which provide good financial support" [5]. In Australia, there is a means-tested guaranteed pension. The Australian state pension system operates without contributions and is financed through general tax revenues [6].

Many countries have implemented a multi-tier structure, consisting of three key elements of the pension system: state pensions, mandatory occupational pensions based on the accumulation principle, and voluntary private



pension savings. This structure/system is also applicable to pension allocation for diplomatic workers. Based on the practice of calculating work experience, "the time spent abroad is counted towards the work experience of diplomatic workers, including the work experience of spouses of diplomatic mission and consular office workers, as well as individuals assigned to quota positions in international intergovernmental organizations, but not exceeding 10 years. The time spent on disability of I and II groups due to work-related injuries or occupational diseases counts towards work experience when determining the age pension and survivor's pension". [7]

Regarding the legal status of diplomatic personnel and individuals seconded by the Ministry of Foreign Affairs to quota positions in international intergovernmental organizations, the procedure for determining income for the estimation of pension payments is provided by the rules of the Cabinet of Ministers.

However, it should be noted that neither the Vienna Convention on Diplomatic Relations of April 18, 1961, nor the Regulation on the Diplomatic Representations and Consular Offices of Foreign States in the Republic of Uzbekistan of May 8, 2001, address the issues of pension provision for diplomatic personnel. This is a relevant problem in the legal regulation of the pension appointment process for individuals whose work experience was acquired during diplomatic service.

Nevertheless, it is important to emphasize the necessity of normative and legal elaboration of pension provision, pension allocation, determination of pension amounts, and achieving a high level of legal clarity in these areas. In Russia, for example, "the average monthly earnings used to calculate a civil servant's length-of-service pension cannot exceed 2.8 times the official salary established for the employee in the last 12 full months of service preceding the day of its termination" [8]. Furthermore, by Presidential Decree of the Russian Federation dated June 24, 2019, No. 288, "On the Main Directions of Development of the State Civil Service of the Russian Federation for 2019-2021," the Government was instructed "to optimize the structure of financial remuneration for civil servants by gradually increasing the share of the official salary in this structure and correspondingly increasing the amount of length-of-service pensions" [9].

Under the general provisions of the Rule of Law "On State Civil Service" in 2022, a civil servant has the right to receive support and payments within the framework of state pension provision. Social welfare measures for civil servants are provided by the state through state pension provision. The system of benefit payments is

implemented based on the funds available in the State Budget [10].

The procedure for allocation, calculating, and determining the amounts of pensions for state civil servants, as well as additional social guarantees related to state pension provision, is established by legislation on state pension provision for citizens.

Summarizing the above material, the following issues with the pension provision for diplomatic personnel in Uzbekistan can be identified:

1. The legal regulation of pension provision for diplomatic personnel in Uzbekistan is based on general legislative rules governing the allocation and payment of pensions, estimation of work experience, and other aspects of implementing social guarantees for citizens. Such a uniform approach does not always distinguish the legal status of diplomatic officials whose work entails a higher level of complexity and intellectual activity;
2. At the same time, special legislation provides a system of incrementing work experience for diplomatic officials. However, the decentralized legal regulation of pension provision for diplomatic officials hinders the effective regulation of the topic raised in the scientific article;
3. The absence of a Law "On the Diplomatic Representations and Consular Offices of Foreign States in the Republic of Uzbekistan" complicates the process of effective legal regulation of the activities of diplomatic personnel and civil servants in general. In some cases, social welfare processes are resolved by analogy with the existing general pension legislation for all citizens, while in other cases, the resolution of these issues is ambiguous due to insufficient legal clarity and theoretical-legal explanation of the peculiarities and differences between the pension provision for diplomatic personnel and the pension provision for citizens.

#### **CONCLUSION.**

The resolution of the aforementioned problems requires comprehensive normative-legal, legislative, and research work. First and foremost, by analyzing the practice of pension provision for diplomatic personnel, it is possible to develop a system for identifying differences in the procedures and rules for pension provision, estimation of pensions, and determination of their work experience, compared to the general rules applicable to other categories of citizens. In addition, legislative regulation of diplomatic activities should include provisions regarding the pension provision for diplomatic workers.



## LIST OF REFERENCES

1. Chirkov S.A. The Institute of Social Pensions in the Light of the Principle of Universal Pension Provision. "Wise Lawyer" Website. Source: <https://wiselawyer.ru/poleznoe/81056-institut-socialnykh-pensij-svete-principa-vseobshhnosti-pensionnogo>
2. Kolmar M. "Beveridge versus Bismarck Public-pension Systems in Integrated Markets," *Regional Science and Urban Economics* 2007, No. 37, p. 69.
3. Mercer (2019). *Melbourne Mercer Global Pension Index*. Melbourne, Australia: Australian Centre for Financial Studies.
4. OECD. *Pensions at a Glance, Retirement-income Systems in OECD and G20 Countries*. Paris, 2011, p. 9.
5. Ermakov D.N. Foreign Experience and Its Reflection in the Russian Pension System. "Social and Political Sciences" Journal. 2012, No. 4, p. 58.
6. Istratiy A.Yu., Kozlova E.G. Study of Foreign Experience in the Development and Functioning of Personnel Motivation and Incentive Systems. *Bulletin of the State University of Management*. 2015.
7. Work Experience for Pension Provision. Source: <https://new.gov.uz/en/advice/document/214/>
8. Gurinovich A.G. On Remuneration and Pension Provision of Staff in the Apparatus of Certain Higher Authorities of State Power of the Russian Federation: Assessment of Unresolved Problems of Legal Regulation. "Public Service" Journal. 2021, No. 4 (132). URL: <https://cyberleninka.ru/article/n/ob-oplate-truda-i-pensionnom-obespechenii-sotrudnikov-apparatov-nekotoryh-vysshih-organov-gosudarstvennoy-vlasti-rossiyskoy> (accessed: 23.06.2023).
9. Belyakova A.A., Bogatyreva I.V. Remuneration of Civil Servants in the Russian Federation: Problems and Ways of Improvement. *Science of the 21st Century: Current Directions of Development*. 2019, No. 1-1, pp. 170-174.
10. Law of the Republic of Uzbekistan "On State Civil Service," dated 08.08.2022, No. ZRU-788. Source: <https://lex.uz/ru/docs/6146009>