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IMPROVEMENT OF LEGAL MECHANISMS FOR PROVIDING SOCIAL PROTECTION OF WOMEN

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Abstract

The article analyzes the peculiarities of organizational legal mechanisms for ensuring women's social rights, the unification of functions of state organizations related to social protection, the categories of women in social need, measures to eliminate discrimination in the implementation of these rights, and the experience of foreign countries in this regard.

Key words

women's social rights, a woman in a difficult social situation, unification of functions, social protection, social assistance, maternity protection, legal guarantee, equality.

Among the social rights of women, the right to social security and social protection occupies an important place.

Social security means the system of socio-economic measures established by the state to provide material, medical and social assistance to elderly, disabled and bereaved citizens ¹.

At this point, it should be said that in the early periods when women's social security began to be implemented, the scope of social facts as the basis for providing social security included illness, old age, and widowhood of a citizen. expanded dramatically. In particular, in the Declaration, any situation in which a person needs help for objective reasons beyond his control is included in the list of social risks that are the basis for receiving social assistance. Article 8 of the International Covenant on Economic, Social and Cultural Rights provides for the provision of decent living conditions for its citizens, for each person and his family members to have food, clothing, and shelter. It is determined that providing material assistance to the weak and needy to meet their minimum needs in the field of living is one of the main obligations of each state that is a member of this Pact.

¹National encyclopedia of Uzbekistan.-T.:UzME State Scientific Publishing House, 2002.-J.#4.-B.87.



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As an independent and equal subject of international law, the Republic of Uzbekistan joined the above international legal documents and undertook the fulfillment of the obligations arising from them.

In accordance with Article 46 of the Constitution of the Republic of Uzbekistan, social security is guaranteed to every citizen in case of old age, illness, disability, loss of a breadwinner, need for child support and other cases established by law. The right to receive state pensions and social security is enshrined in law. The creation of additional forms of voluntary social insurance, social security and charity is encouraged. This constitutional norm defines the conditions for the provision of social security. In particular, certain periods of a person's life (childhood, old age), ability to work (illness, disability), ability or inability to fulfill family obligations (child care, death of a breadwinner). Also, social security is provided in other cases established by law, in case of temporary unemployment or in difficult social situations.

In our country, the right of needy women to receive social assistance from the state and society is one of the constitutional rights. Today, a number of types of social assistance are provided to the category of needy women and they are implemented by various state or civil society institutions, on the basis of legal documents and departmental documents. Also, social assistance differs from social security and social protection measures in that it covers a narrow range of activities.

In our opinion, it is important for the state to pay attention to the following aspects in ensuring the social protection of women:

- ensuring compliance of the legal system and legislation related to social protection of women with international legal standards;
- the existence of state bodies that provide social support for needy and poor women, have functions related to social protection and operate effectively in the field;
- creation of criteria for social protection of women and achieving full compliance of these criteria with the principles of humanitarianism and social justice.

The basis of women's right to social security is social protection. Here it is important to identify the main features of social protection.

The concept of "social protection" was first used in the US Social Security Act in 1935, then the content of this concept was perfected in the International Labor Organization Convention on "Minimum Standards of Social Security".



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According to D.Ahmedov, the concept of "social protection" has a comprehensive meaning as a concept used in various fields of science (economic sciences, labor law, civil law, social security law, state law, etc.) and the state social expresses different aspects of politics.

It can be understood from the content of Article 46 of the Constitution of the Republic of Uzbekistan that the concept of "social protection" has a broader meaning and includes elements that are not part of the concept of "social security". In particular, it mentions pensions and allowances as types of social security, while other social assistance is noted separately. Also, the field of social protection, as a network representing state-legal (public-legal) aspects, is gradually gaining not only its own subject and method of regulation, but also its own principles ².

Also, in ensuring women's right to social security and improving their social protection, the "Strategy for social protection of the population of the Republic of Uzbekistan", approved by the Decree of the President of the Republic of Uzbekistan No. PF-175 of July 25, 2022, is of great importance. The strategy of social protection of the population of the Republic of Uzbekistan defines the priority directions and comprehensive measures for the development of the system of social protection of the population until 2030, and as a result of the implementation of its "Road Map" achievement of set target indicators is ensured. The strategy was developed based on the results and recommendations of the "Assessment of the social protection system in Uzbekistan" prepared in 2020 by the International Labor Organization, the World Bank and the United Nations Children's Fund. The strategy envisages the creation of a system that guarantees a minimum level of social protection for all citizens in accordance with the recommendations of the International Labor Organization No. 202 on minimum levels of social protection. However, in this strategy, social assistance programs, social security programs, social services programs, programs of active measures in the labor market, and measures for the implementation of 17 goals within these programs are defined.

Today, social protection of women means increasing the level of their employment, paying a salary commensurate with the quantity and quality of their work, providing high-quality medical services, and all aspects of ensuring a decent life.

²Akhmedov D. State social protection in Uzbekistan: legal foundations and problems of improvement. Dis.yu.fd T., 2007, -B.-112.

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Starting from September 2022, the World Bank will introduce categories of population whose daily income is 2.15 US dollars as a criterion for determining poverty. This poverty line was set at \$1.90 until September 2022 ³.

According to the data, in Uzbekistan in January-September 2022 (for nine months), the lowest indicators of total income per capita were in the Republic of Karakalpakstan (9347.8 thousand soums), Farg It was recorded in Ona (9720.7 thousand soums), Namangan (10087.7 thousand soums), Jizzakh (10575.1 thousand soums) regions ⁴.

The minimum level of payment for work has a direct impact on the process of formation of material needs of women. The minimum wage is the minimum level of maintenance and development of the organism. However, today's per capita monetary income is lower than the international standards.

Also, some important concepts and indicators should be defined for social support of women. In particular, the concept of women in social need, the concept of a woman in a difficult social situation, as well as the criteria of women's or family's need for social protection, poverty have not been clearly developed.

At this point, it is worth noting that the analysis of the legislation on the cooperation between the state and civil society institutions showed that some laws do not specify norms for the social protection of women in need. In particular, Article 6 of the Law of the Republic of Uzbekistan "On Social Services for the Elderly, Persons with Disabilities and Other Socially Needy Categories of the Population" provides the socially needy categories of the population. In particular, persons deemed to be in need of social services in accordance with the procedure established by law, including: single elderly people who need the care of others and elderly people living alone; Persons with disabilities of groups I and II, children with disabilities; Citizens who are incompetent and have limited legal capacity; persons suffering from socially important diseases; orphans and children deprived of parental care are socially needy categories of the population. However, these categories do not clearly represent the concept of socially needy women. These categories include women who are in a difficult social situation, women who are victims of domestic violence, women who are victims of human trafficking, single mothers with many children, pregnant single mothers who are in real need of social services. does not mean

For information, it can be said that today more than 8 million of the population of our country are women over 30 years old. 1 mln., which should be

³ https://www.worldbank.org/en/news/factsheet/2022/05/02/fact-sheet-an-adjustment-to-global-poverty-lines#1

https://stat.uz/uz/nashrlar/3687-o-zbekistond-ijtimoiy-rivojl-nish-v-turmush-drj-si



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provided with practical assistance. needy women make up 12.5% of these women. On this basis, regional analyzes show that there are 55 thousand people in the Republic of Karakalpakstan, 91 thousand in Andijan region, 60 thousand in Bukhara region, 38 thousand in Jizzakh region, 88 thousand in Kashkadarya region, 30 thousand in Navoi region, Namangan 81,000 in Samarkand region, 108,000 in Syrdarya region, 70,000 in Surkhandarya region, 90,000 in Tashkent region, 112,000 in Fergana region, 55,000 in Khorezm region, 98,000 in Tashkent city. it is necessary to help women ⁵.

State support is provided in three directions: the first is social assistance provided to families and women in the form of money, the second is social payments and benefits; and the third is compensation benefits and payments. State support for women in social need should be provided in the amount not less than the "minimum amount necessary for subsistence".

Implementation of the constitutional requirement that social assistance should be provided in the amount not less than "minimum consumption expenses" defined in Article 46 of the Constitution of the Republic of Uzbekistan. means necessity.

At this point, it is worth noting that in order to understand the working principles of the mechanism of social security, it is necessary to analyze legal relations in the field of social security, their classification, objects and subjects.

According to D. Akhmedov, social security relations depend on the type of social security provided to citizens, legal facts creating the right to receive social security, persons entitled to security, types of bodies implementing social security and other aspects. can be classified. Also, if we divide the legal structure of social security into general and special parts, while the norms of the institution of work experience, the institution of incapacity for work, the institution of disability are part of the norms of the general part, the special part includes special types of social relations, that is, allowances, pensions, benefits, subsidies. establishes institutions that regulate relations ⁶.

Agreeing with the opinion of D.Ahmedov, it can be said that the main condition for ensuring the effectiveness of social protection for women is to clarify the category of needy women. That is, it is appropriate to define the range of subjects entitled to use social protection.

Especially pregnant women; women with disabilities; single elderly women; mothers with young children; mothers with disabled children; women in a difficult social situation;

⁵ https://kasaba.uz/hotin-kizlar-uammalarini-tizimli-ravishda-hal-etish-ularni-izhtimoij-kullab-quqq lash-ishlari-yanada-kuchajtiruji/

⁶ Akhmedov D. State social protection in Uzbekistan: legal foundations and problems of improvement. Dis.yu.fd T., 2007, -B.-185.

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temporary and permanent unemployed women; retired women; women victims of domestic and family violence; oppressed and discriminated women; women victims of human trafficking; ex-convict women; women who are illegal labor migrants; Women with AIDS.

Based on the above analysis, we define *the following main principles of women's right to social security*:

- orientation of social security to poor women who really need it;
- that the amount of social security **is proportional to the need, that is, sufficient** for a decent marriage;
- of social security **based on** specific criteria, i.e. the range of women in need , **scope** of social protection , implementation **mechanisms** ;
- development of minimum consumption basket indicators and establishment of public control over their implementation;
- -implementation of funds intended for social security by civil society institutions;
- the openness and transparency of social security, in which the provision of social assistance is controlled by the public.

As a result of the implementation of these principles, the fair use of social security, the disposal, distribution of social security funds and their delivery to the needy are controlled, and various robberies are prevented.

One of the most important social problems of countries in the world is to improve the living standards of poor women.

As M.A. Usmonova rightly stated: "Protecting citizens, establishing economic and legal mechanisms of social protection and ensuring their flawless operation is the constitutional obligation of the state to the individual ⁷."

M.A. Continuing Usmanova's opinion, it should be said that women's social security is a form of social protection guaranteed by the state and performs the following functions:

- protects against poverty;
- provides an income that covers the needs of marriage at the end of work.

Article 46 of the Constitution of the Republic of Uzbekistan states that "everyone has the right to social security in the event of old age, loss of working capacity, unemployment, as well as loss of a breadwinner and other cases provided for by law." The amounts of pensions, allowances and other types of social assistance established by law cannot be less than the officially established

⁷Usmonova MA Entrepreneurial entities and social protection. Problems of small and private business development in Uzbekistan. Proceedings of the scientific-practical conference.-T.:TDYuI, 2002.-B.-133.

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minimum consumption expenses 8. At this point, it should be said that the phrase "when everyone gets old" in the Constitution is abstract, and the age criterion of the concept of "old age" is not clearly defined. If we clarify the concept of "old age", in accordance with Article 7 of the Law of the Republic of Uzbekistan "On State Pension Provision of Citizens", women have the right to receive an age pension when they reach the age of 55 and have at least 20 years of work experience. If 9we are based on the rule that women will have the status of old age in Uzbekistan at the age of 55, will it be possible to come to the conclusion? Doesn't such a norm cause women's social rights to be discriminated against? However, according to the law "On guarantees 10 of equal rights and opportunities for women and men", differences in the retirement age of men and women are not considered discrimination on the basis of gender. However, in the practice of law enforcement, the following is observed, that is, when the candidates of a woman and a man with the same competence are being considered for the same position, with the excuse of "unfit" (aged and not having enough capacity for work) Isn't it considered gender discrimination to appoint a 55-year-old man to this position while rejecting the candidacy of a 55-year-old woman? So there is an inconsistency between the wording of the two pieces of legislation.

If we consider the retirement age in foreign countries, they are set differently. In particular, the retirement age is the same for women and men - it is set at 65 in Belgium, Great Britain, Germany, Spain, Canada, the USA, 66 in Italy, and 67 in Norway ¹¹.

Also, according to the **Belgian** Law "On Pension Provision", citizens born before 1958 and having 41 years of work experience can retire at the age of 63. The retirement age of citizens of the country will be extended to 66 years from 2025, and to 67 years from 2030. This criterion is the same for women and men.

UK law does not prohibit citizens of retirement age from working. Also, a citizen who has reached the age of 65 can simultaneously receive pension provision and salary for continued work. It is planned to set the retirement age of citizens at 67 years in 2026-2028 and 68 years in 2044-2046.

In Spain, the retirement age for citizens is 65 years and 6 months. Also, if a citizen has paid to Seguridad Social (social insurance fund) for 36 years and 6 months, he will be able to retire at the age of 65. According to the Spanish pension legislation, the retirement age will be 67 years from 2027.

⁸ National database of legislative information, 01.05.2023, No. 03/23/837/0241

⁹National database of legislative information, 16.02.2023, No. 03/23/817/0091

¹⁰National database of legal documents, 09/03/2019, No. 03/19/562/3681

¹¹ https://www.who.int/europe/home?v=welcome



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in Italy is 66 years and 7 months. In order to receive a pension, a citizen must pay monthly contributions to the social insurance fund for at least 20 years. Also, women will be able to retire only after 41 years and 10 months of service.

In Canada, citizens can retire at the age of 65. The minimum retirement age is 60 years, and the pension benefit is reduced by 36%.

In France, the minimum retirement age is 62, and only people with disabilities can retire at this age. Also, all citizens born after 1955 can retire at the age of 67.

It is also proposed to unify the retirement age of women and men in our country. However, only when gender equality is expressed in legal criteria, women will be able to use the opportunities offered on the basis of equality.

Also, one of the main goals of the development strategy of New Uzbekistan is the development of the social sphere, the improvement of the social protection and health care system of the population, the organization of providing state assistance to needy women based on the principles of justice. means The importance of the social protection policy is that the social protection system covers the segments of the population who have lost their ability to work or have no opportunity to earn income, including women of this category.

However, Uzbekistan, which experienced the Covid-19 pandemic from the beginning, like other countries, needs to update the field of social protection, as well as introduce several new norms into the Law of the Republic of Uzbekistan "On State Pension Provision of Citizens" and social support. put the reform of the legislation on the supply system on the agenda.

At this point, it should be said that even during the pandemic, targeted social assistance was provided to women in need of social protection in our country, pension amounts were regularly increased, and favorable conditions were created for pensioners. However, during the pandemic, in many foreign countries, even in some countries with developed economies, including the USA, China, Norway, Sweden, Malaysia, Finland, Turkey, the payment of pensions, the maintenance of their amounts, the temporary reduction of contribution rates, they were forced to develop measures such as temporary non-increase of pension amounts, postponement of contributions to social insurance funds.

The above-mentioned reforms are really strengthening the social protection of women and reducing poverty as a priority of the state policy, providing the population with new jobs and a guaranteed source of income, qualified medical services, and decent living conditions. evidence that it has risen to a new level in terms of



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There are also a number of issues that determine the importance and necessity of further improving the pension system in our country. In particular, elderly women are considered incapable of work and have a high need for social and medical expenses. Based on this, it is desirable to introduce alternative social security institutions, as well as further increase the minimum pension amount.

Also, social protection of women working in the private sector is not provided enough.

Also, there are not enough opportunities for women in foreign labor migration to be provided with pension in the future. In particular, as of January 1, 2022, more than 1.5 million citizens are engaged in work abroad, while before the pandemic, their number was more than 2.4 million people. In this regard, although there is Decision No. 46 of the Cabinet of Ministers of the Republic of Uzbekistan and Decision No. 806 of the Cabinet of Ministers of the Republic of Uzbekistan on self-employment of citizens, but they are provided with social insurance coverage remains low. In order to ensure the social protection of this category of women, it is necessary to further increase interstate agreements and promotion activities.

Based on the experience of foreign countries, it can be said that the establishment of the pension system and its effective use play an important role in solving social problems and protecting women from poverty in old age.

According to the IOM, "only 68% of the world's population is provided with pension provision" ¹². According to the UN, "in 2050, 22 percent of the world's population will be retired, and the average life expectancy of the world's population is predicted to reach 76 years ¹³. "

Based on the above analysis, it is proposed to make the retirement age of women and men the same in our country. Also, it is envisaged to give women the opportunity to use the right to retire earlier, that is, from the age of 55, taking into account motherhood and family duties. However, only when gender equality is expressed in legal criteria, women will be able to use the opportunities offered on the basis of equality.

In our opinion, the introduction of non-state social insurance for women, in addition to the universally defined single social payment, at the time when the "List of jobs with unfavorable working conditions in which the use of women's labor is prohibited in whole or in part" is abolished in our country it would be appropriate to introduce an *additional social payment mechanism* by an organization or enterprise with unfavorable working conditions. In this case, the employer will be

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¹² http://www.google.com/url?sa=t&source=web&rct=j&url=https://www.social-protection.org

http://uza.uz/oz/world/dunye-a-olisi-keksaymo-da-mi--01-07-2018



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able to pay the social insurance pension himself. On the basis of the collective agreement, even before reaching the general retirement age, and later, when the state pension is assigned, the part of the non-state social insurance pension that is being paid to him is added to the state pension at the request of the citizen, by transferring it to the Pension Fund. can be done.

According to statistics, as of January 1, 2022, the economically employed population is 13.5 million people, of which 6.2 million official, 5.9 million people. and a person works in the informal sector ¹⁴.

In our country, the right of needy women to receive social assistance from the state and society is one of the constitutional rights. Today, a number of types of social assistance are provided to the category of needy women and they are implemented by various state or civil society institutions, on the basis of legal documents and departmental documents.

Based on the tasks set before us in the paragraph, there is another important issue related to women's social protection, which is maintenance after family separation. In recent years, the number of family divorces has increased in our country.

According to the Family and Women's Committee, " *in 8 months of 2023, about 34,000 families were separated, and 25,000 children in these families now continue their daily lives without a father or mother.*" The main reason for these rulings is that the couple is not ready for a family, third-party intervention, not living together for a long time, financial difficulties, infidelity, alcohol and drug addiction, childlessness ¹⁵.

The main maintenance of the child falls on the mother after the divorce. There are many cases where the other party refuses to pay alimony.

According to the Bureau of Enforcement, more than 245,000 (24 percent) of the 992,000 enforcement documents until July 1, 2022 were related to alimony payments ¹⁶.

A timely and correct collection of alimony debt for minors and adults in need of support is an urgent issue. However, it is important to provide social protection for single mothers who are burdened with the burden of supporting their children after the divorce.

In recent years, a number of normative legal documents defining the obligations to pay alimony have been adopted in the country. Appropriate measures have been taken. In particular, administrative and criminal liability was

¹⁴ www.stat.uz

¹⁵ https://wcu.uz/oz/lists/category/1

¹⁶ https://data.egov.uz/uzbKr/data/620e1809b7798f1679eb808a



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introduced for evasion of material support (payment of alimony) of minors or persons incapable of work, as well as parents. In addition, temporary restriction of the debtor's right to travel abroad is defined as one of the impact measures aimed at debt recovery. However, this measure is effective only for debtors who need to go abroad.

In the legislation of foreign countries, similar measures of influence are used to eliminate alimony arrears. In particular, in Germany, alimony debt is paid through forced labor. It is also carried out by confiscating and selling the property of the debtor in favor of the child. Or the debtor is sentenced to prison ¹⁷.

It will be possible to legally apply such effective experiences of foreign countries in the territory of our country. For example, it is expedient to give the right of state executives to apply to the court with a submission on the temporary restriction of the right to drive a vehicle until the debt is eliminated, and on the temporary restriction of the right to perform a licensable type of activity. However, the improvement of the procedure for collecting alimony payments, which is one of the material guarantees of women's motherhood, is of great importance in ensuring a comfortable marriage and their social rights.

, the introduction of **the "Daftar" legal mechanism of** social protection of the population in our country was one of the main reforms in the field. Today, state social assistance is provided to needy, poor women included in the "Iron Daftar", "Women's Daftar" and "Yoshlar Daftar" introduced in the neighborhoods. At this point, let's analyze the "Women's Register" system of social protection of women in Uzbekistan.

In our country , the "Women's register" system is approved by the decision of the Cabinet of Ministers of the Republic of Uzbekistan No. 145 of March 31, 2022, and the procedure for systematically solving women's problems and providing them with social support by maintaining the "Women's Register" is correct. shall be conducted in accordance with the Regulation ¹⁸. Socially needy women over 30 years of age (unemployed, single mothers, disabled, disabled children) are included in the "Women's register".

In our opinion, in this process, women who are not included in the "Women's Register" of the localities, but who are socially needy, women who are ex-convicts, women who are removed from the "Youth Register", but are in the needy category, women over 30 years old, poor people who are not included in the "Iron Register" It

¹⁷ Petrova N.D. "Alimenty i soderjanie: vopros o sootnoshenii ponya tiy "/ / Molodoy issledovatel: vyzovy i perspektivy. Sbornik statey po materialam CLVI mejdunarodnoy nauchno-prakticheskoy conference. 2020. S. 16-19. ¹⁸ National database of legislative information, 13.01.2023, No. 06/23/2/0024



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is necessary to pay special attention to the social protection of women, as well as the needy women in internal or external migration.

In accordance with the Decree of the President of the Republic of Uzbekistan "On measures to radically improve activities in the field of supporting women and strengthening the family institution", a system of housing for women living in difficult conditions was formed. According to this system, every year, one and a half thousand women will receive their first payment from state-funded subsidized houses.

At this point, let's focus on which categories of needy women are said to be in need of housing.

Women in need of housing are women in a difficult social situation, mothers with disabilities, low-income mothers, raising their children in single-parent families and in need of improving housing conditions ¹⁹.

Criteria for identifying women in need of housing - lack of housing based on property rights and living in housing under rental conditions or in unfit housing; living in the same house (in the same house) with another family (families); multiple children; being a member of a low-income family; female patients who should live in a separate room due to their social characteristics (tuberculosis, severe manifestations of skin-genital diseases, purulent inflammation of diabetes, psoriasis) (based on the conclusion of the district medical association); the presence of persons with disabilities of the first group among family members; the social norms of the housing area provided for by legislation (the total housing area for one person is not less than 16 square meters, for persons with disabilities in wheelchairs - not less than 23 square meters) non-compliance; single women with disabilities of the first group; single women who are taking care of a child suffering from a disease that causes severe disability (based on the certificate of the district (city) neighborhood and family support department and the conclusion of the medical association)" ²⁰.

Committee on Family and Women under the Ministry of Poverty Reduction and Employment according to the data, "in 6 months of 2023, measures were taken to improve the conditions of 996 women by providing them with housing, as well as by paying the initial payment. In addition, rent compensation was paid to 17,461 people, 5,714 of them in the corresponding period of 2023, 3,104 of 12,861 people were repaired in the corresponding period of 2023 ²¹.

Here, while analyzing the problems in the field, "as an example of "cheap" houses in the Sergeli district of Tashkent city, the majority of frauds and injustices

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¹⁹ https://gendermadad.uz/uz/document/2300

https://gendermadad.uz/uz/document/2300

https://wcu.uz/oz/lists/view/431



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in the construction and furnishing of "social" houses in the regions make the social situation of the population more complicated, women, the elderly and children in need have high-quality and adequate it should be taken into account that it may cause them to eat, dress, get an education and face other social and household difficulties ²². "

As a result of the studies, the following proposals are put forward - to improve the monitoring of the work being carried out in the regions and districts regarding the provision of affordable housing for needy women; ensuring the continuous operation of the commissions established under the authorities to provide the population with affordable housing and reducing the number of required documents; to pay attention to the issue of extending the term of the mortgage loan in order to provide the population with affordable housing.

At this point, the introduction of accurate accounting of women in need of social protection in our country through digital technologies will help to further expand the provision of state-guaranteed assistance to them . At the same time, it is necessary to strengthen effective new control mechanisms for ensuring women's social protection in legislation.

Also, social assistance differs from social security and social protection measures in that it covers a narrow range of activities. In this matter, the systematization of legal documents related to the field and the precise definition of the category of socially needy women, the types of social security and the procedure for providing it, the procedure for assigning and paying social benefits, the legal definition of the concept of social assistance, types of social assistance, social it is appropriate to adopt the Social Security Code, which clearly specifies the concept of the contract and the procedure for its conclusion, the rights and obligations of the authorized bodies.

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²² https://dzen.ru/a/XLAGSdjA2wCuaBMe



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