

# Utilities Market: The Sphere of Protection of Subjects

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## Summary

The study covers three components of the facility for protecting public utilities market participants in the public utilities market: prevention of potential poverty, reduction of existing poverty and compensation to the injured party in a case of tort that exacerbates or threatens to exacerbate its poverty. The analysis is based on official statistical information on the activities of the public utilities sector. Operational information of public utility service providers regarding certain indicators of their activity in the work was not studied. This approach narrows the empirical basis of the study, but at the present stage in the context of different rates of implementation of changes in regions, sectors and at the level of individual entities, as well as lack of uniformity in the structure of indicators published by service providers, analysis allows to identify «bottlenecks» of legal regulation, which are systemic in nature and largely independent of the subjective factor.

### Key words:

*Poverty Prevention, Legislation Of Ukraine, Protection Of Rights, Rule Of Law, Public Utilities, Targeted Subsidy, Commercial Accounting, Debt.*

## 1. Introduction

The disproportionate growth of their value and income level exacerbates the problem of poverty in Ukraine. The technological backwardness of production processes, associated with a chronic shortage of funds among service providers and the weak interest in the field of housing and public utilities by investors does not allow us to expect a solution of this problem in the near future. In the areas of gas and power supply, new versions of laws have been adopted, which are based on the principles and approaches reflected in EU directives and regulations. On January 1, 2019, the first stage of modernization of the state aid system in the field of public utilities began, aimed at overcoming poverty, which concerns the change of forms and procedures for providing benefits to certain categories of consumers.

On May 1, 2019, the amendments to the legislation on

heat supply and water supply came into force, in particular, on issues that have a direct impact on the dynamics of poverty (cost of services, the order of their accounting processes, etc.). In the Global Sustainable Development Goals (hereinafter referred to as the Global CSDs), which, to some extent, define the main directions of development of modern philosophy of public policy and legal science, which ensures its implementation, the fight against poverty is stated as a key goal and the national efforts of legal system should be directed towards achieving it [1]. The general formula for the transformation of legal regulation «Leave no one aside» and a special task to combat poverty - the creation of reliable mechanisms to promote accelerated investment in poverty eradication, balancing the rights and interests of utility market participants - consumers, producers and investors. However, a high degree of conflict of participant's interest raises the issue of protection of their rights in the transformation of the utility market.

## 2. Theoretical Consideration

A significant number of scientific publications are devoted to the study of the social phenomenon of poverty and the search for ways to reduce it in the global, regional, national and local dimensions. E. Libanova defines poverty as a multidimensional category that includes such components as income poverty, development opportunities and self-esteem, and that determines the state of mismatch between the achieved mass (average) level of satisfaction of needs and opportunities of certain groups and segments of the population [2]. At the same time, the inaccessibility (limited availability) of an individual to quality public utilities, regardless of the reasons for its occurrence, determines the emergence of long-term poverty factors, which will have a limiting effect on the development of not only present but also future generations.

In particular, E. Dermott and G. Main in a study on the

social isolation of the poor argue that there is a direct correlation between the quality of housing and utilities available to an individual and the level of children's access to quality education, followed by decent work and conditions for self-development, that negatively affects the degree of their involvement in the political and/or social life of the community, the region and the country as a whole [3]. A study of the relationship between existing communal conditions and poverty carried out by R. Tunstall, M. Bevan, J. Bradshaw, K. Croucher, S. Duffy, C. Hunter, A. Jones, J. Rugg, A. Wallace and S. Wilcox demonstrates that the low level of income of an individual not only makes it impossible for him to personally access other, better options for obtaining public utilities, but also significantly complicates the functioning of other people [4]. First of all, we are talking about the performers of these services and investors in relevant activities, which indicates that the negative consequences of poverty go beyond the purely social aspect of public life to another level, in particular, economic. E. Libanov characterizes such a «spread» of poverty at the level of social development using the indicators of poverty «the weak» and poverty «the strong», emphasizing that in the first case, the state should perform its basic functions on the basis of social assistance, and in the secondly - through economic legal influence [2].

However, the use of direct means of legal impact on the poverty of certain participants in the utility market (subsidizing consumers, limiting prices (tariffs) for public utilities, subsidizing service providers, introducing special legal regimes for certain service providers, etc.), which are common in Ukraine, does not contribute to overcoming poverty, but only deepens its manifestations in both social and economic aspects. In particular, A. Sen in his concept of expanding choice proposes to consider welfare (as the antithesis of poverty) not by the criteria of GDP per capita, but by the possibility of realizing subjective rights and interests, the degree of expanding the available choice of purpose and lifestyle health, education, economic and social activities [5]. At the same time, the direct regulatory impact on the interests of consumers and/or public utilities operates by the method of «fire extinguishing» as of «now» and does not provide an opportunity to expand the choice in the future or cause unbalanced short-term impact on poverty indicators «the weak» and «the strong», which is not tangible for addressing the overall problem of poverty. Thus, Hickman P., Reeve K., Kemp P., Wilson I. Green S. studied the impact of subsidies in the form of direct payments to vulnerable groups (Housing Benefit - hereinafter HB), to address this problem in the utility market of the Great Britain for the period 2010-2015. The results of the study demonstrate that the vast majority of subsidizers (83%) positively assessed the impact of HB on their property status [6].

At the same time, the transformation of the model of legal behavior of subsidy recipients to the control period (when HB was provided directly to service providers) and in the control period (from the receipt of HB by the consumer) was analyzed in the study of Green S., Reeve K., Robinson D., Sanderson E. The results of the study demonstrate, on the one hand, a significant deterioration in payment discipline in the public utilities market (ie, deepening poverty of the «strong»), on the other - an increase in purchasing activity in other markets, in particular, commodity (lack of impact on poverty of the «the weak» associated with the so-called housing and utility factor). The results provided an empirical basis for criticizing HB as a means of overcoming poverty in the public utilities market and declaring ineffective its preventive impact on consumer poverty - the main focus group, «who are too vulnerable financially or irresponsible than required by the legislator» [7]. That is, the indicator of «the weak» poverty, despite the increase in the total income of subsidizers, due to the subsidy, remains unchanged in the context of expanding individual choice and the level of risks and barriers to self-development of future generations. At the same time, the abuse of subsidies exacerbates the poverty of the «the strong» - utility providers and investors, which threatens the sustainable development of this sector. In the United States, a different approach has been taken, shifting the focus of government influence on poverty to the «the weak» from an expenditure part, including public utilities, towards increasing a personal income of the individual under the State Supplemental Nutrition Assistance Program (SNAP). The funds paid to the subsidizer can be used on any trading platform, including online stores (ShopRite, Amazon, etc.), but only to pay for food. A study of the effectiveness of this format of state aid, conducted by M. Zandi, demonstrates the creation of a «wave effect» in the economy, because to receive assistance the consumer must first pay for public utilities in full, ie, first, demonstrate a responsible attitude to spending resources and obligations to service providers, which stimulates the sustainable development of the sector. Second, the received direct or indirect additional income is usually immediately spent by the subsidizer on the purchase of other goods and services, which revives other sectors of the consumer and related markets [8]. At the same time, there are no violations of the principle of equality of all consumers in contractual relations with utility providers, nor the transfer of the burden of supporting low-income consumers from the state to the service provider. However, this format of support produces a dependent mood among subsidizers and does not help reduce the poverty of the «the weak».

Under these conditions, ensuring the protection of the rights of market participants in public utilities, which represent the interests of the segment of "the weak" and

«the strong» poverty, becomes relevant. The UN Guiding Principles on Business and Human Rights (hereinafter - the UN Guiding Principles) emphasize the need to reconcile subjective rights and responsibilities with appropriate and effective remedies in case of their violation, as well as identify the structural elements of the state-provided protection mechanism, in particular, prevention, detection (investigation) of factual circumstances, punishment and compensation of violated rights through effective public policy, legislation and court decisions [9]. However, the content of this mechanism depends on the causes and conditions that contribute to the violation of the rights of public utilities market participants, which affect poverty indicators and should be taken into account when determining the protection mechanism as a whole or its individual elements.

The results of a study of the motivation of subsidiary violators conducted by Hickman P., Kemp P., Reeve K., Wilson I. are of particular interest. The authors identify three motivational groups of defaulters for public utilities: strategic (the smallest), random and trigger group (the largest). Representatives of the strategic group are characterized by intentional non-use of the subsidy for its intended purpose and its understanding as an unconditional additional income that allows them to purchase goods that were not previously available to them. The participants of the second group inadvertently committed violations due to misunderstanding of the purpose of the subsidy or due to mistakes in its administration. Representatives of the third group also did not have a direct intention to violate the payment terms, but resorted to this due to special circumstances and individual difficulties with planning their own budget [10].

To analyze the mechanism of protection of the rights of market participants as a tool to prevent poverty, it is proposed to use a system of indicators that characterize: (1) the effectiveness of preventing poverty of the «the weak» and poverty of the «the strong», namely, the solvency of consumers and the financial performance; (2) the effectiveness of identifying (investigating) the facts of non-recognition contesting or violation by the parties of contractual obligations in the field of public utilities, namely, providing consumers with basic public utilities (in the context of poverty of the «the weak») and accounting for services actually provided (in the context of poverty of the «the strong»); (3) the effectiveness of sanctions and compensation mechanisms.

During the analysis indicators were used only for water supply and district heating services, which narrows the overall base of the study, but these types of public utilities, on the one hand, are the largest debt to consumers, on the other - the least interest from investors. In addition, other

types of public utilities are provided either in a competitive market (maintenance of buildings and structures and adjacent areas), where the issue of balanced protection is considered as part of the service strategy of the provider, or within the legal framework already adapted to EU legislation and contains specific tools to protect the rights of the parties (electricity and gas supply). Under such conditions and in the context of the subject of the study, the results of the analysis in selected segments of public utilities are plausible, as they demonstrate «pure» effectiveness of protecting the rights of parties in the most vulnerable areas, where there are no other compensators, in particular competition, as a result of which they are the center of «attraction» for the negative manifestations of poverty, both «the weak» and «the strong».

Using the inductive method, in the article we were able to investigate the changes in the impact of preventive measures, in particular, subsidies and pricing on poverty. The application of the method of analysis and synthesis allowed to identify a causal link between the mechanism for detection (investigation) of the actual circumstances of non-recognition, contestation or violation by the parties of contractual obligations in the field of public utilities, liability and poverty, including perspective. Also, with the help of comparison, the goals of each of the elements of rights protection were correlated and compared, conclusions were made about the ways of their coordination and ways to increase efficiency.

Research results. As criteria of poverty of the «the weak» in the work considers the absence of the individual (consumer) control of available funds, due to the small amount at its disposal, which is not enough to meet basic needs, and poverty of the «the strong» - the degree of financial difficulties in meeting current needs (settlements with contractors, repairs, payment of wages, fulfillment of obligations to the budget, etc.), associated with insufficient revenues from economic activities.

In legal terms, these manifestations of poverty correlate with the rights of market participants in public utilities, such as: (1) the consumer's right to receive public utilities, regardless of his/her social, property status, age, location, etc. (paragraph 5 of Part 1 of Article 3, p. 1 part 1 of Section 7 of the Law of Ukraine «On Housing and Public Utilities» [11]; (2) the right of a utility producer to receive costs for the production of these services at the expense of economically justified tariffs from consumers reimbursement of, as well as compensation for benefits provided in accordance with the law to certain categories of citizens and accrued subsidies (paragraph 3 of Part 1 of Section 3, paragraph 3 of Part 1 of Article 8 of this Law). The task of prevention as an element of the protection mechanism is to minimize the conditions (threats) that

contribute to the violation of the rights of market participants in public utilities. In the context of overcoming the poverty of the «the weak», such conditions (threats) are the low solvency of consumers,

in particular, the population, which is prevented primarily through the subsidy mechanism. Information on the degree of this threat is given in table. 1.

**Table 1.** Solvency of utility consumers (population) [12-13]

Year	The share of households with incomes below the actual subsistence level	The unit weight of utility costs in total household expenditures	Share of targeted subsidies	The level of payment for public utilities
2014	16,7	8,1	0,4	92,2
2015	51,9	10,9	1,3	95,4
2016	51,1	14,7	4,7	91,3
2017	34,9	15,4	4,7	94,7
2018	27,6	15,2	2,8	80,6

to the presented above information, as at January 1, 2019, ie at the time of introduction of a new legal model of subsidies as a form of prevention of poverty of the «the weak», on the one hand there was a positive trend to reduce the number of poor in income, on the other - an increase in utility costs, which, despite the increase in the share of subsidies, nevertheless forced the consumer to resort to

breach of obligations to pay for these services. At the same time, despite the increase in non-payment for public utilities received, the existing subsidy mechanism at the time received a generally neutral assessment by consumers, as evidenced by the information given in table. 2.

**Table 2.** Evaluation of the effectiveness of social support programs for the population of Ukraine (modular survey) [13]

Evaluation criterion	Yes, completely / rather, yes,%	Partly yes, partly no,%	Rather, no / not at all,%
Social support is provided to those who need it	57,9	34,6	7,5
The social support system has improved	30,7	35,9	33,4
Satisfaction with the quality of social support	27,0	35,7	32,6
The impact of social support on improving household welfare	17,6	66,2	16,2

The factors of poverty of «the strong» are the unsatisfactory profitability of public utilities, in particular, in the segment of water and heat supply and the resulting lack of investor interest in investing in these areas of public utilities. The preventive function in relation to the specified

factors is assigned to the state price policy, in particular, the legal mechanism of regulation of tariff formation for the specified services. The main indicators of this mechanism in the context of their impact on the poverty of «the strong» are given in table. 3.

**Table 3.** Performance indicators of water supply service providers and heat supply [14]

Year	Share of profit in the tariff for the population,%		Share of profit in the tariff for other consumers,%		Sources of foreign investment	
	Heat supply	Water supply	Heat supply	Water supply	Heat supply	Water supply
2014	2,7	0,06	3,2	0,06	missing	missing
2015	1,4	0,07	2,0	0,07	Local budget (11.8%)	Local budget (3.5%)
2016	1,04	0,05	1,0	0,05	Local budget (12.7%)	Missing
2017	7,4	0,08	23,55	0,08	Local budget (7%)	Local budget (0.04%)
2018	n / a	0,14	n / a	0,14	n / a	Local budget (0.06%)

The facility of targeted subsidies provides a partial

participation of the state in the payment of public utilities consumed by the recipient of the subsidy (hereinafter - the

grantee). Until March 1, 2019, the relevant amount was transferred to the provider of these utilities, bypassing the grantee. The conditionality of the subsidy by the consumer's lack of debt for public utilities for some time provided payment discipline, but a significant impact on the property sector, and therefore on the degree of poverty of the grantee, such a social protection measure did not do, as shown in Table 1-2. In addition, the interdependence of the regulated price for public utilities and the level of income of the population, which is one of the principles of the Law of Ukraine «On Housing and Public Utilities», contributed to deepening poverty of utility providers, especially water supply, as shown in Table 3. neither the poverty of «the strong» nor the poverty of «the weak» were the focus of the social support facility in force at the time. The revised facility of targeted subsidizing considers the flaws mentioned. Namely, at first the requirements to the individuals who have rights to be subsidized are revised. Also the subsidies are targeted at grantee in monetary form including cash [16]. The expected result is, first of all, focused on the groups of population who definitely need it. Secondly, the current income of at-risk population group is expected to increase (in case of responsible and reasonable public utilities consumption). Thirdly, the preconditions for gradual transition from the price setting model based on the principle “expenses plus” to price forming nature of competitive markets should be established. In its turn, it will prevent poverty of utility providers.

It will be of significant importance for water supply utility providers since they are under the Law with “plus” to the expenses limited with spending on providing reliable operation of centralized drinking water supply systems and water drain constructions [15].

At the same time, there is a problem in regard to targeted consistency level of the mentioned facility which is revised to prevent poverty with other elements established for protection on public utility market. In the context under consideration, the correlation of preventive measure purpose, namely, targeted subsidies, with public utility accounting procedure which is an element of detection (inquiry) of disclaimer factual situation, disputes or breach of contract in the sphere of public utility provision and bearing responsibility for breach of agreement is a keystone.

The correlation of the purpose of preventive measures on poverty reduction with public utility accounting procedure. The amount of subsidies is based on the social normative standards on public utilities and their provision is guaranteed by state [17]. The cost of a utility consumed over the normative standard is paid by a grantee under the same terms as any other eligible. It has to encourage consumers to be more responsible for the resource

consumption (water, thermal energy, etc.). There is a high probability for the mentioned encouragement to work in case when a consumer lives in a private house and has a possibility to control the amount of consumption. But grantees, who live in apartment complexes do not have such a possibility due to another system used for public utility accounting procedures. And this significantly decreases encouragement potential.

In compliance with the procedures set the calculations of utilities consumed are performed taking into account the indexes of total consumption of a utility in a building, its part (block of flats) where two or more consumers live [18]. The distribution of total amount of a utility consumed is performed in compliance with the legal procedures among consumers, including proprietors of proprietary rights for real estate assets in a completely built building without proprietary right validation. Therefore, a grantee is obliged to pay not only for the amount of public utility that has been consumed and can be controlled and subsidized by state, but also a part of the amount which is not covered with subsidies. It means that there is a delinquency of guaranteed access to public utilities and the proper effective prevention is absent.

Moreover, providing utility provider with vested right to demand payment for the total amount of service, including unproductive losses in networks, decreases the level of motivation to invest in equipment reliability and resource saving. In its turn, it leads to technological underdevelopment in the sphere and increases the level of poverty of utility provider. Namely, the indexes of such losses did not change in the sphere of heat supply for the period of 2014-2018 and they comprised 18,6% and 18,5% correspondingly. In spite of earning some income from business activity by providing utilities of heat supply caused by either increasing profitability ratio in tariffs for population and commercial consumers or growing investments of external sources, there are no steps from the side of heat suppliers to improve production processes. This is presented in Table 3.

The correlation of preventive measures on poverty reduction with the responsibility for breaching agreements. Breaching agreements is a reason for a violator to be subjected to the law stipulated sanctions. Namely, late payment for the consumed public utilities is a reason for: (1) penalty tax charge in the amount stated in the agreement but not more than 0,01 per cent of the total amount of debt per day and not more than the total amount of debt (part. 1 of section 26 of the Law of Ukraine “On Public Utilities”); (2) restriction (termination) of utility provision in case of not paying debt off for the utilities consumed during 30 days since the day of receiving by consumer the appropriate warning (part 4 of the mentioned article).

The first case demonstrates partial overlapping of poverty prevention goal of “the weak” and the responsibility for agreement breach (as an element of “the strong” poverty minimization level). It is supposed to be provided by prohibition to charge penalty tax for late payment in case the state owes money for the provision of people with privileges and subsidies and/or a consumer has wage arrears proved legally (part 3 of section 26 of the Law of Ukraine “On Public Utilities”). But, the mentioned regulation is not likely to be balanced in the context of considering interests of both parties, because it builds the barrier of increased poverty of “the weak” and is a kind of gateway in growing poverty of “the strong”. It is due to the fact that utility provider has monetary obligations to third parties, such as energy suppliers, state and communities (on tax issues). Breaking these obligations causes bearing responsibilities under the same terms as any other eligible without taking into consideration the mentioned above features of interaction with consumer.

Under normal condition utility provider has legal basis for receiving some income from business activity and its part will be spent on fulfilling monetary obligations or in case of breaking these obligation by another party utility provider gets law or agreement stipulated sanction payment by bringing a claim to a consumer who violated the terms. If a consumer as a primary link and without being replaced by another alternative source of covering losses does not participate in this chain of monetary obligation violation, it is considered to be a shift of state obligation on poverty reduction to business entities. Such approach is not acceptable since it does not correspond neither to the principle of justice nor to the general aim of legislative reform which is focused on stable development of economics. It also has nothing to deal with conceptual foundations of relations among state, individual and business stated in Governing Principles of UNO. Therefore, section 216 of Commercial Code of Ukraine, section 15, 22 of Civil Code of Ukraine introduce the right of an individual for protection of his/her violated right or/and interest, namely, the unconditional right to receive the compensation of losses, caused by law violation [19; 20]. Here, the regulatory institution (the Cabinet of Ministers of Ukraine, executive agencies and community bodies) bear responsibility in case of competitive interest or the danger of business entity right violation based on legal regulation of prices, section 15 of the Law of Ukraine “On Prices and Price Formation” and whose actions caused/can cause the corresponding conflict [21]. Moreover, in compliance with section 8 of the Law of Ukraine “On Public Utilities” the utility providers have the right to receive compensation for the provided in compliance with the law privileges and accrued subsidies to pay for public utilities. The legislation does not include any exceptions to general rules which could shift responsibilities to economic

entities.

The first attempts to apply the introduced by the law facility of responsibility for breaching contract demonstrated a negative tendency that led to elimination of market relation leverage in favor of “hand” control (micromanagement). Namely, it goes about the danger of electricity termination for water suppliers that occurred at the end of March in 2019 in Volyn, Donetsk, Zhytomyr, Kyiv, Lugansk, Ternopil, Kharkiv and Chernivtsi regions due to existing debts and the absence of contracts with electricity suppliers signed as it is required by the Law of Ukraine “On Electric Energy Market”. In order not to have similar consequences the Cabinet of Ministers of Ukraine prolonged the “last-resort assistance” contract on electricity supply between water suppliers and electricity suppliers for an indefinite period going beyond its authority and ignoring the stipulated by the law maximum term within 6 month [22]. Therefore, as a result of targeted imbalance of legislation, poverty effect observed in water supply sector spreads to contiguous sector of public utility market. In the given case it is energy sector and the process of its reformation is at the final stage according to the demands of EU.

The Global SDG determines the achievement of the goal of poverty reduction as the introduction of the facility which is based on encouragement of business entities to invest in poverty (sub goal1b of goal1 “The reduction of poverty in all of its forms and everywhere”). But, there are no elements of their enforcement or motivation to solve this problem on their own sustainability, including financial one.

The Governing principles of UNO are based on realization of direct dependency on the risks of human right violation and competitive interests of business and state. It is supposed that in order to prevent growing of the problem, state has to take at least the following actions: (1) the collaboration with business at early stages of conflict occurring to detect “bottleneck” of regulation and minimization of conflicts between public and private interests; (2) provision business with appropriate state support; (3) rejection to provide state support to the business entities which ignore the mentioned collaboration with state and grossly violate human rights or refusal to support in future in case its current termination is impossible (section 7). It means that state obligations to citizens have to be fulfilled in collaboration with business or without it, but state function as legally binding entity here does not change.

Special attention has to be paid to the violation of constitutional principle of equality of all consumers independently on their property condition while detecting

the individuals who violated the law and who are going to be relieved from liability [25-30]. At least, sections 617, 625 of the Civil Code of Ukraine introduce such possibility for all entities of legal relations, but only in case of proving that violation was of accidental nature or it was an act of providence. It does not include the cases of warranty

breaching by a debtor counterparty or insolvency of a debtor, as well as some other situations. A debtor is not discharged from liability for impossibility to fulfill his/her monetary obligations [31-34]. It means that currently stipulated by the law reasons for discharging from responsibility rather promote illegal actions (of state, business entities that are employers) than slow down poverty of grantees (the poverty of "the weak").

Restriction (termination) of utility provision in case of not paying debt off for the utilities consumed during 30 days since the day of receiving by consumer the appropriate warning stipulated by part 4 of section 26 of the Law of Ukraine "On Public Utilities" contradicts the goal of poverty reduction, namely, opportunity poverty. The ways to reduce this level of poverty are presented in sub goals 1.4 of Global SDG that introduce provision of all population, especially its at-risk groups with the access to

## Conclusions

In order to prevent further weakening of financial and economic state of public utility suppliers, i.e. increasing poverty of "the strong", it is recommended, first of all, to reject the principle of mutual dependence on the level of salary and the amount of tariff and to provide the transition to market price setting for public utilities, namely, in the sphere of thermo and water supply. It will increase the potential ability of the mentioned above utility providers to prevent their poverty independently and attract investments. Secondly, it is necessary to implement the principle of dependency of the range of discretion for tariff setting on the level of innovation development and reasonable use of resources by a utility producer. It will encourage them to introduce measures to decrease unproductive losses in production processes.

The lack of internal targeted consistency between the elements of right protection facility of public utility market participants is observed in two directions: there is no targeted consistency between preventive measure (targeted consumer subsidizing) on poverty reduction and public utility commercial accounting procedure, on the one hand and between the mentioned preventive measures and responsibilities for breaching agreement on the other hand. Moreover, there are legal preconditions for system violation of a consumer right to receive guaranteed access to public utilities in the first case.

basic utilities by 2030.

The level of provision the access to basic utilities, namely, water supply and water drain is low and almost does not change in Ukraine by official statistic information. Therefore, the equipping of premises with central sewerage system in 2014 comprised 57,2%, in 2017 – 59,8%, with water supply – 60,3 and 61,8% correspondently [23]. In such cases utility termination for at-risk groups of consumers is moving backwards in contrast to that introduced both in Global SDG and in its adapted national version (sub goal 1.3 of Goal 1 of national SDG [24, 29-34].

However, the right to have decent living conditions is guaranteed by the Constitution of Ukraine for a human and it is subjected to general prohibition in relation to restriction while adopting new laws, except the cases stated by the Constitution of Ukraine. It means that restriction (termination) of a consumer right to be provided with public utilities in any case must not be considered by another party of agreement. The governing principles of UNO highlight the role of such elements as detecting (inquiring) the factual consequences and adopting court decisions by the results of such detecting (inquiry).

In order to achieve the balance for the existing facility of protection rights of public utility market participants in Ukraine and to eliminate, at least, to weaken the mentioned drawbacks it is recommended to do the following. Firstly, to change the term of receiving subsidy by a grantee not before, but after fulfilling obligations of payment for public utility consumption. It will allow, on the one hand, preventing utility supplier poverty increase and occurring "chain reaction" of poverty among their counterparties. On the other hand, such approach will provide considering the factual amount of losses of the specific consumer, including payment for additionally charged amount of money based on the rules of commercial accounting procedure. In its turn, it will promote the correction of income sums which remains at the level, that is not lower than factual (accounting) subsistence minimum (5,05 US dollars /24 hours per PPP in indexes stated by national SDG).

Secondly, the involvement of juridical branch potential will provide the guarantee of the supremacy of the law and following the principle of justice when solving the problems of responsibility for breaching agreement obligations on public utility payment. Namely, while implementing the task of legal proceedings related to fair, equitable and timely investigation and solving civil cases in order to effectively protect violated, imperfect or disputed rights, freedoms or interests of individuals, the rights and interests of entities, interests of state the court must formalize the extent of a grantee guilt and the state as the



warrantor of the possibility of the latter to fulfill monetary obligations and to select the appropriate form of responding to a violation.

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