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ANALYSIS OF THE LABOR COMPENSATION OF PRISONERS OF WAR IN UKRAINE

The article examines the issue of compensation of prisoners of war currently held in Ukraine. It is noted that 75 years have passed since the adoption of the Geneva Convention relative to the Treatment of Prisoners of War, and some of its provisions are now outdated or irrelevant. One of these norms is the amount of compensation for the labour of prisoners of war. Since there is some debate about the criterion of fairness today, the authors analyse the purchasing power of the Swiss franc in 1949 versus 2024 and provide a conclusion on this issue.

Key words: prisoners of war, labour, labour compensation, labour relations, employment, State Criminal and Executive Service of Ukraine, International Committee of the Red Cross, international humanitarian law, Geneva Convention, legal status, prisoner of war camps, prisoner of war detention centres.

Target setting. Regarding the large-scale full invasion of the Russian Federation against Ukraine, our country has undertaken to hold prisoners of war, as provided for by international humanitarian law.

New institutions have been created within the system of the State Criminal and Execution Service of Ukraine to hold prisoners of war. These institutions include camps and detention centres for prisoners of war.

Resolution No. 413 of April 5, 2022 provides the following definitions of these institutions, namely: a prisoner of war detention facility is a separate isolated room in a minimum security correctional facility with general conditions of detention, medium

and maximum security, as well as in a pre-trial detention centres of the State Criminal and Executive Service intended for the temporary stay of prisoners of war (hereinafter – the facility) [1]; a prisoner of war camp (hereinafter – camp) is an institution established by the Ministry of Justice for the placement and detention of prisoners of war during the period of martial law in Ukraine, which covers wartime and partially the reconstruction period after the end of hostilities [1]. Also, paragraph 7 of Article 11 of the Criminal Executive Code of Ukraine (hereinafter – the CEC of Ukraine) provides that during martial law in Ukraine, due to the impossibility of delivering prisoners of war directly to a prisoner of war camp, in order to ensure their life and health, such persons may be temporarily held in prisoner of war detention facilities established in minimum security correctional colonies with general conditions of detention, medium and maximum security. Prisoners of war held in prisoner of war detention facility are transferred to a camp as soon as such safe transfer is practicable [2].

This resolution also specifies who prisoners of war are, namely, persons entitled to this status in accordance with Article 4 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949 (hereinafter – the Geneva Convention) and Article 44 of the Protocol Additional to the Geneva Conventions of August 12, 1949, and Relative to the Protection of Victims of International Armed Conflicts (Protocol I), of June 8, 1977 [1].

At the same time, Hrushko M. V. notes that a prisoner of war is a citizen of another state who, as a combatant or non-combatant, participates in an international or internationalized armed conflict and, in a state of defencelessness and inability to resist, falls under the power of the opposing party in the conflict [3, p. 47].

Receiving the legal status of a prisoner of war, a person becomes subject to the rights and obligations provided for by International Humanitarian Law. Given that the Geneva Convention relative to the Treatment of Prisoners of War was adopted 75 years ago, some of its provisions require additional study and analysis to establish their relevance to modern conditions.

The purpose of the article – analysing the purchasing power of the Swiss franc in 1949 vs. 2024 to adjust the amount of compensation for the labour of prisoners of war in today’s realities.

The statement of basic materials. According to Art. 49 of the Geneva Convention, the prisoner of war detention facility may use the labour of prisoners of war who are able-bodied, taking into account their age, sex, military rank and physical ability to perform certain work, in particular with a view to maintaining them in good physical and mental condition [4, p. 136].

In accordance with Section IV of the Geneva Convention [5], as well as Section VIII of the Resolution of the Cabinet of Ministers of Ukraine of 05.04.2022 No. 413 “On Approval of the Procedure for the Detention of Prisoners of War”, prisoners of war are involved in agricultural and industrial work (except for the metallurgical, machine-building and chemical industries), public and construction work that is not of a military nature or purpose, loading and unloading, trade and consumer services [1].

According to the practice of the SCES, as of July 2023, the vast majority of prisoners of war are involved in carpentry work and the production of souvenirs [4, p.137].

A separate issue that needs to be considered is the issue of compensation for prisoners of war. Article 62 of the Geneva Convention stipulates that prisoners of war shall receive directly from the detaining authority’s fair compensation for their labor. The amount of compensation shall be determined by the same authorities, but shall never be less than a quarter of a Swiss franc for a full day’s work. The detaining state shall communicate to the prisoners of war, as well as to the state on which they depend, through the intermediary of the Protecting State, the amount of daily compensation established by it. The state detaining prisoners of war shall also pay compensation for labour to prisoners of war who are permanently assigned to perform duties or to engage in skilled or semi-skilled work in connection with the administration, arrangement or repair of camps, and to prisoners of war who are ordered to perform the duties of spiritual or medical personnel in the interest of their comrades. Compensation for the work of the representative of prisoners of war and his assistants, if any, is paid

from the fund replenished from the profits of the military store. The amount of such compensation is set by the prisoner of war detention facility representative and approved by the camp commander. If such a fund does not exist, the detaining authorities shall pay these prisoners of war a fair compensation for their labour [5].

Resolution No. 413 of April 5, 2022, on compensation states that compensation for prisoners of war is determined on the basis of bilateral agreements between the camp and the enterprises where the prisoners of war will work. The amount of compensation for the labour of prisoners of war is set in the national currency of Ukraine and cannot be less than the amount established by Article 62 of the Geneva Convention. Prisoners of war who supervise and control the work of prisoners of war, are involved in the provision of medical care, receive compensation in the same way as those prisoners of war who are involved in the performance of work. The compensation of representatives of prisoners of war and their assistants is paid from the fund, which is replenished from the profits of the camp's shops. The amount of such compensation shall be determined by the representative of the prisoners of war and approved by the camp commander. Prisoners of war and the state to which they belong are notified of the amount of their daily compensation for labour [1].

According to scientists, the salary of a prisoner of war is a compensation calculated in monetary terms that a prisoner of war receives for the work he or she has performed. The wages of prisoners of war are determined on the basis of bilateral agreements between the camp and the enterprises where the prisoners of war will work. The contractors transfer funds to the camp's account, and then the earned money is transferred to the personal account of the prisoner of war detention facility, which is administered by the camp's financial service. The compensation of prisoner of war detention facility depends on the type of work they are involved in. The amount of compensation for the work of prisoners of war is set in the national currency of Ukraine and cannot be less than a quarter of a Swiss franc for a full working day (Article 62 of the Geneva Convention). In practice, this is being implemented, and each

prisoner of war who was involved in work, for example, in June 2023, received a monthly compensation of 425.00 UAH [4, p. 139].

According to the practice of the SCES, prisoners of war are informed about the amount of their compensation for labour. Twice a month, the financial service of the camp informs each prisoner of war detention facility against his/her signature about the amount of money on his/her account [4, p. 139].

Given that the Geneva Conventions were adopted 75 years ago, certain issues are irrelevant or outdated and need to be revised.

One of such issues today is the issue of compensation.

In its letter, the International Committee of the Red Cross (hereinafter – ICRC) to the Department on Issues of Execution of Criminal Punishments (hereinafter – DIECP) stated the following.

During ICRC visits to the “Zakhid-1” prison camp in the first half of 2023, prisoners of war said that the monthly salary received for full-time work 6 days a week was about 300–400 UAH [6].

First of all, it should be noted that labour compensation should be considered as “compensation for labour” and not as “salary”. The detaining power should establish a fair rate of pay to be paid to prisoner of war detention facility directly by the detaining power. Since prisoner of war detention facilities should not be equated with civilian workers, the detaining power has the right to set its own rate of pay and is not obliged to pay the same rate as civilian workers. The reason for this is that prisoners of war are not required to work to support themselves and their families, but, as provided for in Article 49 III of the Geneva Convention, in particular for the purpose of maintaining them in good physical and mental condition. In addition, they shall have the right to continue to receive their normal military pay from the state on which they depend [7].

It should be noted that it was in 1949 that a minimum threshold of $\frac{1}{4}$ Swiss franc per working day was established. This was not considered a significant amount, but rather an “extremely nominal minimum”. However, 75 years after the adoption of the Geneva Conventions of 1949, this amount can be questioned in terms of the criterion of fairness. The relevant modern state practice confirms that this provision should be considered taking into account the level of inflation.

The criterion of equity requires that compensation for labour be “fair or appropriate in the circumstances”. This implies that prison of war detention facility should be able to purchase ordinary daily necessities that are not already provided by the detaining authorities.

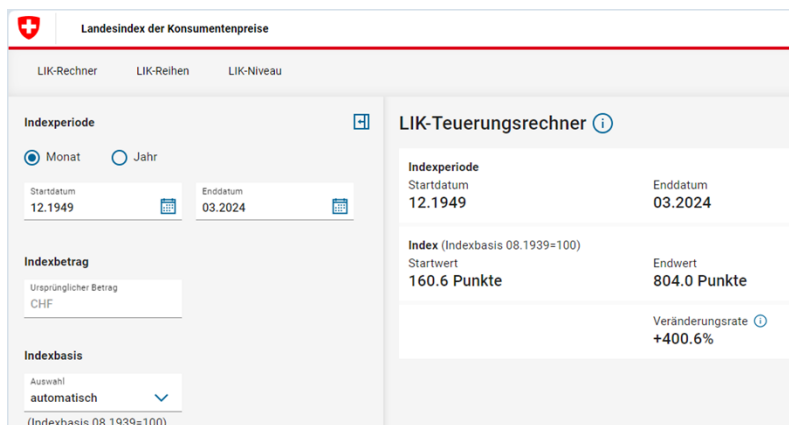
The criterion of fairness also stipulates that the minimum compensation for labour per day should have a purchasing power comparable to the purchasing power of CHF 0.25 in 1949 [6].

Analysing the purchasing power of the Swiss franc: 1949 vs 2024, we note the following.

According to calculations by the State Statistics Service, 1 Swiss franc (1949), given the inflation rate of +400.6% in 2024, is equal to 5 francs (see Figure 1) [8].

That is, $\frac{1}{4}$ of a Swiss franc (1949) is approximately 1.25 Swiss francs (2024) [9].

Figure 1



As of today, 1.25 Swiss francs equals 53.97 UAH (see Figure 2).

Figure 2

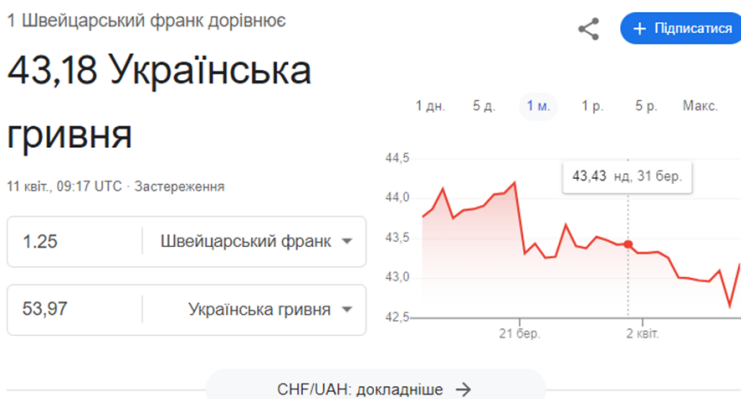


Table provides an analysis of prices, where the first column shows the name of the product, the second column shows the prices as of 1949 according to Vierteljahresberichte / Statistisches Amt der Stadt Bern Quarterly Reports / Statistical Office of the City of Bern [10], the third column shows the prices in Switzerland in 2024 [11; 12; 13; 14; 15], the third column shows the prices in Ukraine in 2024 [16; 17], and the fourth column shows the percentage of prices in Switzerland in 1949 and Ukraine in 2024.

Table

	1949 Switzerland	2024 Switzerland	2024 Ukraine	Comparison 1949/2024 y %
Schweinefleisch, frisch Pork, fresh 1 kg	6,84 Fr 292,11 UAH	17 CHF 726,01 UAH	4,21 CHF 179,81 UAH	- 62,45
Kaffee, geröstet Coffee, roasted 1 kg	5,77 Fr 246,42 UAH	19,6 CHF 837,05 UAH	15,45 CHF 660 UAH	+ 168,2

Continuation of the table

Halbweißbrot (runde Form) Half of the white bread (round) 1 loaf	0,7 Fr (a half) 29,89 UAH 1,4 Fr (1 loaf) 59,79 UAH	8,50 CHF 363,00 UAH	0,84 CHF 1 loaf 35,94 UAH	- 66,6
Zucker, Kristallzucker, weiß Sugar, granulated sugar, white	1,07 Fr 45,70 UAH	2,29 CHF 99,81 UAH	0,74 CHF 31,43 UAH	- 43,75
Milch, Vollmilch Milk, whole milk per litre	0,47 Fr 20,07 UAH	1,45 CHF 61,92 UAH	0,91 CHF 38,70 UAH	+ 47,3
Schokolade ménage Chocolate 1 kg	5,01 Fr 216,59 UAH	39,17 CHF 1693,41 UAH	30,53 CHF 1320 UAH	+ 511,1
Block of cigarettes Marlboro Gold x 10 packs	–	88,00 CHF 3804,45 UAH	23,11 CHF 999 UAH	Switzerland / Ukraine 2024 - 280
Tooth paste 75 ml	–	4,90 CHF 211,84 UAH	2,61 CHF 113 UAH	- 86,7

Conclusions. According to the State Statistics Service, the value of 0,25 Swiss francs in 1949 is equivalent to about 1.25 Swiss francs in today's purchasing power. This indicates that part of the purchasing power of this currency has been stable over time.

A closer look, however, reveals that the price level in Switzerland and Ukraine is significantly different. Comparing the prices of different goods in both countries in 1949 and 2024, it becomes obvious that the cost of goods in Switzerland is much higher now than in Ukraine in 2024. Even if we compare prices in Ukraine at the moment, some goods, such as pork, bread, and sugar, cost less than in Switzerland in 1949.

Thus, while the purchasing power of the Swiss franc remains stable compared to prices in Switzerland, it is not so stable in the context of prices in Ukraine. This demonstrates the importance of taking into account not only the internal purchasing power of a currency, but also its comparison with other countries for a more accurate assessment of economic performance.

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АНАЛІЗ ОПЛАТИ ПРАЦІ ВІЙСЬКОВОПОЛОНЕНИХ В УКРАЇНІ

У статті розглянуто питання оплати праці військовополонених, які на сьогодні утримуються в Україні. Розкрито правовий статус військовополонених та описано, за яких умов їх можна залучати до праці. Зазначено, що Женевська конвенція про поводження з військовополоненими від 12 серпня 1949 року передбачає можливість залучення до праці, але з обов'язковою умовою, щоб ця праця була справедливо оплачуваною. Враховуючи те, що після ухвалення вищезгаданої конвенції пройшло вже 75 років, певні її норми на сьогодні є застарілими або неактуальними. Одна з таких норм є розмір винагороди за працю військовополонених. Вказано, що Міжнародний Комітет Червоного Хреста у своєму коментарі до III Женевської конвенції вказує, що військовополонені отримують не заробітну плату, а винагороду, оскільки вони не порівнюються до цивільних вільнонайманих працівників, а тому при визначенні розміру оплати праці не повинно бути прив'язки до мінімальної заробітної плати. Але при цьому винагорода за працю повинна відповідати 2 критерієм: справедливості та бути не меншою за чверть швейцарського франка. Оскільки щодо критерію справедливості на сьогодні існують певні дискусії, авторами було зроблено аналіз купівельної спроможності швейцарського франка в 1949 року проти 2024 року та надано висновок, що незважаючи на те, що купівельна спроможність швейцарського франка залишається стабільною в порівнянні з цінами у Швейцарії, вона не така стійка в контексті цін в Україні. Це свідчить про важливість врахування не лише внутрішньої купівельної спроможності валюти, а й її порівняння з іншими країнами для більш точного оцінювання економічних показників, а тому при нині встановленому розмірі оплати праці військовополонених можна стверджувати, що вона відповідає всім критеріям, які встановлені Міжнародним гуманітарним правом.

Ключові слова: військовополонені, праця, оплата праці, трудові відносини, зайнятість, Державна кримінально-виконавча служба України, Міжнародний Комітет Червоного Хреста, міжнародне гуманітарне право, Женевська конвенція, правовий статус, табори для тримання військовополонених, ділянки для тримання військовополонених.