

Conceptual principles of international cooperation in labour relations

Nataliia O. Melnychuk, Liudmyla V. Kulachok-Titova, Denys H. Sevryukov, Yuliya O. Ostapenko and Vlada M. Shkoda

Nataliia O. Melnychuk is a Professor in the Department of Labour Law and Social Security Law in the Educational and Scientific Institute of Law at Taras Shevchenko National University of Kyiv, Ukraine.

Liudmyla V. Kulachok-Titova is an Associate Professor in the Department of State and Legal Disciplines at V. N. Karazin Kharkiv National University, Kharkiv, Ukraine

Denys H. Sevryukov is a Professor in the Department of Theory of Law and State in the Educational and Scientific Institute of Law at the Taras Shevchenko National University of Kyiv, Ukraine.

Yuliya O. Ostapenko is a Postgraduate Student at the Volodymyr Dahl East Ukrainian National University, Severodonetsk, Ukraine

Vlada M. Shkoda is a Postgraduate Student in the Department of Labour and Social Security Law at the Taras Shevchenko National University of Kyiv, Ukraine

ABSTRACT

In today's world, the issue of respect for and observance of human rights in the field of labour relations is rather important. Ensuring human rights and freedoms is no longer just a domestic affair, but the goal of the entire world. The purpose of the study is to analyse the current state of Ukraine's international cooperation with foreign countries in general, and the European Union in particular. It identifies problematic aspects of implementing international standards in the field of labour protection using national legislation and solutions.

KEY WORDS

International cooperation, labour law, labour relations, government regulation, labour rights.

Introduction

Today, the world looks like a single organism whose functioning requires concerted action by governments, members of the public and business communities of different countries. It is difficult to find a country that does not have relations with other countries. Several international organisations have been established to coordinate the activities of the world community, implement multilateral diplomacy and international cooperation, resolve disputes and overcome global and regional problems. International cooperation reduces the risk of conflicts and provides an opportunity to share experiences and implement joint development projects. Various international organisations – associations of states or national communities, including non-governmental ones – contribute to the achievement of common goals in areas such as politics, ecology, economics, social sphere, science and culture (Nemchenko et al., 2018).

International cooperation is not limited to political relations between states; it extends to virtually all spheres of public life, which cannot be fully separated within national borders, including economics, science, culture, religion, sports and many other fields. At the same time, international cooperation can be seen as a political phenomenon. However, an exclusive focus on its political aspects, that is, its form and structure and its specific economic, cultural or other content is rejected. The concept of international cooperation reflects a process of interaction between international actors, which is dominated by a joint search for opportunities to realise the interests of all stakeholders. Cooperation between partners is based on trust.

Currently, the problems of legal regulation taking place in the social and labour sphere are becoming more acute. The global economic crisis has caused negative consequences in the working life of society, including a reduction in wages, forced part-time work, mass lay-offs, and a sharp rise in unemployment. Mass dismissals of workers around the world are often carried out in gross violation of labour rights and they have a huge impact on social security. Mass dismissals are also accompanied by dangerous social phenomena in society, such as legal nihilism, distrust of state power and illegal behaviour. The situation is significantly exacerbated by the low level of labour legislation effectiveness in many countries, with a large number of outdated rules and a lack of clear sanctions for violating them.

It should be noted that the solution of global problems in the field of labour protection is possible only through the joint efforts of states with the help of international organisations and international cooperation. Therefore, the protection of the social and labour sphere by international legislation formed through the activities of international organisations becomes especially important. We can say that at the present stage of the world economy and globalisation development, international labour law is the only means of supranational labour protection, acting in the interests of all workers, regardless of citizenship. However, this process has its drawbacks, as the creation of international labour standards and their further implementation in national legislation is a rather complex and lengthy procedure.

Many scientific works, including by scholars such as Lyubchik (2019), Buravska (2021), Shramko (2018), Yaroshenko (2018), Kostyuchenko (2018), Chronova (2020) have been devoted to this topic. The scientific novelty of the obtained results lies in the deepening of existing theoretical and methodological provisions and substantiation of

scientific and practical recommendations for improving Ukraine's international cooperation in the field of labour.

Materials and methods

Several general scientific and special methods of cognition were used to conduct this comprehensive research to achieve an objective scientific result and to formulate conclusions and recommendations. The basis of scientific research is the dialectical method, which contributed to the comprehensive study of international cooperation peculiarities in the field of labour, which made it possible to reveal the current state of the subject. With the help of logical-semantic and deductive methods and methods of abstraction and generalisation, the conceptual apparatus used in the research is revealed.

The application of system-structural and system-functional methods, as well as methods of classification and grouping, were useful in several respects: to clarify the essence of international cooperation in the field of labour; to systematise current issues of labour protection legislation in Ukraine; and to analyse the legislative basis of practice. The modelling method was reflected in the development of the concept of improving the European integration of Ukrainian legislation in the field of protection of workers' rights to address pressing issues of protection of domestic workers following European Union standards and international experience in this field.

The method of comparative studies was useful for comparing current labour legislation, the draft Labour Code of Ukraine, with EU directives and regulations and International Labour Organization (ILO) conventions, as well as for researching foreign experiences. The theoretical and prognostic method provided opportunities to substantiate proposals and recommendations for improving the current labour legislation of Ukraine.

A number of articles related to the research topic were also analysed, such as *Social orientation of labour law in Ukraine: status and trends* (Lyubchik, 2019), *Comparative legal analysis of the relationship between national and international law in the context of integration processes* (Mima & Ivanyuk, 2020), *Some problems of legal support of guarantees of realisation of the right to work of youth* (Buravska, 2021), *International aspect of legal regulation of safe working conditions* (Shramko, 2018), *Social purpose of labour law: problems of theory and practice* (Kostyuchenko, 2018), *Current issues of labour law and its practicality* (Chronova, 2020), *Labour Law and Cross-Border Cooperation among Unions* (Servais, 2018), *International Cooperation in the Field of Economic and Legal Regulation of End-To-End Technologies* (Miashchanava, 2022), *Effects of City-State Relations on Labour Relations: The Case of Uber* (Racabi, 2021), *Labour market and labour relations under the PT governments* (Colombi & Krein, 2020) and *Labour relations and the overdose crisis in the United States* (Ikeler, 2021).

Results

One of the positive manifestations of globalisation is the strengthening of international cooperation in the field of human resources development, labour, employment, wages, working conditions, social protection of the unemployed and other segments of the population and more. The ILO coordinates the rational unification of the solution of all these problems. It does not stay away from the processes of economic globalisation.

To determine how the ILO affects globalisation, it is necessary to recall the nature and main activities of this organisation. As an equal member of the international community, Ukraine has taken an active part in the activities of the ILO, in particular in the work of the International Conference, since 1956.

The ILO was established in 1919. The main task of the ILO was to coordinate and generalise labour relations that have developed in national labour markets. These generalisations, adopted by consensus (i.e. by votes in favour of the representatives of all countries that were members of the ILO) were called 'Conventions and Recommendations' and became international labour standards. These documents are a result of a detailed discussion of relevant issues at the annual sessions of the International Labour Conferences (INC), which are attended by four delegates from each country – two from the government, one from entrepreneurs and one from workers (unions). These delegates have equal rights, and speak and vote separately. As we can see, the main method of the ILO's work is tripartism. Thus, the adoption of international labour standards is the first major area of the ILO's work (Servais, 2018).

The second main focus of the ILO's work is to provide expert advice and technical assistance on labour and social policy issues. In the development of laws and other cases, Ukraine uses the ILO's experts. Authorities use the expertise of specialists to draft many laws and address several labour issues. The work of experts is increasingly becoming part of national plans for human resources development, promoting full employment, raising living standards, improving labour legislation, developing tripartism and so on.

The third main activity of the ILO is the periodic scheduled discussion of issues at special conferences and in committees that are specific to individual regions or sectors of the economy. Ukraine, as a member of the ILO, is directly involved in this too. The ILO structure is also built on the principle of tripartism – all its bodies work on a tripartite basis – with representatives of governments, employees and entrepreneurs (Miashchanava, 2022).

The International Labour Conference, the ILO's highest body, is held annually in Geneva. This institution determines the directions of the ILO, discusses issues in the field of human development, develops and approves the international standards, programme and budget of the organisation, amends the Statute, and hears a report on the work of executive bodies. Sectoral committees meet every 3–5 years to discuss issues specific to certain important industries. Sometimes the ILO convenes regional conferences to discuss regional issues.

Due to the growing negative impact of globalisation on social and labour relations, the ILO focuses primarily on: monitoring international labour standards, protection of human rights, equal opportunities for citizens, promoting employment, structural adjustment, improving living conditions and environmental protection. Nowadays, it is crucial to reaffirm the core values of the ILO. Social problems cannot be considered in isolation from the economic context, just as the analysis of labour legislation cannot be separated from the in-depth analysis of economic policy. Workers' rights and the right to work should be considered in combination (Racabi, 2021).

At the heart of the ILO's work in modern conditions is the problem of combating unemployment, promoting productive and free employment, finding innovative

solutions that would improve social protection and working conditions and finding new sources of employment. To mitigate the negative globalisation effects of the world economy in the social and labour sphere, the 86th session of the INC adopted the ILO Declaration on Fundamental Principles and Rights at Work and the Mechanism for its Implementation on June 18, 1998. The document outlines four basic principles that all ILO member states must adhere to, namely: freedom of association and recognition of the right to bargain collectively; abolition of all forms of forced or compulsory labour; prohibition of child labour; inadmissibility of discrimination in the field of labour and employment. According to ILO experts, the ratification of international labour standards, which are conventions adopted by this organisation and the incorporation of these rules into national law, should help optimise the relationship between labour and capital, and change the situation where the predominance of employment contracts is increasingly serving employers. An important area of the ILO's work is to assist ILO member countries in training and retraining. Since 1956, Ukraine has ratified 57 ILO conventions. Many conventions and recommendations have also been adopted including on occupational safety and health; improving the management and development of enterprises; social security; social protection of women, youth, people with disabilities, and migrant workers; and the elimination of child labour (Sydorenko et al., 2020).

At the 87th session of the INC in 1999, the Director-General of the Office delivered a report entitled 'Decent Work', which set out the tasks for the beginning of the 21st century. In the field of employment, the task is to provide the economically active population with decent work, that is, not just jobs, but high-quality jobs. We must not forget about rising unemployment and underemployment in many countries. Globalisation and restructuring of the economy create both new opportunities and new problems in the use of labour potential. In particular, in Ukraine, the problems include an outflow of millions of highly skilled workers and specialists into unregulated employment, unemployment and job search abroad, reduction of the number of employed workers in the social sphere and emigration of a significant number of scientists. The ILO has done a lot of work in the social protection field and on social security. But today, one of the most important tasks is to strengthen the social protection of various population segments, especially pensioners and the unemployed (Colombi & Krein, 2020).

The ILO monitors the implementation of ratified conventions and recommendations in its member countries. Each country must submit to the ILO reports on the application of ratified conventions in its territory and information on the status of legislation in violation of some conventions not yet ratified by the country. There is a fairly clear control system, which provides for regular reporting by ILO member governments, as well as special control procedures for dealing with submissions and complaints. Reports on the most important conventions on fundamental human rights at work are submitted every two years, and other conventions are submitted every four years. Member States should periodically submit to the International Labour Office reports on the status of their labour law on matters subject to non-ratified conventions and recommendations. According to the ILO Charter, employers' and workers' organisations have the right to submit to the ILO

complaints about non-compliance with ratified conventions in a given state. Such a submission, as well as a response-comment from the government of the Member State concerned, shall be considered by a committee of the Governing Body, which shall be set up on a case-by-case basis with the obligatory participation of three parties: government representatives, employers and employees (Dei et al., 2020).

International technical cooperation involves ILO experts assisting countries in solving a variety of social and labour problems. The experts' activities are a component of national development and are aimed at promoting full employment, human resources development, improving living standards, improving labour legislation, improving labour relations, acquiring vocational education, introducing modern management methods, improving labour standards and others. In addition to the work of experts, the ILO gives technical assistance, which includes the supply of necessary equipment, scholarships for the training of national personnel, both in the field and by sending them to other countries, and the organisation of various seminars. The scale of the ILO's technical assistance is largely driven by funding opportunities. Although the ILO's regular budget for technical assistance is relatively small, its share of the budget is growing (Ikeler, 2021).

The ILO's rule-making and technical cooperation are based on systematic research and publications. They are headed by the main departments of the International Labour Office, the International Institute for Social and Labor Studies of the ILO in Geneva and the Turin Center for Education. The research programmes cover many countries around the world and their results can be used by any of the ILO Member States. As a large international publishing centre, the International Labour Office publishes literature in several languages, including English, French, Spanish and others. Among the publications are reports prepared for the annual session of the International Labour Conference and various specialised meetings and conferences. In addition to documents and periodicals, there are international reviews on various issues prepared by IBE departments, as well as monographs, manuals on occupational safety and health, abstracts of lectures on occupational education, textbooks on personnel management, reference books and more. The ILO is the coordinator of all research in the field of occupational health and safety and the working environment, which is carried out both in individual countries and in international organisations. International experience shows that labour protection legislation needs to be regularly reviewed and improved, taking into account the achievements of both scientific and technological progress and the constant changes in political, economic, social and technical factors (Bobrovnyk et al., 2020).

Today, governments, politicians, social partners, scientists and insurance companies in most European countries – the European Union (EU) – are paying more attention to finding ways to improve the working environment and strengthen labour protection. The European Foundation for the Improvement of Living and Working Conditions, which is one of the European Union organisations, has been established. Ukraine's strategy for international cooperation in the field of labour protection is to use the world experience of labour organisations to improve working conditions and increase labour safety. It is carried out both bilaterally and multilaterally. The International Labour Organization occupies a prominent place among international organisations

whose activities cover issues of labour protection. The main form of ILO activity is the development of legal documents and standards, conducting scientific and analytical research in the field of occupational safety and health, analysis, generalisation and dissemination of information on labour protection; technical assistance and others (Lyubchik, 2019).

In addition to the ILO, the World Health Organization (WHO), the International Organisation for Standardisation (ISO), the International Atomic Energy Agency (IAEA), the International Aviation Organization (ICAO) and others make a significant contribution to the creation of international labour protection law. In European countries, occupational safety issues aimed at preventing injuries and ensuring favourable working conditions are given considerable attention both by the state and by the subjects of labour relations. The main principle supported by all countries that are members of the European Union is the compliance of national labour protection systems with new technologies and labour organisation systems. Adaptation of the national legislation on labour protection to the international legislation is an important stage of Ukraine's entry into the world and European structures.

International cooperation in the field of labour protection covers the following main areas: study, generalisation and implementation of world experience in the organisation of labour protection, improvement of conditions and safety; participation in international institutions on social and labour issues and the work of their bodies; obtaining consultations of foreign experts and technical assistance in improving the legislative and regulatory framework for labour protection; conducting and participating in international scientific or scientific-practical conferences and seminars; training of labour protection abroad (Mima & Ivanyuk, 2020).

Ukraine's aspiration to join the European Union requires, in the first stage, the adaptation of our labour protection legislation and regulations to its directives and standards. First, it is necessary to reconsider the concept of the rule-making process on labour protection in our country. European Union law consists of primary legislation, which includes treaties on various issues, and secondary legislation, which includes regulations, directives, decisions, conclusions and recommendations. The main form of labour protection legislation is framework directives, which oblige each of the ratifying states to achieve the result set by the directive, but leave it to the national authorities to choose the methods and means of achieving it. The directives on labour protection set minimum requirements with the possibility for the Member States to deviate from the minimum requirements, but only in the direction of exceeding them. As a general rule, the directives also specify the timeframe in which the proposed results are to be achieved, but they do not contain detailed information on the progress of their implementation (Buravska, 2021).

Fruitful cooperation has been established between Ukraine and the ILO. Ukraine has been a member of the ILO since 1954. Of the 181 conventions currently adopted by the ILO, Ukraine has ratified 50, the most important of which are fundamental human rights regulations. The ILO has a system of monitoring the application of conventions and recommendations in member countries. Each Member State of the ILO is obliged to submit reports on the application of the conventions ratified by it on its territory, as well as information on the status of legislation and practice on issues raised in certain

conventions not ratified by it. With the financial support of international institutions, the ILO project 'Mobilisation of Enterprises and Workers to Prevent the Abuse of Harmful Substances in Central and Eastern Europe' has been implemented in Ukraine since 1996.

Cooperation in the field of labour protection of Ukraine with the European Union is being established. Thus, within the framework of the Tads¹ programme, work has begun on the project 'Assistance in ensuring labour protection in Ukraine' (to increase efficiency). The aims of this project include improving the regulatory framework in the field of labour protection. Within the framework of the 'Agreement on Cooperation in the Field of Occupational Safety', Ukrainian specialists, together with specialists from other CIS countries, are working together to improve the system of labour safety standards, harmonise and develop regulations in the field of labour protection for the CIS countries (Bodnarchuk, 2021).

On 16 June 1994, the Partnership and Cooperation Agreement between Ukraine and the EU was concluded (Verkhovna Rada of Ukraine, 1994). Several decrees and resolutions have been issued aimed at creating the necessary legal and organisational bases for the implementation of this agreement; the strategy of Ukraine's integration into the EU was approved; the development of sectoral and national integration programmes has been initiated. Among these measures, the central place was given to the issues of adaptation of national legislation to EU legislation, identification and elimination of certain discrepancies between regulations.

Ukraine's choice of a strategic course for EU integration and the prospect of joining the World Trade Organisation necessitate the harmonisation of national legislation with EU legislation. The Luxembourg-EU-Ukraine Partnership and Cooperation Agreement, which came into force on 1 March 1998, states that health and safety, protection of human life and health, technical regulations and standards in this area are priority areas of legislation where it is necessary to achieve the adequacy of laws. In June 2003, Ukraine, together with representatives of 178 member countries of the ILO workers' and employers' organisations, adopted a new Global Strategy for Occupational Safety and Health, which aimed to implement effective occupational health and safety management at the national level.

The improvement of labour protection and industrial safety systems in the EU Member States is due to the implementation of several laws and regulations in recent years. The renewal of national occupational safety and health systems, taking into account European legislation, concerns, first of all, new participants, whose legislation must adequately reflect the European provisions in the field of occupational safety and health. The EU legal system can be considered a supranational legal system, which has special features. EU member states have limited their sovereignty and delegated some of their powers to the community, which, within certain powers, issue legislation that is binding on the Member States. The basis of EU legislation in the field of labour protection is framework directives (Tacij et al., 2014).

¹ The main directions of this project include: improvement of the regulatory framework in the field of labour protection; creation of an information centre for campaigning and propaganda on labour protection issues; and working out the mechanisms of economic calculations at enterprises, aimed at creating safe and healthy working conditions for employees.

According to Article 189 of the Treaty of Rome (European Community, 1954), the directive obliges any of the EU Member States to achieve the result set by the directive but leaves it to the national authorities to choose the methods and means of achieving it. The directives on labour protection set minimum requirements with the possibility for the participating states to deviate from the minimum requirements, but only in the direction of exceeding them. In Ukraine, the main laws in the field of labour protection are the Law on Labour Protection, the Code of Labour Laws of Ukraine and the Law on Compulsory State Social Insurance against Accidents at Work and Occupational Diseases that Lead to Disability. The need to amend the current law is based not only on Ukraine's orientation towards the EU but also on the fact that the current legislation and its principles do not always correspond to modern realities and do not ensure the creation of a complete legal framework for safety and health and working environments adequate to the EU standards (Shramko, 2018).

European legislation on labour protection makes it possible to ensure labour protection at a sufficiently high level (Yaroshenko et al., 2019). However, we emphasise that each state should take concrete steps on this issue and, therefore, in our country work should be intensified on the harmonisation of requirements, laws and regulations following EU directives. In any case, the idea of European legislation that decisions on improvement measures should be made taking into account working conditions directly at the workplace remains unchanged for Ukraine.

The basic principle of the right to work realisation as a condition of Ukraine's integration into European should proceed from the necessity of prevention of infringement of workers' rights and ensuring the adequacy of legally defined labour rights and guarantees and opportunities for their implementation. Among such basic principles the first, and most important, should be achieving the optimal balance of protective and industrial functions of labour law, through which the balance of interests of employees and employers should be ensured. Both functions in modern conditions are aimed at ensuring the protection of the rights and interests of both parties to the employment contract. If the protective function relates to the protection of the interests of employees, the industrial function protects the interests of employers. The first (the protective function) follows directly from the social nature of labour law. Labour law is known to have emerged in the legal system of all countries of the world with the advent of capitalist market production and wage labour to protect the labour rights and legitimate interests of employees (Kostyuchenko, 2018).

Second, the basis for reforming legislation in Ukraine should be compliance with already established social standards in the field of labour. At the same time, it is necessary to ensure compliance with the requirements of the Constitution, which stipulates that the adoption of new laws does not potentially narrow the content and scope of existing rights and freedoms.

The third consideration in reforming legislation in Ukraine is the evolutionary nature of such reforms. While taking these other factors into account, only those provisions of the current legislation that do not meet the requirements of a market economy should undergo radical changes.

Fourth, in the process of drafting the new Labour Code, the experience of the International Labour Organisation and the legislation of the European Union and

countries with economies in transition should be used to ensure proper harmonisation of Ukrainian labour legislation with international law in this area.

Fifth, the principles of legislative reform in Ukraine include shifting the focus of legal support of labour relations from the legislative level to the level of contractual regulation, especially collective bargaining, with maximum use of social partnership mechanisms involving employers and trade unions.

The sixth important principle in reforming the legislation is to eliminate all manifestations of discrimination against employees on the grounds of sex, race, political beliefs and other circumstances defined in the articles of the Constitution of Ukraine while maintaining improved labour protection for women and youth and labour.

An analysis of the labour legislations of the EU Member States shows that all the acts contain key provisions inherent to establishing a legal system in any civilised society, in particular, the prohibition of discrimination; the procedure for concluding an employment contract when hiring; the procedure for changing labour relations when changing the owner of the property of the organisation; the procedure for providing guarantees and compensation related to the termination of the employment contract; provisions on working hours and rest time; provisions on safety and labour protection; norms on the participation of employees in the management of production; provisions on the rules of labour disputes and others. This indicates that the harmonisation process of labour legislation of EU Member States does not present major challenges. It must be acknowledged that the similarity of labour laws in the countries that have joined the European Union is because their legal acts largely adopt international labour standards developed by the International Labour Organisation at the universal level (Shevchenko et al., 2020).

At the same time, there is nothing to hinder the further convergence of these legal systems in the field of labour regulation, which in many ways will make this process even more efficient and useful, especially for the populations of these countries and the populations of candidate countries. It should be noted that the full-fledged process of harmonisation, in particular in the field of labour law, implies the existence of a special programme for such harmonisation. Effective harmonisation of labour law can contribute to the formation of a common social space between the countries of European integration, which objectively implies the convergence of social security law. While the EU has the legal authority to introduce directives that affect employment law at the national level in member states, it has no such authority in relation to social security law, where the authority is devolved to national governments under the subsidiarity principle. The analysis of the labour law institutes allows us to note that some institutes are the most promising in terms of harmonisation, in particular the provisions of the Institute of Occupational Safety and Health.

Scientific and technological progress, which covers most countries of the world community, involves intensive exchange of advanced technologies for the production of goods, equipment and information. Modern high-tech society, active investment policy and the latest computer technology lead to the the boundaries of differences between the technologies of labour organisation in many countries gradually blurring. This also applies to Ukraine. Harmonisation of legislation has a major impact on the daily lives of

citizens. Today, the issues of holding joint legal forums for the countries of the Eurasian Union to discuss mutual problems, as well as in the field of labour law and legislation, in establishing mutual awareness of countries in this area are becoming even more relevant. There are enough reasons for this – it is both labour and social interests that will intersect in the framework of economic integration.

The organisation of communication among labour lawyers and their discussion of labour law and legislation at both the expert and job levels should contribute to the development of general principles for further improvement and harmonisation of labour acts, which is important for modernising labour law in a globalised world and enable legal scientists in particular to discuss current issues of further improvement of labour law. (Yaroshenko et al., 2021) Thus, the formation of the European space in the economic sphere is impossible without the establishment of a single legal space in the field of labour. Harmonisation of the labour legislation of the EU and the candidate countries can create a solid legal basis for deepening the partnership and turning it into stable and effective cooperation based on a common labour market between the members of this union.

Discussion

The ILO has created a set of model acts on labour, the development of which is a necessary condition for the development and improvement of any national legal system that seeks to meet the requirements of civilisation. These acts are a result of careful study, borrowing and practical use as a recognised standard in the world of civilisation, a kind of international labour code. Certain difficulties and conflicts that hamper the processes of effective rule-making and harmonisation can be avoided by using universal labour standards, which are contained, for the most part, in ILO conventions and recommendations. The ILO conventions have the largest number of normative provisions concerning labour protection and the organisation itself was specially created as the main centre of international normative activity in the field of labour.

Particular attention needs to be paid to the analysis of the main problems of Ukraine's compliance with ratified ILO conventions, the violation of which harms the prestige of the state and further cooperation with the organisation. Despite all the efforts of the authorities, the Ukrainian economy is suffering the consequences of the economic crisis. In such circumstances, the state must pay special attention to protecting the rights of employees of bankrupt enterprises. At the very least, real guarantees of wages are needed, which is not always possible in the face of a large amount of enterprise debt and a lack of assets to cover it. At the same time, back in 1992, the ILO, seeking to address this very important issue, adopted Convention No 173 on the protection of workers' claims in the event of insolvency of the employer (International Labor Organization, 1992). Its purpose is to protect the rights of employees of bankrupt enterprises by granting privileges (priority) to their claims over other creditors' claims (Section II) and using specially created guarantor institutions to meet these requirements (Section III). In 2006, this document was ratified by Ukraine, which committed itself only under the second section of the Convention (Sydorenko et al., 2020).

In our opinion, it would be appropriate to ratify the Convention in full, including the third section. The use of guarantor institutions to meet the relevant requirements of employees may be an alternative in the absence of funds in the enterprise. Such institutions may be established at the state level or be represented by insurance companies that will be able to provide sufficient guarantees for such activities. Convention 173 also provides for the consultation of States with workers' and employers' organisations on the implementation of its provisions, and the establishment and operation of guaranteeing institutions. It should also be noted that the ILO international acts were not ratified by Ukraine. These are aimed at regulating the social sphere and ensuring employment, preventing and combating violence: Convention No 168 on Employment Promotion and Protection against Unemployment 1988 (International Labour Organisation, 1988); Convention No 183 on Maternity Protection 2000 (International Labour Organisation, 2000) and others.

It is also worth mentioning the Decent Work Agenda, which was launched in 2004 and is a comprehensive mechanism for ILO assistance to member states. During the tripartite seminar on the Decent Work Agenda for Ukraine for 2020–2024, held under the auspices of the ILO in Kyiv in December 2019, the results of the Decent Work Agenda for Ukraine for 2016–2019 were summed up, and consultations were held on developing the basis for the formation of such a programme for 2020–2024.

Regarding the results of the Programme for 2016–2019, the ILO National Coordinator in Ukraine² noted that it began at a difficult time for the country, against the background of the economic downturn. Its priority areas, identified together with tripartite partners for this period, were promoting employment and the development of sustainable enterprises for stability and growth, promoting effective social dialogue and improving social protection and working conditions. Among the main successes of this programme have been the ratification of the ILO Convention No 102 (International Labour Organisation, 2016), the development of the social partners' service system and the successful mobilisation of resources to implement the tasks for 2016–2019. He also noted that measures have been taken to improve occupational safety and health in mines, local employment partnerships have been established, and voluntary consultations and on-the-job testing have been conducted. Advocacy against the introduction of the second level of pension reform was also successful. As a result of active two-day work, the tripartite partners jointly identified the priorities of the Programme for 2020–2024, based on which a report was published in January 2020.

The main tasks were: full and productive employment; improved working conditions (including labour relations, occupational safety and health, wages, legalisation of informal employment, etc.); improved social protection; effective inclusive social dialogue. The ILO also provided proposals for measures to implement them and monitor their implementation. The ILO is also interested in Ukraine's intentions to modernise labour legislation. Thus, in 2016, the organisation presented a Memorandum of Technical Comments on the draft Labour Code of Ukraine adopted

2 ILO Decent Work Program for Ukraine for 2016-2019 https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/genericdocument/wcms_470684.pdf

during a working meeting with members of the Committee on Social Policy, Employment and Pensions (Chronova, 2020).

In particular, the director of the Labour Law Reform Department of the ILO's Department of Management and Tripartism noted that the experts analysed the draft Labour Code of Ukraine on the collective system for resolving labour disputes, labour protection, compliance with ILO conventions and other norms. The main objective in the draft Labour Code is to ensure a balance between the interests of the state, trade unions representing workers and employers. Based on this, we can conclude that, in order to create effective and modern labour legislation in Ukraine, it is necessary to use ILO rule-making practice and rely on international experience. To achieve this goal, it would be appropriate to ratify in full the Convention No 173, which is promising for national legislation.

In analysing the ILO's rule-making practice, it is clear that many flexible framework conventions have emerged in recent years to increase the number of state parties and to update their provisions in line with new developments in the protection of workers' rights. The application of these international standards requires Ukraine to fulfil all its commitments, as well as a stable and well-thought-out labour policy. Therefore, ratification of promising ILO conventions should be a priority. It would give a significant impetus to strengthening Ukraine's authority in the international arena and prepare domestic labour legislation for the planned update, which should take place following international standards in this area.

Conclusions

Solving global problems in the field of labour protection is possible only through the joint efforts of states with the help of international cooperation. Therefore, the protection of the social and labour sphere by international legal acts formed through the activities of international organisations becomes especially important. International cooperation in the field of labour protection covers the following main areas: study, generalisation and implementation of world experience in the organisation of labour protection, conditions and safety improvement; participation in international institutions on social and labour issues and the work of their bodies; obtaining consultations of foreign experts and technical assistance in improving the legislative and regulatory framework for labour protection; conducting and participating in international scientific or scientific-practical conferences and seminars; training of labour protection abroad.

The processes of the formation of Ukraine as a modern, democratic, social and legal state are inextricably linked with the search for optimal ways for the state to regulate labour relations. The activity of the state in this sphere should be based on rich international experience, as well as on the normative activity of the International Labour Organisation (ILO). That is why one of the main directions of reforming the labour legislation of Ukraine is to bring it in line with international labour standards, including ratified ILO conventions. International cooperation in labour protection is of particular importance. It consists of the study, generalisation and implementation of world experience in the organisation of labour protection, improvement of working conditions and safety; in the implementation of international treaties and agreements

on labour protection; and in conducting and participating in scientific and scientific-practical conferences and seminars on labour protection.

Shortly, Ukraine will integrate with political and economic Euro-Atlantic structures. Improving occupational safety and industrial safety, preventing accidents and incidents at work, and strengthening the prevention of occupational injuries and diseases requires further adaptation of regulations to European and international law, as well as the use of world scientific experience and deepening international cooperation in occupational safety. European legislation on labour protection makes it possible to ensure labour protection at a sufficiently high level. However, we emphasise that each state should take care of this issue and, therefore, our country should intensify work on the harmonisation of requirements, laws and regulations following EU directives. In any case, the idea of European legislation that decisions on improvement measures should be made taking into account working conditions directly at the workplace remains unchanged for Ukraine.

© Nataliia O. Melnychuk, Liudmyla V. Kulachok-Titova, Denys H. Sevryukov, Yuliya O. Ostapenko and Vlada M. Shkoda, 2022

REFERENCES

- Bobrovnyk, V., S.I. Shevchenko, A.O. Didych, T.O. Khodanovych & M.O. Dei (2020) Formal manifestation of law-making as an object of methodological strategy of modern law knowledge. *Revista Genero E Direito*, 1(01). Retrieved from: <https://www.periodicojs.com.br/index.php/ged/article/view/77> [Accessed November 17, 2021].
- Bodnarchuk, O.G. (2021) *Labor law of Ukraine*. Irpin: University of SFS of Ukraine, 572 p.
- Buravska, A.A. (2021) Some problems of legal support of guarantees of realization of the right to work of youth, *Bulletin of the Vasyl Stus DonNU Student Scientific Society*, 1(13): 116–120.
- Chronova, I.A. (2020) 'Current issues of labor law and its practicality', *Modern Scientist*, 5: 292–300.
- Colombi, A.P. & J.D. Krein (2020) 'Labor market and labor relations under the PT governments', *Latin American Perspectives*, 47(2): 47–64.
- Dei, M., O. Rudenko & V. Lunov (eds). (2020) *Association agreement: driving integrational changes*, Ottawa: Accent Graphics Communications & Publishing: 362 p.
- European Community (1954) Treaty establishing the European Community. Retrieved from: https://zakon.rada.gov.ua/laws/show/994_017#Text [Accessed November 17, 2021].
- Ikeler, P. (2021) 'Labor relations and the overdose crisis in the United States'. *Addiction Research & Theory*, 29(4): 271–278.
- International Labour Organisation. (1988) Convention N 168 on Employment Promotion and Protection against Unemployment. Retrieved from: https://zakon.rada.gov.ua/laws/show/993_182#Text [Accessed November 17, 2021].
- International Labour Organization (1992) International Labor Organization N 173 on the protection of employees' claims in the event of insolvency of the employer. Retrieved from: https://zakon.rada.gov.ua/laws/show/993_286#Text [Accessed November 17, 2021].
- International Labour Organization (2000) Maternity Protection Convention N 183. Retrieved from: https://zakon.rada.gov.ua/laws/show/993_294#Text [Accessed November 17, 2021].
- International Labour Organization (2016) Convention N 102 on Minimum Social Security Standards. Retrieved from: https://zakon.rada.gov.ua/laws/show/993_011#Text [Accessed November 17, 2021].
- Kostyuchenko, O.E. (2018) *Social Purpose of Labor Law: Problems of Theory and Practice*. Severodonetsk: East Ukrainian National University Vladimir Dahl, 449 p.
- Lyubchik, O.A. (2019) 'Social orientation of labor law in Ukraine: status and trends', *Bulletin of Luhansk State University of Internal Affairs*, 4(88): 204–217.
- Miashchanava, M.V. (2022) 'International Cooperation in the Field of Economic and Legal Regulation of End-To-End Technologies'. *Smart Technologies for the Digitisation of Industry: Entrepreneurial Environment*, 254: 79–91.

- Mima, I.V. & N.V. Ivanyuk (2020) 'Comparative legal analysis of the relationship between national and international law in the context of integration processes', *Knowledge of European Law*, 4:181–185.
- Nemchenko, A. S., I.A. Titko, M.V. Podgaina, Y.V. Korzh, & Y.L. Zaytzeva (2018) 'Legal and organizational economic aspects of the functioning of the main models of health-care systems', *Asian Journal of Pharmaceutics*, 12: 937–945.
- Racabi, G. (2021) 'Effects of City–State Relations on Labor Relations: The Case of Uber', *ILR Review*, 74(5): 1155–1178.
- Servais, J.M. (2018) *Labor Law and Cross-Border Cooperation among Unions*. NY: Cornell University Press.
- Shevchenko, A., S. Kydin, S. Kamarali & M. Dei (2020) 'Issues with interpreting the social and legal value of a person in the context of the integrative type of legal-awareness', *Fundamental and Applied Researches in Practice of Leading Scientific Schools*, 38(2): 54–61.
- Shramko, O. (2018) 'International aspect of legal regulation of safe working conditions', *National Legal Journal: Theory and Practice*, 33(5): 159–162.
- Sydorenko, V., I. Shorobura, A. Ponomarenko, M. Dei & O. Dzhus (2020) 'Application of technologies of formal and non-formal education for continuous professional development of the modern specialist', *Revista Tempos E Espacos Em Educacao*, 13(32): 1–24.
- Tacij, V. J., V.I. Tjutjugin & J.V. Grodeckij (2014). 'Conceptual model establish responsibility for offense in the legislation of Ukraine (draft)', *Criminology Journal of Baikal National University of Economics and Law*, 2014(3): 166–183.
- Verkhovna Rada of Ukraine. (1994) Partnership and Cooperation Agreement between Ukraine and the European Communities and their Member States. Retrieved from: https://zakon.rada.gov.ua/laws/show/998_012#Text [Accessed November 17, 2021].
- Yaroshenko, O., M.O. Pyzhova, Y.Y. Ivchuk, N.M. Vapnyarchuk & M.O. Savielieva (2021) 'The use of mediation in administrative proceedings: the experience of European Union Member States', *Relacoes Internacionais no Mundo Atual*, 3(32): 64–88. doi:10.21902/Revrima.v3i32.5510
- Yaroshenko, O.M., O.V. Moskalenko, A.M. Sliuser, N.M. Vapnyarchuk (2018) 'Commercial secret as an object of labour relations: Foreign and international experience', *Journal of Legal, Ethical and Regulatory Issues*, 21(1) <https://www.abacademies.org/articles/Commercial-secret-as-an-object-of-labour-relations-foreign-and-international-experience-1544-0044-21-S1-253.pdf>
- Yaroshenko, O.M., A.M. Sliuser, O.H. Sereda, V.O. Zakrynytska (2019) 'Legal relation: The issues of delineation (on the basis of the civil law of Ukraine)', *Asia Life Sciences*, (2): 719–734.