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Reform of Labour Protection Standards in the Process of Ukraine's Integration in Europe

Reforma de las normas de protección laboral en el proceso de integración de Ucrania en Europa

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ABSTRACT

The process of integration of Ukraine into the European community implies the adaptation of the legal framework, as well as important transformations of the social relations established in its population. The study demonstrates the most acute aspects of normative support for labor protection in Ukraine and presents possible ways of reforming the legislation based on the successful experience of the EU countries. The conceptual basis of the reformed legislation of Ukraine should be the protection of the rights of employees, as these rights are most often violated.

Keywords: European union, labor protection standards, labor relations, legal reform.

RESUMEN

El proceso de integración de Ucrania en la comunidad europea implica la adaptación del marco legal, así como importantes transformaciones de las relaciones sociales establecidas en su población. El estudio demuestra los aspectos más agudos del apoyo normativo a la protección laboral en Ucrania y presenta posibles formas de reformar la legislación basándose en la exitosa experiencia de los países de la UE. La base conceptual de la legislación reformada de Ucrania debe ser la protección de los derechos de los empleados, ya que estos derechos se infringen con mayor frecuencia.

Palabras clave: Normas de protección laboral, reforma legal, relaciones laborales, Unión Europea.

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INTRODUCTION

At the present stage of development of the world community, one of the key social rights of an individual is his/her right to safe working conditions. That is why a special place in the supranational regulatory system is acquired by a system of international legal measures aimed at improving the level of labour safety and compliance with relevant standards and regulations by states at the national level. After implementation, labour standards determine the form and conditions of employment in the country and also affect trade, foreign direct investment and the level of economic competitiveness of the national economy (Block et al.: 2003, pp. 441-467).

In the countries of the European Union (hereinafter - EU), each employee *a priori* has certain basic labour rights that relate to health and safety in the workplace, equal opportunities for work and leisure for women and men, as well as working conditions, incl. Part-time workdays, working hours, youth employment, informing and advising employees (Oecd: 2013). European labour protection standards are conceptually based on the Employment Protection Legislation (2017) developed by OECD, which includes the rules on the hiring and dismissal of employees, protects workers from unfair dismissals, and also covers the protection of citizens from income fluctuations that arise from job loss (Cazes et al.: 2012; Villalobos et al.: 2018; Hernández et al.: 2019; Ramírez et al.: 2019). In addition, the Employment Protection Legislation includes a model employment contract that counteracts management decisions about unjustified staff reductions. The regulatory mechanism outlines the conditions, procedures and mandatory measures necessary to minimize the negative consequences of individual and collective dismissals. The legislation provides for rules for damages, dispute resolution and litigation if a dismissal is considered unfair - for example, without good reason (Schömann: 2014).

Ukraine is a state civilizational close to European values. Therefore, the social norms of the two systems, drawn up in the regulatory framework, are similar in both form and content, which accelerates the process of Ukraine's integration into the European community. In order to achieve conceptual identity, Ukraine has launched the process of adopting legislation to regulatory standards of the European Union. The Cabinet of Ministers of Ukraine adopted a resolution "On the Concept of Adaptation of Ukrainian Legislation to the Laws of the European Union" (1999) (Cabinet of Ministers of Ukraine: 2003). The latter enshrines the thesis that an adaptation to EU standards is not an instantaneous event, but a systematic process of bringing Ukrainian legislation into line with European Union law (Hryshchak: 2012).

The relevance of this work is due to the fact that the process of Ukraine's integration into the European community entails the transformation of social relations in society. Thus, there is a need to create a transparent mechanism for ensuring the well-being of households through the effectiveness of the labour system and remuneration for work. The novelty of the study lies in the comprehensive approach to assessing possible options for reforming labour protection standards in Ukraine, taking into account the socio-economic background of the processes.

METHODS

The research design is based on the analysis of the legal sources of the EU regulatory mechanism, on the basis of which the most successful labour protection cases in the practice of European countries are determined, where a special place is given to the role of the state in protecting the rights of workers. The regulatory basis of labour relations is considered taking into account the actual implementation of the requirements and socio-economic prerequisites that influenced the formation of the current labour situation in Ukraine. The authors' vision of the procedure for adopting Ukrainian legislation to European regulatory standards is developed from the position of legal, ethical and social bases that must be implemented to achieve integration into the EU legal framework.

RESULTS

Since the supranational mechanism takes precedence over local ones, the labour law of the EU member states is not primarily regulated by national legislation. In addition, states are required to comply with the requirements of the International Labor Organization (hereinafter - ILO). However, it should be borne in mind that the ILO does not directly influence domestic labour policies, it only indicates the obligation of countries to include these requirements in local legislation (Barbera et al.: 2020, pp.661–673).

The Treaty establishing the European Economic Community includes several important provisions for the labour legislation of the signatory countries. For example, on the free movement of workers, on the harmonization of social security and cooperation of member states in social matters, as well as on equal pay for men and women. The Single European Act (1986) enshrined the principles of harmonization and improvement of legislation on occupational health and determined the safety of employees as the goal of the EU. Besides, The Single European Act requires the European Commission to develop the dialogue between partners at the European level. Thus, the parties can establish certain relations based on the agreement.

The Treaty on the European Union as of February 7, 1992, does not contain any additional provisions on labour and social law. Nevertheless, the special protocol and the Social Policy Agreement, signed by 11 EU member states (without the UK), enshrine the principle of uniform standards in labour and social law (Lowisch: 2003, pp.101-115). Unified labour standards are based on the fact that the employer has greater market power than the employee, and as a result, the employer may take advantage of his/her position. Such abuse of authority by an employer may infringe on the rights of the employee. That is why the guiding principle of labour protection in the European Union is to protect the employee from possible negative consequences of abuse of authority by the employer (Nguyen: 2018, pp.117-127).

Based on this, labour standards in the European Union are primarily a form of social regulation of the labour market. When the legislation establishes certain restrictions or imposes specific obligations on the employer, he/she is deprived of the opportunity to abuse his/her powers. Thereby, employees are protected from possible violations of their rights. Moreover, the employee and the employer have equal bargaining power (Carley: 2001).

The following guidelines are highlighted in the European Union's Occupational Safety and Health policy for employees:

- Safety and hygiene standard that ensures compliance with the standard of products manufactured by any enterprise;
- Standard of employee protection, which is achieved by ensuring a high level of labour protection.

The main goal of labour protection is the systematic reduction of occupational diseases and injuries in the workplace. Today, this policy covers another area of application, which is called “welfare at work” (Oecd: 2013). The goal of “welfare at work” is to terminate accidents and occupational diseases, as well as to ensure favourable psychological conditions in the workplace.

When assessing labour protection in Ukraine, it should be noted that its current unsatisfactory condition is primarily associated with intensive obsolescence of fixed assets and equipment (including its maintenance technologies), machines and mechanisms (Blinda: 2006). In addition, the Ukrainian conjuncture is characterized by a massive non-compliance with labour and technological standards as well as ignorance of the basic safety requirements on the part of both business owners and employees. This leads to managers' irresponsibility when it comes to employees' safety, and on the other hand, forms a nihilistic attitude of workers to personal safety as well as to the safety of others (Venedyktov: 2006).

In the field of labour protection in Ukraine, the most problematic aspects are as follows:

- Non-compliance with labour and technological standards;
- Non-compliance of a large number of legal acts with the requirements of the time;
- Lack of labour protection system at enterprises and organizations, regardless of their form of

ownership;

- Irresponsible attitude of employers to the state of labour protection;
- Workers are not sufficiently provided with collective and individual protective equipment;
- Discrimination.

The non-application of labour provisions can be explained by the fact that lawmakers do not perceive violations in the field of labour safety as such that damage the competitiveness of individual industries and the economy as a whole (Block et al.: 2003, pp. 441-467). Accordingly, at the regulatory level, it is necessary to pay attention to companies that demonstrate enhanced protection of labour standards and make laws where violations of labour standards can be considered crimes for which sanctions will be imposed (Abdelgawad & Shaker: 2020, pp.775-787).

In the process of Ukraine's integration into the European community, in addition to conceptual transformations, the following legal procedures should be considered while reforming the Ukrainian sphere of labour relations:

- Development of a glossary of terms for the adequacy of their understanding and uniform application in the adaptation process;
- Introduction of uniform requirements for translations of international regulatory legal acts into the state language;
- The creation of an effective national mechanism for adapting legislation based on the study and generalization of the relevant experience of Central and Eastern Europe.

At the same time, the first step in the process of reforming labour legislation is to amend labour legislation, the norms of which will comply with international legal acts ratified by Ukraine (Melnyk: 2011, pp.645-651). Reformed labour legislation of Ukraine should contain principles for the exercise of the right to work, which meet the following requirements:

- The balance between the protective and production functions of labour law, which ensures the balance of interests of both employers and employees;
- Social standards in the field of labour protection should be strictly observed by all parties to labour relations;
- Legal support of labour relations should be at the level of contractual regulation, primarily collective-contractual;
- Elimination of any possible manifestations of discrimination of workers on any grounds (Hutsu: 2013, pp.108-112).

Each of these stages of reform should systematically lead to a certain degree of compliance of Ukrainian legislation with the EU labour law standards. The duration of one stage is difficult to predict since the tasks of the next stage are determined relative to the results achieved at the stage earlier. It should be borne in mind that the background to the process of legislative transformation is influenced by geopolitical and macroeconomic factors within relations between Ukraine and the European Union, as well as the socio-economic and domestic political situation in Ukraine (Nguyen & Vu: 2019, pp.89-97).

DISCUSSION

The need for harmonization and coordination of EU states' legislation on labour protection (as one of the important factors in harmonizing macro-regional economic policy) is associated with the following factors:

- The growing role of transnational corporations and related problems of social security and public protection;
- The mutual influence of social and labour legislation on commodity production and further competitiveness of products (Venedyktov: 2006). In the 70s, attention to these problems was attracted by cases of collective redundancies of workers that took place in Germany and neighbouring states, where there

was a difference in the regulation of such processes. The result of precedents was the harmonization of mass layoffs procedure by adopting at the EU level Directive 75/129 on the protection of workers during collective redundancies (Harrison et al.: 2019, pp. 635-657). Today, EU labour legislation includes the following provisions. Namely, if states are committed to eight ILO's labour conventions (which are included in the 1998 Declaration of Fundamental Principles and Rights at Work), they must abide by them and adapt their legislation to these principles, so that there are no conflicts and contradictions. These conventions concern freedom of association and collective bargaining, forced labour, child labour and discrimination in the workplace (United Nations: 1998).

In Poland, changes in the sphere of labour relations began in 2002 and were presented jointly by the government and employers as one of the mandatory reforms to reduce unemployment. The labour legislation has enshrined the principles that make mechanisms on the labour market (in particular, labour relations) more flexible (Surdej: 2005).

In Belgium, they try to protect workers of any type of employment - the legislation even regulates the protection of the rights of homeworkers. Thanks to new technologies, homework has become relevant for many types of activities, such as word processing, translation, data encoding and billing, so the state provides homeworkers with the same level of protection as other employees, but adjusted for two distinguishing features of homeworking:

- Work is performed from home or any other place chosen by the employee;
- There is no direct control or supervision over the employee (Governance and tripartism department:

2013).

Thus, the experience of European countries demonstrates that in order for Ukrainian labour legislation to comply with EU standards, in each legal act, the emphasis should be on protecting the rights of employees (Kirat et al.: 2008, pp. 29–64).

CONCLUSIONS

The standards of the European Union are primarily focused on protecting the rights of the employee because it is the employee who is the most vulnerable participant in labour relations. The level of safety of the labour process depends primarily on the state of its legal support, that is, on the quality and completeness of relevant legislative acts. In the process of Ukraine's integration into the European community, the legislative reform should base, among other aspects, on the following:

- Elimination of all forms of discrimination of workers on the grounds of sex, race, political beliefs;
- Protecting the labor of women and youth;
- Strict prohibition of child labour and forced labour.

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