

SOME THEORETICAL AND PRACTICAL PROBLEMS OF LEGAL PROTECTION OF OCCUPATIONAL SAFETY: NATIONAL AND INTERNATIONAL ASPECTS

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Annotation. The academic article deals with certain issues of the theory and practice of regulatory regulation of labour protection in Ukraine. Main organisational and legal forms of occupational safety and health, as well as main tasks of labour protection management in the country, are defined. Philosophical, general scientific and special legal methods of cognition, including but not limited to formal-legal and comparative legal methods, were used for the research.

It is noted that Ukraine's health and safety situation is one of the most challenging in Europe. The authors also state that importance of the psychological climate in the workplace and its impact on the production process cannot be underestimated, so relevant measures in the context of its improvement are proposed.

The article highlights certain aspects of labour protection regulation at the international legal level in general (ensured by the International Labour Organization) and at the level of the European Union in particular, as well as the impact of relevant standards on national legislation. The authors formulate proposals for improving the labour protection institute in modern economic conditions in Ukraine, including but not limited to: implementing innovative legal education and training programs focused on occupational safety and health; creating/improving safe working conditions under martial law, including proper equipment of shelters for use during air raids; ensuring submission of a draft law on improving penalties for violations of labour protection legislation, which will increase employers' responsibility for compliance with labour protection legislation. It is concluded that the occupational health and safety management system shall be based not only on measures taken by the state, but also on the interest of the parties to labour relations in maintaining the proper physical condition of the employee, which is inextricably linked to the economic and social well-being of the employer.

Key words: labour protection, occupational health and safety, labour protection legislation, economic importance of labour protection, social importance of labour protection, labour protection management, international law, EU law, international labour standards.

1. Relevance of research.

Today in Ukraine, in the context of building a single European space and social and political changes, the priority task is not only to rethink the state of labour organisation, but also to find ways to improve it. In particular, market transformations in Ukraine require a rapid increase in the competitiveness of domestic products, development of the state's labour potential, and creation of a reliable and perfect mechanism for protecting labour rights. Regulation of labour protection (another synonymous term is "occupational health and safety") issues is becoming increasingly important. It should be noted that the regulatory framework in the field of labour protection is somewhat outdated.

At the same time, the significance of labour protection cannot be overstated, as it directly impacts the physical and psychological well-being of the workforce. Effective labour protection measures contribute to reducing the incidence of work-related injuries and diseases, enhancing productivity, and fostering a

culture of safety within the workplace. Moreover, they are crucial for attracting and retaining talent, as workers increasingly prioritize safe working conditions in their employment decisions.

The state policy on occupational safety and health in Ukraine is regulated by laws and regulations, in particular the Law of Ukraine "On Occupational Health and Safety" № 2694-XII dated 14 October 1992 (as amended) [1]. This law sets out the main provisions for exercising the constitutional right of citizens to protect their life and health in the course of their work, regulates, with the participation of the relevant state authorities, the relations between the owner of an enterprise, institution or organisation or his authorised body and an employee on safety, occupational health and the working environment, and establishes a unified procedure for organising occupational health and safety in Ukraine.

The Law of Ukraine "On Occupational Health and Safety" declares the basic principles of state policy in the field of occupational health and safety, the use of economic methods of occupational health and safety management, preferential taxation, comprehensive solution of occupational health and safety problems based on national programs on these issues, achievements in science and technology and environmental protection, etc. However, new realities, including intensification of European integration processes, require detailed exploration of some theoretical and practical problems of legal protection of occupational safety in national and international aspects.

2. An overview of recent research and publications.

Studies of various aspects of labour protection regulation in Ukraine have been conducted by such scientists as M. Gandziuk, K. Tkachuk, G. Lesenko, I. Luchko, O. Novikova, M. Repin, A. Rusalovskiy, A. Vodyanyk, V. Zarosylo, Ye. Zhelibo and others. However, the national aspects of legal regulation of this issue in Ukraine in the context of European integration and international aspects remain insufficiently researched.

3. The purpose of the article is to define the concept, peculiarities and significance of labour protection in Ukraine, and also to clarify the state of labour protection, problematic issues and ways to overcome them, including through the use of international standards.

4. Presentation of materials.

Labour protection as an institute of labour law is a set of legal norms regulating relations on the protection of life, health and working capacity by establishing safe and healthy working conditions. This institute includes rules that establish general labour protection requirements; preventive rules aimed at preventing occupational injuries and occupational diseases; rules that establish the obligations of employers and employees in relation to labour protection; rules aimed at overcoming occupational health and safety violations.

Occupational health and safety plays an important role as a social factor, because no matter how significant the production results are, they cannot compensate a person for lost health, let alone life. Both are given only once. It should be remembered that accidents and accidents kill not just workers and employees, for whose training the state has spent considerable money, but above all people - family breadwinners, fathers and mothers of children. In addition to social, occupational health and safety is undoubtedly of great economic importance, including high labour productivity, reduced sick leave costs, compensation for difficult and harmful working conditions, and so on [2].

Labour protection is a system of legal, socio-economic, sanitary and hygienic, organisational, technical, medical and preventive measures and means aimed at preserving human life, health, and working capacity in the course of labour activity [3, p 18]. The term "labour protection" can be considered from two perspectives. In a broad sense, labour protection means everything that is done for the benefit of workers, all the rules that protect their interests and rights; from this point of view, the entire Code of Laws on Labour of Ukraine is a law on labour protection. But this term also has another, narrower meaning,

meaning the rules and regulations that ensure proper technical and sanitary-hygienic conditions of the labour process for the employee, rules that regulate the set of obligations of employees and employers to comply with labour protection rules etc [4, p. 235].

Occupational health and safety is aimed at protecting employees' health from occupational hazards and dangers and providing them with healthy working conditions. Healthy working conditions preserve employees' strength and contribute to high labour productivity. At the same time, healthy working conditions protect employees from fatigue, which contributes to their active lifestyle and social engagement. In view of this, the organisational and legal forms of ensuring labour protection are of great importance. The legislator uses various means and ways of influencing the subjects of labour law responsible for organising, ensuring and complying with labour protection requirements [5, p. 674].

An analysis of the current legislation of Ukraine on occupational safety and health allows us to identify the following main organisational and legal forms of occupational safety and health:

- 1) establishment of state cross-sectoral and sectoral standards of occupational safety and health in regulatory legal acts;
- 2) organisation of labour protection services;
- 3) provision of employees with personal and collective protective equipment, detergents and neutralising agents;
- 4) conducting medical examinations of employees;
- 5) training and information support for labour protection;
- 6) investigation and recording of accidents, occupational diseases and accidents [5, p. 674].

In turn, the right to safe labour is ensured by the fact that the state assigns itself the functions of managing labour protection. The state guarantees the relevant rights of employees to safe work and establishes the obligations of employers to ensure appropriate working conditions for employees [3, p. 18]. State management of occupational safety and health is carried out through a set of coordinated actions of state management bodies of occupational safety and health, local governments with the participation of employers' associations, trade unions and other representative bodies to implement the main directions of social policy in the field of occupational safety and health, aimed at ensuring safe and healthy working conditions, educating employees to be conscious of safety and care in the work process [6, p. 26].

The main tasks of labour protection management are:

- 1) development of measures to implement the state policy on labour protection at the regional and sectoral levels;
- 2) preparation, adoption and implementation of measures aimed at ensuring safe, proper and healthy working conditions; ensuring maintenance of production equipment, buildings and structures, engineering networks, safe conduct of technological processes; provision of employees with personal protective equipment; organization and conduct of training of employees on occupational safety and health; promotion of occupational safety and health; ensuring professional selection of employees in certain professions; ensuring insurance of employees against accidents at work;
- 3) organizational and methodological guidance at the regional and sectoral levels;
- 4) stimulating the integration of occupational safety and health management into a unified system of general management of the production organization;
- 5) wide implementation of positive experience in the field of labor protection [6, p. 27].

Ukraine's health and safety situation is one of the most challenging in Europe. According to the State Labour Service of Ukraine, the number of lethal occupational injuries in our country is as follows: in 2022, 473 people died at work [7]. If we compare this figure with the number of work-related deaths in the entire EU, which is home to almost 450 million people, the statistics in Ukraine appear worse. According

to Eurostat (the statistical office of the European Union, responsible for publishing high-quality Europe-wide statistics and indicators), there were 3 347 fatal accidents at work in the EU during 2021, a decrease of 11 deaths compared with the year before (in 2020). It is also known that in 2021, more than a fifth (22.5 %) of all fatal accidents at work in the EU took place within the construction sector. In this statistical methodology, fatal accidents at work are those that lead to the death of the victim within a year of the accident [8].

Given such disappointing occupational health and safety performance in Ukraine, there is a need to implement a number of measures to improve the situation.

It should be emphasised that the level of occupational health and safety in Ukraine depends on the quality of occupational health and safety management, the effectiveness of control and supervision over compliance with labour legislation. It is also worth noting that the importance of the psychological climate in the workplace and its impact on the production process cannot be underestimated. It is important to pay attention to such aspects as:

1. Reducing work-related stress and maintaining a balance between professional activities and personal life of employees. The psychological climate within the workplace is a critical determinant of employee satisfaction, engagement, and productivity. A positive climate can reduce work-related stress significantly, thereby enhancing job performance and reducing turnover rates. Efforts to minimize stress should include regular assessments of workloads, providing clear and attainable job expectations, and fostering open communication channels between employees and management.
2. Eradicating any form of physical and psychological violence in the workplace. Physical and psychological violence in the workplace undermines the safety and well-being of employees. Implementing strict policies against all forms of harassment and violence, providing training on conflict resolution, and establishing clear procedures for reporting and dealing with incidents are critical steps in creating a safe and respectful working environment.
3. Paying more attention to medical examination of employees, especially in professions that do not allow for some kinds of psychological/psychiatric illnesses. Regular medical examinations, particularly for positions that are incompatible with certain psychological or psychiatric conditions, are crucial for preventing accidents and ensuring that all employees are fit for their roles. Health surveillance programs should be adapted to the specific risks associated with different jobs, with a focus on early detection of work-related health issues.
4. Improving methods of selecting management personnel with appropriate management skills. The selection of management personnel should be based on both technical competencies and leadership qualities. Training programs should be developed to enhance managers' skills in effective communication, conflict resolution, and stress management. A competent and empathetic management team can significantly contribute to a positive psychological climate and effective occupational health and safety management.
5. Researching the impact of psychological and organisational factors. Continuous research into the impact of psychological and organisational factors on workplace health and safety is essential. Understanding these influences can guide the development of more effective interventions to improve employee well-being and productivity. This includes studying the effects of organizational culture, leadership styles, and employee participation in decision-making on occupational health outcomes.

In order to improve labour conditions and safety in Ukraine, the State Labour Service of Ukraine, together with other central executive authorities, would need to:

- take measures to improve the effectiveness of the supervisory function, which will help reduce the number of violations of the requirements of regulatory acts on occupational safety and health;
- ensure submission of a draft law on improving penalties for violations of labour protection legislation, which will increase employers' responsibility for compliance with labour protection legislation;
- increase the salaries of inspectors, which will increase their interest in achieving the final results;

- reduce the level of injuries at work, improve working conditions and safety;
- develop a training programme for civil servants-inspectors on labour protection, which will improve their supervisory functions [9];
- taking into account risk of being infected with different viral diseases including COVID-19 within workplaces [10];
- create/improve safe working conditions under martial law, including proper equipment of shelters for use during air raids.

When doing such improvements, attention shall also be paid to international legal standards and instruments in this sphere which have been developed by the International Labour Organization [11]. These are, in particular: Chemicals Convention, 1990 (No. 170), Occupational Safety and Health Convention, 1981 (No. 155), Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), Safety and Health in Agriculture Convention, 2001 (No. 184). Many of them are ratified by Ukraine, but despite this fact, fatality rates at work are still high in the country, as noted above.

In addition, in the context of Ukraine's euro integration path, the national legislator should pay attention to the labour protection standards developed in the law of the European Union (EU) as well as by the Council of Europe [12]. In this context, it is worth mentioning that in mid-2021, the European Commission introduced a new strategic framework for health and safety in the workplace, covering the period from 2021 to 2027. This framework outlines essential measures to enhance the health and safety of employees in the upcoming years. The strategy is built around three main objectives:

- Predicting and addressing shifts in the modern workplace.
- Enhancing measures to prevent occupational diseases and mishaps.
- Strengthening readiness for potential future health crises [13].

The EU strategy focuses on bolstering preventive measures, including the adoption of safer work practices, the use of new technologies for risk assessment, and the promotion of a preventive culture within workplaces. Implementing these measures in Ukraine would not only reduce the incidence of work-related injuries and illnesses but also contribute to a more sustainable and productive economy.

The abovementioned European Commission's document can be classified as some kind of the so-called "soft law", however, it contains important provisions that should not be ignored by Ukraine as a country with EU candidate status. In addition, for Ukraine, aligning with these standards is a strategic move towards European integration, signalling its commitment to upholding high labour protection standards. It also positions Ukraine to benefit from EU support, including technical assistance and funding opportunities, to implement these measures effectively. Also, engaging in dialogue and partnership with EU institutions, Member States, and relevant international organizations can facilitate the sharing of knowledge, experience, and best practices in labour protection.

The main reasons for the low level of occupational health and safety organization in Ukraine are: low level of qualifications, production culture and technological discipline; worn-out production facilities; lack of effective sectoral and regional occupational health and safety management; lack of sufficient investment in production and occupational health and safety; inadequate funding of occupational health and safety measures by employers; lack of training of occupational health and safety specialists, low level of advanced training and retraining of personnel on occupational health and safety, etc. Of course, armed aggression of Russia, which cause economic problems (among many others) also does not contribute to the progressive development in this area, in particular, it is one of the reasons of the abovementioned lack of sufficient investment in production and occupational health and safety. In spite of this, we agree with the position of V. Zarosylo et al. who defined strategy directions for legal regulation of occupational safety and health in Ukraine, namely: enhancing national legislation on occupational safety and health by leveraging the legal frameworks and practices from the European Union; adopting and integrating principles and standards developed by the International Labour Organization and the World Health Organization into Ukraine's legal act regulating occupational safety and health; implementing innovative legal education and training programs focused on occupational safety and health; strengthening the

legal recognition and role of non-governmental organizations in Ukraine, which are focused on advocacy, regulation, and enforcement of compliance with legislative requirements in occupational safety and health, as well as conducting research, offering training, publishing, and disseminating information in the occupational safety and health sector [14, p. 153].

5. Conclusions.

To sum up, labour is of great social importance for our society. Continuous development, improvement of production, innovations – all this is a big step towards Ukraine's EU membership prospects. At the same time, despite ongoing efforts to improve labour protection in Ukraine, there are several problematic issues that persist. These include outdated regulatory frameworks, insufficient enforcement of existing legislation, a lack of resources allocated to occupational health and safety programs, and inadequate training for both workers and employers on safety standards. The legacy of neglecting occupational health and safety measures in certain industries further exacerbates these challenges, leading to higher risks of workplace accidents and occupational diseases.

The occupational health and safety management system shall be based not only on measures taken by the state, but also on the interest of the parties to labour relations in maintaining the proper physical condition of the employee, which is inextricably linked to the economic and social well-being of the employer.

There is a need to improve the state of occupational safety and health in Ukraine by improving and enhancing working conditions, eliminating occupational injuries, improving labour management, ensuring professional supervision and monitoring compliance with Ukrainian labour legislation. At the same time, attention should be paid to labour protection standards developed in the EU law and international law, as well as to strengthening the legal recognition and role of non-governmental organizations in Ukraine, which activities are focused on occupational safety and health. Also, as our country continues on its path towards European integration, the adoption and implementation of the EU's strategic framework for health and safety at work represent a critical step forward. By focusing on predicting workplace shifts, enhancing preventive measures, and strengthening crisis readiness, Ukraine can ensure a safer and healthier working environment for its workforce, in line with European standards.

Enhancing occupational health and safety in Ukraine requires a comprehensive approach that goes beyond compliance with legal standards. Addressing the psychological and organisational aspects of work life can lead to significant improvements in employee well-being and productivity. By fostering a positive work environment, prioritizing work-life balance, ensuring safety from violence, conducting appropriate health surveillance, selecting and training management carefully, and investing in research, organizations can create a more supportive and productive workplace.

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