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IMPLEMENTATION OF INTERNATIONAL EXPERIENCE OF LEGAL REGULATION OF PUBLIC EMPLOYEES' LABOR RIGHTS

The paper covers analysis of the international experience of legal regulation of labor rights of public service employees. The influence of the standards of the International Labor Organization on the labor law of Ukraine has been studied. The scope of labor legislation on the regulation of state employees' labor has been established. It has been concluded that ratification and compliance with international standards of labor organization is one of the promising areas of the country's development and improving its international image as a democratic and socially oriented state.

Key words: *labor law, International Labor Organization (ILO), civil service, special legal status, labor organization, international standards.*

Original article

INTRODUCTION. Compliance with the standards of human rights and freedoms provided by the norms of national and international law in order to ensure good living standard and development of the individual is the main task of all democratic countries and international community, as these activities precede peace-making and sustainable growth.

International standards of labor organization are a reference for all countries in the world towards implementation of a legal mechanism for consolidating social-economic values. Definition of human rights in the field of labor by international acts provides an impetus for states to provide equal and decent working conditions, avoiding any signs of discrimination.

It should be noted that the impact of the International Labor Organization (ILO) standards on the labor law of states is characterized by both internal and external manifestations. Thus, the ratified ILO conventions, being already tested in practice and unified norms, serve a reliable foundation for formation and development of national labor law. In turn, strict adherence to the commitments under these ILO conventions, and further ratification of modern conventions, in addition to promoting effective implementation of labor relations, also have a positive impact on the international image of every state.

The use of international experience is an important aspect of improving legal regulation of the public service and forming an effective system of labor rights of state employees in Ukraine.

There are groundless assumptions that state employees cannot be equated with those of the private sector because they are related to state power. The main purpose of state employees is to uphold the supremacy of law and implement public policy. In addition, among state employees are those categories of employees, whose main function is to protect fundamental rights and freedoms of citizens, namely court staff, prosecutors,

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and police officers. They must have high standards of values and the only mission is to work for the common good. Is it possible to achieve the above purpose by leveling the rights of such employees?

PURPOSE AND OBJECTIVES OF THE RESEARCH. This work purpose to study of conditions the state employees should be provided with high standards of labor rights, decent working conditions and financial security. The main objective is to study the impact of international labor standards on ensuring labor rights of state employees at the national level in order to improve the legal regulation of guarantees of their labor rights in Ukraine. For this, long-standing international standards need to be implemented into national law, conditions for their implementation need to be created.

LITERATURE REVIEW. Labor rights are an independent group of rights in the system of human and civil rights, which are required for implementation of human capabilities in the field of application of their abilities to productive and creative work. Labor rights as a multi-aspect category are based on the unity of private and public principles. Thus, labor rights are based on the principles of equality, freedom, which are intrinsic, inalienable human rights and to some extent are classified as natural rights, but the content of labor rights and their actual implementation is impossible without legal regulation of the state. Labor rights represent the interests of the employee and employer, and the interests of the state, what, in turn, ensures implementation of national tasks and objectives, in particular on improving the level of the economy (Третяков, 2016).

Labor rights always result from an employee's state, which is understood in the broadest sense. Any person who intends to perform or performs any paid job, immediately acquires the status of an employee and, therefore, the rights associated with this condition. Labor law, whether regulated nationally or internationally, is a protective act for workers, i.e. it regulates the rights and responsibilities of the employee and employer, regardless of any other economic or social considerations (Céspedes, 2014).

For more than a hundred years, labor organization standards have been developed at the international level to effectively ensure human rights. International standards of labor organization are a kind of normative substance of international labor law, which reflects the results of activities of different states aimed to introduce social values into the market economy. These standards are to provide a concentrated reflection of the experience of many countries, the result of meticulous selection of the most valuable and universally significant norms and provisions of national legal systems, transformed into international norms (Мельник, 2011).

According to scientists J. Min et al. (2019), work shall not affect one's personal freedom and security, and not affect human dignity. In other words, labor standards in international markets are proposed in such a way to make sure that human labor is aimed to improve human life as a whole, rather than economic development itself.

Among the UN's proclaimed fundamental human rights is a set of labor rights formalized mainly in two acts: the Universal Declaration of Human Rights and International Covenant on Economic, Social and Cultural Rights.

The Universal Declaration of Human Rights was adopted on December 10, 1948 as a resolution. It was the first international legal act establishing the list of civil, political, economic, social and cultural rights. The Declaration is not binding and does not provide for a ratification procedure, but it is recognized by all democratic states governed by the rule of law.

Analyzing the Universal Declaration of Human Rights, the following fundamental labor rights can be identified:

- every individual, as a member of society, has the right to social security and to the exercise of rights necessary for the maintenance of his/her dignity and free development of his/her personality in economic, social and cultural spheres (article 21);
- every individual has the right to work, free choice of work, just and favorable conditions of work and protection against unemployment (article 22, paragraph 1);
- every individual, without any discrimination, has the right to equal pay for equal work (article 23, paragraph 2);
- every worker has the right to just and favorable remuneration to ensure life worth living for himself/herself and his/her family, if necessary, supplemented by other means of social security (article 23, paragraph 3);
- every individual has the right to form trade unions and to join trade unions for the protection of his/her interests (article 23, paragraph 4);
- every individual has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay (article 24)[1].

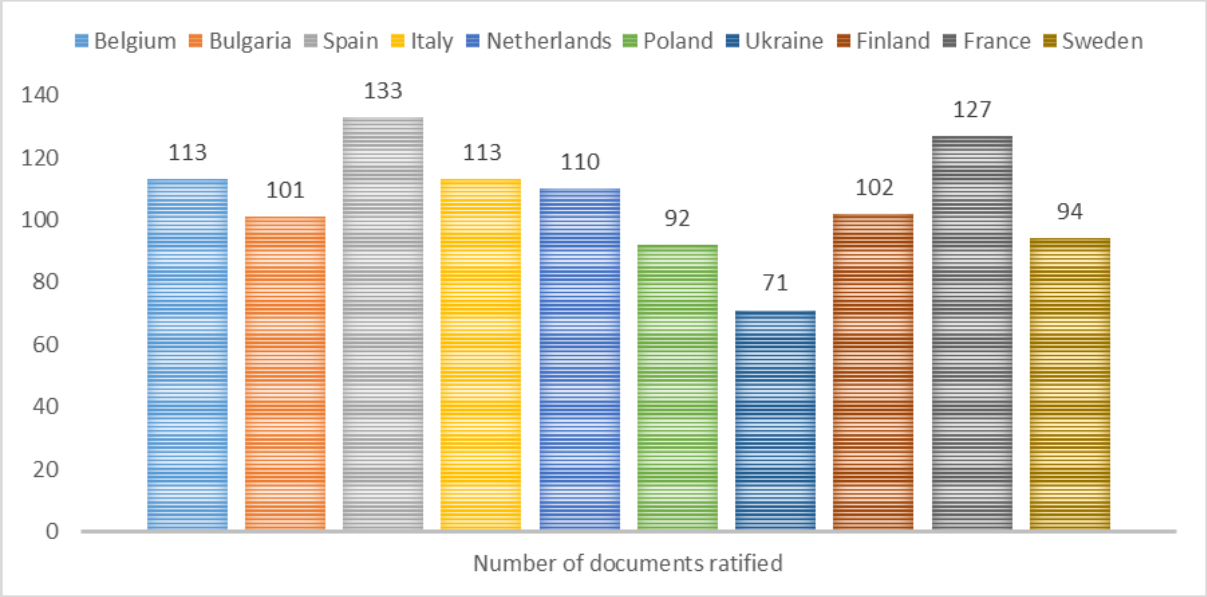
[1] Загальна декларація прав людини : від 10.12.1948 // База даних (БД) «Законодавство України» / Верховна Рада (ВР) України. URL: https://zakon.rada.gov.ua/laws/show/995_015 (accessed: 12.11.2022).

The International Covenant on Economic, Social and Cultural Rights was adopted by the UN General Assembly at its XXI session on December 16, 1966. The Covenant is subject to ratification and contains a commitment to its norms for the acceding states. The range of labor rights formalized in the Covenant is broader than those in the Universal Declaration of Human Rights, and they are defined in more detail. The following rights are among the basic labor rights:

- the right to work (article 6);
- the right to fair and favorable working conditions, including fair wages without discrimination (article 7, paragraph a);
- satisfactory living conditions for employees and their families (article 7, paragraph a);
- working conditions that meet the requirements of safety and hygiene (article 7, paragraph b);
- the same opportunity for all to advance to work at the appropriate higher levels solely on the basis of work experience and qualifications (article 7, paragraph c);
- rest, leisure and reasonable limitation of working hours and paid periodic leave as well as remuneration for holidays (article 7, paragraph d);
- the right of every individual to form and join trade unions in order to pursue and defend his or her economic and social interests, and to join them at his or her choice, provided that the rules of the relevant organization are complied with (article 8, paragraph a);
- the right to strike (article 8, paragraph d);
- special protection of labor and interests of mothers, children and adolescents (article 10, parts 2, 3)[1].

The principles and norms of international labor law are developed more detailly by the ILO, which is a specialized agency of the United Nations authorized by the world community to develop and adopt international labor standards. These standards result from international legal regulation of labor, carried out through multilateral agreements (conventions) of ILO member states. They address various issues of the use of hired labor, improving its conditions, protection, protection of individual and collective interests of employees, etc. (Безп'ята, 2011). Throughout its activities, the organization has adopted about 190 conventions and 200 recommendations. It is the only tripartite institution in the United Nations system that brings together government officials, employers and employees to jointly define policies and programs to ensure decent work for all citizens without exception (Середа, 2015).

It should be noted that the number of ILO conventions ratified by Ukraine is average compared to the other 187 member states of this international organization. For a clear understanding of the statistics of ratification of conventions, we present a scheme-comparison of the number of ratified ILO conventions in Ukraine and some European countries:



[1] Міжнародний пакт про економічні, соціальні і культурні права : від 16.12.1966 // БД «Законодавство України» / ВР України. URL: https://zakon.rada.gov.ua/laws/show/995_042 (accessed: 12.11.2022).

This circumstance indicates the prospects for further expansion of ratified ILO conventions in our country, which would strengthen its international prestige, and perform a purely domestic practical function, allowing to improve national labor legislation using already tested and unified standards (Венедіктов, 2020).

Every country needs to take institutional actions and make extensive legislative changes to ensure that ILO international labor standards apply equally to it as its own rules and policies[1].

As noted by F. Koliev (2020): "labor rights provided in ILO conventions are a separate group of human rights. Compared to civil and political rights, including the right to personal integrity, labor rights are more challenged normatively and politically". This is due to the fact that the labor rights of the employee closely interact with the rights and responsibilities of employers, mainly aimed to make a profit.

Normative legal acts of the ILO are aimed at providing employees with appropriate basic labor rights that meet the interests of every person, regardless of origin and country of residence. The 1998 Declaration was, to some extent, the ILO's response to the challenge of globalization and its adverse social consequences for employees around the world. The adoption of the Declaration aimed to confirm the invariability of the basic principles and rights proclaimed in the ILO Charter and to promote their observance and strengthening (Краснов, 2008).

The ILO Declaration on Fundamental Principles and Rights at Work (1998) provided a consensus on a short list of "fundamental" social and labor rights. In the Declaration, the International Labor Conference stated that all Member States, even if they have not ratified the Convention, have obligations arising from the very fact of membership in the Organization, must adhere to, promote and implement in accordance with the Charter the principles concerning fundamental rights, namely: freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of compulsory or forced labor, the effective prohibition of child labor, non-discrimination in employment and occupation (Безп'ята, 2011).

Either of these four categories of rights was related to the Convention. Three of the four categories referred to universal conventions: on freedom of association and collective bargaining (Conventions No. 87 and No. 98), forced labor (Conventions No. 29 and No. 105), and discrimination and equal pay (Conventions No. 100 and No. 111). A little later, child labor was included in this short list.

V. M. Andriiv (2017) notes that at the present stage the ILO should focus its activities on two main points: 1) ensuring provision of labor rights with relevant modern international standards, taking into account trends in society; 2) ensuring compliance with already ratified conventions and recommendations. At the same time, the latter task is quite important, because neglecting it invalidates all the efforts to bring the protection of labor rights to a single international denominator, making ratified and proclaimed rights more declarative.

From the point of view of employers, labor rights are often considered as restricting their activities with a potentially negative impact on profitability. Similarly, from the government's point of view, employees' rights are linked to the broader political issue of the role of organized labor in the country.

Such dynamics not only provide incentives for non-compliance with the ILO conventions, but also indicate why regulatory obligations on labor rights in general may be weaker than on other forms of human rights. What makes the ILO's monitoring system uniquely suitable for assessing the effectiveness of compliance reporting is the lack of centralized enforcement and a clear separation of reporting from the disgrace of construction. The ILO does not have effective means of enforcement through legal or financial sanctions. Instead, it is aimed to ensure compliance through monitoring by two oversight bodies: the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the Conference Committee on the Application of Conventions and Recommendations (CAS) (Koliev, 2020).

CEACR is composed of legal experts who act in a personal capacity and are appointed by the ILO's governing body. Its main task is to examine the extent to which laws and practices in Member States are in line with ratified conventions. His estimates are published annually. The CAS is a political body composed of government representatives, employees and employers. The composition reflects the unique tripartite structure of the ILO. Its main task is to study the CEACR reports and select cases for "discussion" – a euphemism for public disgrace. Selected cases are usually related to more serious violations. Given the discomfort of this procedure for non-compliant

[1] Rules of the Game: a brief introduction to International Labour Standards. Revised Edition 2014 // International Labour Organization. URL: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_318141.pdf (accessed: 12.11.2022).

states, the practice of disgrace has long been a contentious issue in the CAS. The shame of states on the part of the CAS is much less common than the countries listed in the CEACR reports as inappropriate. CAS disgraced 70 of the 154 states in the 1989–2011 dataset (Koliev, 2020).

Taking into consideration that Ukraine is on the path to European integration, one should pay attention to how the European Union and the ILO interact. K. Koldinská (2019) in her research adheres to the opinion of a lawyer Trstenyak on the case C-214/10 KHS, where she presented an interesting interpretation of the relationship between EU and ILO law: "Despite the long-standing cooperation between the European Union and the ILO in the field of economic and social policy and the fact that many Member States are its members, the European Union itself, as a supranational organization, has neither the status of a party nor an observer in the ILO. Thus, the compatibility of EU law with ILO law can in principle only be assessed in accordance with the binding criteria set by the Union itself. The ILO conventions simply set minimum international standards that may go beyond EU law". The ILO standards are taken into account in the application and interpretation of EU law, especially the CJEU. In various decisions, the CJEU referred to and actually applied ILO labor standards in its decisions. This shows that, despite of the fact that there is no direct link between ILO standards and EU law, the overall application of some core ILO standards can be effectively guaranteed by legal obligations common to all EU member states.

In the view of the above, it should be noted that international standards of labor organization are recognized worldwide. Therefore, non-observance of employees' labor rights is to neglect the basic norms of the world labor market, which hinders the development of the country as a social and democratic state. Establishing and enforcing labor rights is the basis of economic progress.

METHODOLOGY. This article attempts to study labor right by applying a research theory to the ILO standards through existing international legal instruments. The analysis is led under the governs of the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights towards an approach doctrinal tending to substantially enforce objective views.

RESULTS AND DISCUSSION

1. Rights of a state employee as a subject of labor law

The public service covers all persons performing official duties in state institutions, thus performing socially useful activities on behalf of the state. At the same time, a state employee is in fact an employee with a special legal status, which differs to some extent from the typical status of an employee regulated by the general norms of labor legislation. This difference can be broadly reduced to the following: a state employee is an employee employed by the state to perform state functions (i.e. functions that for reasons related to the need to ensure the proper functioning of the state or society cannot be entrusted to individuals on behalf of the state, and therefore has special rights and responsibilities due to the nature of the public service (Гладкий, 2018).

Foreign studies on the model of public administrations in the European Community show the ratio of the category of state employees with other staff of public law structures (employees employed). Researchers divide these countries into three groups and rightly note that: in the first group – state employees are practically synonymous with administrative staff (France, Portugal, Spain, Belgium, Ireland, Greece, and the Netherlands); in Luxembourg and Germany, the distribution of functional characteristics contrasts state employees with public law status and state employees and employees of administrations, although in these countries there are many cases where the same positions are held by officials (state employees) and non-officials (employees), in particular, at the post office and railway, as well as in general administrative services); in the United Kingdom, state employees are exclusively civil agents of the state, who make up less than one-sixth of the administration staff (Зіллер, 1996)

Based on the above, we can conclude that in most countries the model of legal status of state employees is a transformation of the model of legal status of employees, regardless of whether the legislator recognizes state employees as subjects of labor law. The main differences in the legal regulation of state employees and contract employees in Western European countries are considered to be the availability of employment guarantees, differences in recruitment systems, career development, pay systems and the scope of collective rights. However, the legal systems of different countries show an increasing leveling of differences in the legal status of state employees – enrolled in a single voluntary act of service or on a contractual basis (Гарасимів, 2018).

Legal regulation of the entire public service is based on general intersectoral principles of legal regulation of labor, based on national and international law. All state employees must be guaranteed general social and labor rights: to rest and labor protection, fair and decent remuneration for

work, professional training and retraining, promotion (service), associations to represent and protect their professional interests, individual and collective labor disputes, social security. As foreign practice shows, today there is a tendency to reduce the differences between the law of public administration and labor law in such an area as the scope of collective rights. For example, in the United Kingdom, state employees have long behaved similarly to typical employees.

Ukrainian scientist Liubymov (2019) singled out 3 groups of service and labor rights of state employees:

1) the rights of state employees as an individual and citizen in the field of labor (the right to respect for one's personality, honor and dignity, fair and respectful attitude of managers, colleagues and others; the right to participate in trade unions protect their rights and interests the right to participate in the activities of associations of citizens other than political parties);

2) the rights of a state employee related to the proper course of official duties (the right to clearly define job responsibilities; the right to unimpeded acquaintance with the documents on his/her service, including conclusions on the results of evaluation of his/her official activities; right to vocational training, in particular that financed by the state, etc.);

3) the rights of state employees to ensure a proper level of social security for state employees on the service, the right to leave, social and pension benefits in accordance with the law, etc.).

In almost all countries, the law allows the creation of trade unions in the public service, the conclusion of collective agreements with the administration, provides for the participation of employees in decision-making in their interests. In Italy, for example, the Framework Law of 1983 recognized the legal significance of collective agreements, which delegated part of the regulation of working conditions; in the United Kingdom, trade unions have a significant share in determining the regulations applicable to government officials (Гладкий, 2018).

The public service in France is a clearly regulated system of government with a spirit of hierarchy and loyalty to the state. These features, however, do not turn state employees into ordinary lack of initiative, which is only a mechanism of the state administration. In France, the legal status of an employee takes more into account the specifics of his/her employer, i.e. the state, and therefore is governed by the rules of administrative rather than labor law. It refers to the law of the public service, which is characterized by inequality of parties, special procedure for resolving labor disputes and additional restrictions on the employee with appropriate compensation, including material and moral (Паламарчук, Міроненко, 2019). However, the policy of public service renewal stipulates strengthening the influence of state employees' unions, improving the methodology of human resources management, and taking measures to establish social dialogue.

In Japan, state employees, consolidating, were able to gain recognition not only for their status as subjects of labor law, but also managed to win the right to form and participate in unions, which, quite remarkably, today are quite active in defending labor rights and legal interests of state employees (Гладкий, 2018).

Analyzing all the above, we can conclude that the legal status of state employees is regulated by two branches of law: administrative and labor. The rights of a state employee cannot be regulated by either of the above. As for the labor rights of state employees, we consider it necessary to equate their rights with the labor rights of other categories of employees, with some exceptions that are provided in connection with the exercise of power. Such exceptions have to be compensated by special legislation.

2. International experience of legal regulation of labor rights of state employees

As it was mentioned before, state employees are a specific subject of labor law, as their legal status is governed by both public law (as a state representative) and private law (as an employee), which complicates the proper enforcement of labor rights of this category of employees. Thus, in addition to general international standards of labor organization, the labor rights of state employees are determined by special international regulations. For a comprehensive analysis, we consider it necessary to turn to international standards for ensuring the labor rights of state employees, which is an unconditional guideline, especially in the period of Ukraine's European integration.

The ILO paid special attention to the regulation of social dialogue in the field of public administration and implementation of labor rights of state employees, which provided for the adoption of special international standards. Therefore, in 1978, the ILO General Conference adopted Convention No. 151 "On the Protection of the Right to Organize and to Procedures for Determining Conditions of Employment in the Public service" and Recommendation No. 159 "On Procedures for Determining Employment Conditions in the Public Service".

From the text of the ILO Convention No. 151 "On Protection of the Right to Organize and Procedures for Determining Conditions of Employment

in the Public Service" one can conclude that state employees are "persons employed by public authorities". The rules set out in it apply to persons to whom the more favorable provisions of other international labor conventions do not apply. State employees are classified into two categories. The first one refers to those covered by universal labor conventions or conventions on specific institutions of labor law. The special rules of this Convention apply to them only because the general rules are less favorable, or in cases where the rules of universal conventions do not apply in a particular state. The second category of state employees includes those whose activity is not in the nature of hired labor. As a rule, international labor conventions do not apply to them, and some norms can be extended only as a result of special regulation in national legislation (Шевелев, 2010).

The ILO Convention No. 151 contained provisions that were crucial for the launch of a mechanism to protect the interests of state employees and the development of social dialogue in public administration. These are, first of all, provisions on protection of the right to organize, providing opportunities for state employees "organizations, procedures for participation of state employees" representatives in determining employment conditions, negotiations between the parties and dispute settlement procedures, civil and political rights of state employees. Article 9 of this Convention states that state employees enjoy the same social, civil and political rights as other employees, which is important for the proper exercise of their right to freedom of association. Article 5 stated the right to full independence of state employees' organizations from public authorities, and article 4 guarantees proper protection of state employees against any discriminatory actions aimed at restricting the freedom of association in the field of employment[1].

However, article 1 of the Convention restricts the right to organize and determine the conditions of employment in the public service for high-level officials whose functions are generally considered to be policy or management, or for officials whose duties are strictly confidential. character, and officers of the armed forces and the police[2].

It should be noted that Ukraine has not yet ratified the ILO Convention No. 151, despite its extremely important legal significance. On 15.02.2019, a working meeting was held with the participation of representatives of central executive bodies, representative of the ILO, common representative authority of employers and trade unions on ratification of the ILO Convention on the Protection of the Right to Organize and Procedure for Determining Conditions of Employment No. 151. Yury Pizhuk, Chairman of the Trade Union, noted that for many years the Trade Union has been working to ratify ILO Convention No. 151 and stressed that today the Convention has been ratified by 55 countries, most of which are members of the European Union. "Ratification of the Convention will have a positive impact on the image of the state, in particular, will confirm our European aspirations, and contribute to additional guarantees to protect the interests of state employees and determine the conditions of employment in the public service"[3].

Ukraine's ratification of the ILO Convention No. 151 is important for the further development of social dialogue in the public service. In general, the legislation of Ukraine, which regulates the relations of social dialogue in the public service, meets the requirements of the ILO Convention No. 151. However, certain provisions of the Law of Ukraine "On Public Service" do not meet the requirements of the Convention (Сорочишин, 2018).

Thus, according to article 3 of the Convention, the term "state employee union" refers to any organization, regardless of its composition, which aims to support and protect the interests of state employees. However, the Law of Ukraine "On Public Service" gives the right to determine the conditions of employment only by representatives of trade unions. The participation of other freely elected representatives of employees in determining the working conditions and resolving issues for the public service is limited (Сорочишин, 2018).

It's worth noting that although international standards of labor rights for government officials in some countries may not be ratified, this does not mean that the state should not take measures to improve the legislative establishment of labor rights and their proper observance. If the improvement in working conditions is the result of stricter or more effective state regulation and monitoring, proponents of international labor standards should focus on helping developing

[1] Labour Relations (Public Service) Convention, 1978 (No. 151) // International Labour Organization. URL: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C151 (accessed: 12.11.2022).

[2] Ibid.

[3] На порядку денному ратифікація конвенції міжнародної організації праці № 151 // State Employees Union of Ukraine. URL: http://ppdu-ua.org/novyny/143-na-poryadku-dennomu-ratifikatsiya-konventsiji-mizhnarodnoji-organizatsiji-pratsi-151.html (accessed: 12.11.2022).

countries build that capacity. Given the widespread assumption that the country's weak administrative capacity is one of the most fundamental obstacles to improving labor rights and standards (Berliner et al., 2015). We agree with the above position, and consider it necessary to strengthen national legislation with the prospect of improving the situation of state employees, which are a necessary component of the functioning of the state.

The issue of social dialogue in the field of public administration is also addressed in the ILO Convention No. 154 on the Promotion of Collective Bargaining, which, along with the private sector, extends to the entire public service with the traditional exception of military and police. Although this Convention allows the public service to establish special forms of application of its provisions through national law, it also imposes an obligation on a State ratifying the Convention to facilitate a collective bargaining process to "determine working and employment conditions". The exercise of the right to collective bargaining to state employees, as declared in recent international instruments, has removed many pre-existing restrictions and objections to social dialogue (Петроє, 2012).

The ILO Convention No. 117 on the Basic Objectives and Norms of Social Policy of 1962 and ILO Convention on Wage Protection of 1949 are also fundamental in the field of public service as one of the specific types of labor relations.

Thus, article 1 of the Convention No. 95 states that this Convention shall apply to all persons to whom salary is paid or is payable. In the Convention, salary refers to any remuneration, regardless of the name and method of accrual, which is paid in cash within the limits established by agreement or national law. Thus, salary protection guarantees apply to all forms of earnings, including salaries received by state employees.

In addition, as noted by O. K. Liubymov (2019): "An important European standard of administrative and legal support is the proper remuneration of state employees. In European countries, the issue of adequate and decent pay is given considerable attention, because a decent salary is not only a necessary social standard, an effective incentive for state employees to perform their duties properly and properly, but also an important factor in preventing corruption in public administration. bodies, reducing the risk of various corruption schemes for money laundering, additional benefits and illegal enrichment".

In economically developed countries, the size of salaries, as well as all the planned allowances to the salaries of state employees are mainly set by law and are quite transparent to society. The level of payment depends on the position, length of service and rank of the employee. At the same time, the system of remuneration in the public sector often differs from the system of remuneration in the commercial sector (Головачова, 2017).

The salary of a state employee in Germany is comprised of basic salary, local surcharge, allowances and other additional payments. All issues related to salaries are regulated on a common legal basis and are valid for employees of the Federation, lands and communities. The constitutional basis for the remuneration of German employees is the principle of "retention" – one of the basic principles of official status. The state must take care of the welfare of the employee and his/her family, provide assistance and protect him/her in the employment. In fact, the state does not pay for the work of an employee, it rather pays for his/her function. Remuneration should be reasonable and commensurate with the position held. It should provide the employee with the opportunity to fully commit to the work, as only a financially independent employee can work wholeheartedly for the state (Лопушинський, 2014).

In France, employees' salaries are comprised of three parts: basic salary, additional remuneration and social benefits. There is a strict system of payment of basic salary to employees. Only work already done is paid. Moreover, only the work that is included in the scope of official duties is paid (Головачова, 2017).

Foreign experts state that the percentage of salaries in Ukraine is very low compared to the EU countries, and most of the allowances are set at the discretion of the executive. This approach leads to the dependence of the subordinate on the will of the executive and shifts the emphasis in the work of the employee from the field of unbiased professional performance of one's duties towards interpersonal relationships with the executive. The researcher emphasizes that the existing principle of incentives also creates a problem with staff vacancies, when vacancies are unintentionally not filled, and executives get a bonus for saving money (Любимов, 2019)

According to the Decree of the President of Ukraine dated March 5, 2004 No. 278/2004 "On the Concept of Adaptation of the Public Service Institution in Ukraine to European Union Standards", salaries of state employees shall be competitive in the labor market and ensure the interest of state employees in promotion. The amount of their salary should be related to the final results of work, quality and efficiency of management functions. However, in practice the provisions of this decree remain unimplemented.

Article 14 of the ILO Convention No. 117 claims that the main purpose of the social policy of the member states is to prevent any discrimination among employees with regard to their race, color, sex, religion, trade union membership in: a) labor law and agreements providing equal economic conditions for all who work and legally reside in the country; b) admission to public or private service; c) terms of employment and promotion. Thus, the need to extend labor rights and guarantees to persons in the public service is recognized and, accordingly, justified at the international level. The expediency of such an approach is dictated by the nature of labor relations, primarily as legal relations that establish high social guarantees for persons who apply their work in the public authorities (Шевелев, 2010).

Apparently, the ILO has not deprived the attention of such a subject of labor activity as state employees. The above special international legislation is designed to establish equal rights for state employees to avoid discrimination with regard to one's profession or occupation. In addition, the international community emphasizes that it is wrong to narrow the list of labor rights of employees whose main function is to protect the rights and freedoms of others, and performance of functions of the state.

CONCLUSION. In the view of the above, we can conclude that labor rights derive from the status of the employee, and are expressed in statutory and regulatory rules of conduct. Human rights in the field of labor are widely regulated not only in national legislation, but also at the international level. Modern conditions of the market economy actualize the strengthening of supranational regulation of the labor market and control over the implementation of declared rights in the field of labor. International labor standards make it possible to ensure labor rights at a sufficiently high level.

The adoption of modern national legislation on the organization of labor, its harmonization with the relevant ILO standards is a significant step forward, but not enough for the effective operation of the system of standards at the national level. It is extremely important to achieve the implementation and effective actual application of these standards at the local level.

According to the results of the theoretical analysis, we can say that the relations in the field of state employees are within the scope of labor law. A state employee performs his/her job function personally and shall be subject to official discipline, special rules established at both the local and state levels. When using the work of state employees, labor relations arise, but taking into account the specifics of their work, imposed duties, primarily in relation to the official functions of state employees and their responsibilities. In exercising his/her powers, a state employee in one way or another affects both public and private interests.

In matters of legal regulation of employment of state employees democratically developed states tend to establish adequate protection of their personal rights and interests in the process of service, which are designed to ensure the rules of labor law. In Ukraine, the legislative level establishes extension of labor law to public service relations. Meanwhile, performance of state functions as the scope of labor activity of state employees necessitates establishment of special regulations that would take into account the specifics of their work. It is important that the introduction of special legislation regulating the work of state employees is carried out in accordance with international law, its requirements and guarantees.

International labor standards are valid for all categories of employees, including state employees. If certain labor rights specified in international legal acts cannot be applied to state employees, there are special legal acts, such as the ILO Convention No. 151, provided for that.

The exercise of labor rights formalized in international regulations is a reality in public administration in developed countries and in many developing countries. This confirms the desire of different social groups to equality in the sense of equal distribution of wealth, use existing opportunities to improve their position.

Moreover, implementation of international standards of social dialogue is an effective tool in ensuring rights of state employees to freedom of association, collective bargaining, and their right to strike. Social dialogue creates conditions for realization of fundamental rights in the field of labor, is an integral part of ensuring high quality services provided by public authorities to their citizens, promoting good governance and transparency in the public service, finding specific ways to achieve sustainable national development and promoting social cohesion.

As the experience of foreign countries shows, solely by providing state employees with proper labor rights they can achieve high efficiency of the state functioning, economic development and quality services in the public sector.

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ВНЕДРЕНИЕ МЕЖДУНАРОДНОГО ОПЫТА ПРАВОВОГО РЕГУЛИРОВАНИЯ ТРУДОВЫХ ПРАВ ГОСУДАРСТВЕННЫХ СЛУЖАЩИХ

Проанализирован зарубежный опыт правового регулирования трудовых прав государственных служащих. Изучено влияние стандартов Международной организации труда на трудовое право Украины. Установлена сфера действия трудового законодательства по регулированию труда государственных служащих. Определено, что отношения в сфере труда государственных служащих входят в сферу действия трудового права, но с учетом специфики их работы, возлагаемых на них обязанностей, прежде всего в отношении служебных функций. Сделан вывод, что ратификация и соблюдение международных стандартов организации труда является одним из перспективных направлений развития страны и повышения ее международного имиджа как демократического и социально ориентированного государства.

Ключевые слова: *трудовое право, Международная организация труда (МОТ), государственная служба, специальный правовой статус, организация труда, международные стандарты.*

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УПРОВАДЖЕННЯ МІЖНАРОДНОГО ДОСВІДУ ПРАВОВОГО РЕГУЛЮВАННЯ ТРУДОВИХ ПРАВ ДЕРЖАВНИХ СЛУЖБОВЦІВ

Статтю присвячено аналізу міжнародного досвіду правового регулювання трудових прав працівників державної служби. Вивчено умови, за якими державним службовцям мають бути забезпечені високі стандарти трудових прав, гідні умови праці та матеріальне забезпечення. Досліджено вплив міжнародних трудових стандартів на забезпечення трудових прав державних службовців на національному рівні з метою вдосконалення правового регулювання гарантій їх трудових прав в Україні. Розглянуто необхідність імплементування в національне законодавство міжнародних стандартів і створення сприятливих умов для їх упровадження. Визначено перелік трудових прав працівників, в тому числі державних службовців, відповідно до найважливіших міжнародних нормативно-правових актів: Загальної декларації прав людини; Міжнародного пакту про економічні, соціальні та культурні права; конвенцій Міжнародної організації праці. Наголошено, що конвенції та рекомендації Міжнародної організації праці відіграють значну роль у реалізації та розвитку національного трудового законодавства. Міжнародні стандарти організації праці виступають надійним фундаментом для формування та розвитку національного трудового права.

Окреслено сферу дії норм трудового законодавства на регламентування праці державних службовців. Визначено, що відносини у сфері праці державних службовців входять до сфери дії трудового права, але з урахуванням специфіки їх роботи, обов'язків, що покладаються на них, насамперед стосовно службових функцій. Розглянуто досвід правового регулювання трудових прав державних службовців різних країн світу, що ратифікували та виконують конвенції Міжнародної організації праці.

Проаналізовано стандарти Міжнародної організації праці з питань соціального діалогу в державних органах. Зроблено висновок, що ратифікація та дотримання міжнародних стандартів організації праці є одним із перспективних напрямів розвитку країни та покращення її міжнародного іміджу як демократичної та соціально орієнтованої держави. Ухвалення сучасного національного законодавства щодо організації праці, його гармонізація з відповідними стандартами Міжнародної організації праці є значним кроком уперед, але недостатнім для ефективної роботи системи стандартів на загальнонаціональному рівні. Вкрай важливо досягти впровадження та ефективного фактичного застосування цих стандартів на локальному рівні.

Ключові слова: *трудове право, Міжнародна організація праці (МПО), державна служба, спеціальний правовий статус, організація праці, міжнародні стандарти.*

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