

УДК 349.2

DOI: 10.37635/jnalsu.27(2).2020.107-118

Костянтин Юрійович Мельник

*Кафедра трудового та господарського права
Харківський національний університет внутрішніх справ
Харків, Україна*

СУЧАСНИЙ СТАН ТА ТЕНДЕНЦІЇ ПРАВОВОГО РЕГУЛЮВАННЯ ДІЯЛЬНОСТІ ПРОФЕСІЙНИХ СПІЛОК В УКРАЇНІ

Анотація. У статті здійснюється наукове опрацювання актуальної проблеми як для науки трудового права, так і для нормотворчої діяльності щодо сучасного стану та тенденцій правового регулювання діяльності професійних спілок в Україні. Актуальність дослідження обумовлене значенням соціального діалогу як в сфері праці, так і в інших сферах життєдіяльності українського суспільства для сталого розвитку національної економіки та держави у сучасних умовах. Мета статті полягає у наданні науково обґрунтованих висновків та пропозицій із удосконалення правового регулювання діяльності професійних спілок в Україні. У роботі із застосуванням загальнонаукових і спеціальних методів наукового пізнання (діалектичного, формально-логічного, порівняльно-правового, системного аналізу) розглянуто правовий статус професійних спілок; порівняно норми чинного національного трудового законодавства та законодавства в сфері прав професійних спілок з нормами проектів Трудового кодексу України, Закону України «Про працю» тощо, які передбачають права професійних спілок. Зроблено висновок про необхідність: 1) у сучасному і майбутньому національному трудовому законодавстві та законодавстві в сфері прав професійних спілок максимально зберегти норми, які спрямовані на забезпечення належної діяльності професійних спілок як представників і захисників трудових прав своїх членів у відносинах з роботодавцями та підтримання високого авторитету і статусу професійних спілок на підприємствах, установах, організаціях; 2) запровадження нових форм та методів діяльності професійних спілок в Україні, а також координації їх діяльності та об'єднання з професійними спілками, що діють на наднаціональному рівні; 3) забезпечити рівність прав всіх професійних спілок в Україні та можливість користування правами, повноваженнями і гарантіями діяльності, передбаченими національним трудовим законодавством та законодавством в сфері прав професійних спілок, в повному обсязі.

Ключові слова: професійна спілка, соціальний діалог, трудові права, працівник, роботодавець, трудові правовідносини.

Kostiantyn Yu. Melnyk

*Department of Labour and Economic Law
Kharkiv National University of Internal Affairs
Kharkiv, Ukraine*

CURRENT STATE AND TRENDS IN THE LEGAL REGULATION OF TRADE UNIONS IN UKRAINE

Abstract. The paper investigates the relevant issues in both the science of labour law and the rule-making activities on the current state and trends in the legal regulation of trade unions in Ukraine.

The relevance of the study is conditioned by the importance of social dialogue both in world of work and in other spheres of life of Ukrainian society for the sustainable development of the national economy and the state in modern conditions. The purpose of the paper is to provide scientifically sound conclusions and proposals for improving the legal regulation of trade unions in Ukraine. The study applied general scientific and special methods of scientific knowledge (dialectical, Aristotelian, comparative legal, system analysis) to inspect the legal status of trade unions; the provisions of the current national labour legislation and the legislation in the field of trade union rights were compared with the provisions of the draft Labour Code of Ukraine, the Law of Ukraine "On Labour", etc., which stipulate the rights of trade unions. The study concludes on necessity of the following: 1) to preserve to the full the provisions aimed at ensuring the proper operation of trade unions as representatives and defenders of labour rights of their members in relations with employers and maintenance of high authority and status of trade unions in enterprises, institutions, organisations in current and future national labour legislation and legislation on trade unions; 2) to introduce new forms and methods of activity of trade unions in Ukraine, as well as to coordinate their activities and association with trade unions operating at the supranational level; 3) to make maximum effort to ensure equality of rights of all trade unions in Ukraine and the possibility of exercising the rights, powers, and guarantees of activities stipulated by national labour legislation and legislation in the field of trade union rights.

Keywords: trade union, social dialogue, labour rights, employee, employer, labour relations.

INTRODUCTION

Nowadays, the society is witnessing a significant downturn in Ukraine's economy, caused primarily by quarantine restrictions aimed at combating the spread of coronavirus infection (COVID-19). In the earlier published macroeconomic forecast for 2020, the Cabinet of Ministers of Ukraine has worsened the forecast for inflation, wages, and gross domestic product even more. This is stated in the Resolution of the Cabinet of Ministers of Ukraine No. 253 of March 29, 2020: "To amend the Resolution of the Cabinet of Ministers of Ukraine No. 555 of May 15, 2019 "On approval of the Forecast of economic and social development of Ukraine for 2020-2022"¹. In particular, according to the amended forecast, the inflation rate will increase to 11.6% from 8.7%, and Ukraine's GDP in annual terms will fall by 4.8% from the previously projected 3.9% [1].

The author addresses the fact that since March 12, 2020, quarantine has been introduced in Ukraine for all educational institutions [2]. Since March 17, 2020, the operation of shopping and entertainment centres, fitness centres, restaurants, and cafes has been temporarily banned. Since March 18, 2020, the government has banned regular and irregular transportation of passengers by road in suburban, long-distance, intra-regional and inter-regional traffic; transportation of more than 10 passengers simultaneously in trams, trolleybuses, and motor transport, in buses performing regular passenger transportation on city routes; transportation of passengers by subway in Kyiv, Kharkiv, and Dnipro; transportation of passengers by rail in all types of domestic connections (suburban, urban, regional, and long-distance) [3]. Since April 6, 2020, the government has been forbidden to stay in public places without wearing a mask or respirator; movement of groups of more than two people (except in cases of operational necessity and

¹ Resolution of the Cabinet of Ministers of Ukraine No 253. (2020, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/253-2020-%D0%BF#Text>

accompaniment of children); stay of persons under 14 years of age, unaccompanied by parents, in public places; visiting parks, squares, recreation areas, forest parks, and coastal areas (except for walking pets by one person and in case of operational necessity); visiting sports and children's playgrounds; visiting institutions and facilities providing palliative care, social protection, institutions and facilities providing social services; being on the streets without identity documents, etc. [4].

Razumkov Centre's economic programmes expert V.R. Sidenko notes that Ukraine was not economically prepared for the introduced restrictions as the country has neither reserves nor money. Therewith, the state has chosen the simplest way to fight the infection: to stop and ban everything [5]. The above prohibitions led to the suspension of activities of numerous enterprises and institutions, which in turn began to send employees on unpaid leave or dismiss them. This could not but affect the level of unemployment in Ukraine. Thus, the report of the State Employment Service, published on May 5, 2020, states: "As of May 4, 2020, the number of the unemployed registered with the State Employment Service amounts to 456.8 thousand people, which indicates a surplus of almost 148.5 thousand people, or 48% increase compared to the statistics on the same date last year" [6]. In view of the above, at present, it is becoming increasingly important to establish high-quality interaction between labour and capital through social dialogue so as to mitigate the adverse effects of Ukraine's economic downturn [7-10]. According to Article 1 of the Law of Ukraine "On Social Dialogue in Ukraine", social dialogue constitutes a process of defining and converging positions, reaching joint agreements and making agreed decisions by the parties to social dialogue, representing the interests of employees, employers, and executive authorities and local governments, on the development and implementation of state social and economic policy, regulation of labour, social, economic relations¹.

Trade unions are one of the parties to social dialogue. Historically established in the era of the birth of capitalism to collectively protect the labour rights and interests of employees, trade unions still have considerable authority in society and the state. Therewith, recent years have demonstrated a tendency to weaken the legal status of trade unions through amendments to national legislation. In this regard, the scientific analysis of the current state of legal regulation of trade unions in Ukraine and its development trends is considered to be important.

1. MATERIALS AND METHODS

The paper is based on the study of scientific achievements of Ukrainian and foreign scholars and the results of research on national legislation on the rights of trade unions. The study explored the scientific articles of representatives of the science of labour law, which highlighted the problems of legal regulation of trade unions in Ukraine and abroad. The study investigated the provisions of the Constitution of Ukraine², the Labour Code of

¹ Law of Ukraine No 2862-VI "On Social Dialogue in Ukraine". (2010, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/2862-17#Text>.

² Constitution of Ukraine. (1996, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>.

Ukraine¹, the laws of Ukraine "On trade unions, their rights and guarantees of activity"², "On social dialogue in Ukraine"³, "On the National Police"⁴ and an array of draft laws, such as the draft Labour Code of Ukraine No. 1658 in the wording prepared for the second reading of 24.07.2017, the draft Labour Code of Ukraine No. 2410 of 08.11.2019, the draft Law of Ukraine "On Labour" No. 2708 of 28.12.2019, the draft Law of Ukraine "On Amendments to some legislative acts of Ukraine (on certain issues of trade unions) No. 2681 of 27.12.2019⁵. To achieve the purpose of the study, which is to provide scientifically sound conclusions and proposals on improvement of the legal regulation of trade unions in Ukraine, the appropriate research algorithm was selected, inherent in the set of collected materials, conditions, and forms of labour. The methodological framework of the study included general scientific and special scientific methods, the use of which is conditioned by the purpose of the study and the necessity of the use of the theoretical achievements of the science of labour law in national legislation. The paper used the dialectical method, the Aristotelian method, the comparative legal method, and the method of system analysis. In their interaction, the said methods allowed to carry out a full-fledged completed legal study. Each of the methods was used at a particular stage of the study, thus the methodology is balanced, sound, and comprehensive.

The basis of the research methodology is the dialectical method as an objectively necessary logic of the cognition process, which allows to consider the studied phenomenon in its development, the interrelations associated with the material conditions of social life. This method allowed the study to reveal the essence of such a complex institution of civil society as a trade union. The dialectical method allowed to consider the legal regulation of trade unions in the specific historical conditions of modern Ukraine and to determine the appropriateness of the reform measures proposed in recent years, aimed at weakening the role of trade unions in protecting labour rights. The Aristotelian method provided an opportunity to study the current state of legal regulation of trade unions in Ukraine and to suggest directions for its development. With the help of the Aristotelian method, the shortcomings of the legislative provisions in the field of trade union rights, which may affect the quality of guarantees of labour rights of employees in labour relations, were identified, and proposals for their elimination were provided.

The comparative legal method was used during consideration and comparison of provisions that stipulate the rights of trade unions, comprehensive draft acts of labour legislation with the corresponding provisions of the Labour Code of Ukraine. The use of the comparative legal method also allowed to determine the differences between the provisions of the Labour Code of Ukraine in the field of trade union rights and the relevant provisions of special legislation, in particular the Law of Ukraine "On the National Police".

¹ Labour Code of Ukraine. (1996, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08#Text>

² Law of Ukraine No 1045-XIV "On trade unions, their rights and guarantees of activity". (1999, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/1045-14#Text>.

³ Law of Ukraine No 2862-VI "On Social Dialogue in Ukraine". (2010, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/2862-17#Text>.

⁴ Law of Ukraine No 580-VIII "On the National Police" of July 2, 2015. Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19#Text>.

⁵ Draft Law of Ukraine No 2681 "On Amendments to Certain Legislative Acts of Ukraine (Regarding Certain Issues of Trade Unions' Activities). (2019, December). Retrieved from http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67792.

The method of systematic analysis was used in the study of scientific positions on the appointment of trade unions in the state, as well as the relevant rules of national legislation. System analysis convincingly proves the need to ensure the high legal status and authority of trade unions in Ukraine, to preserve the positive developments of legislators of different historical periods on the rights of trade unions, the introduction of new forms and methods of trade unions.

2. RESULTS AND DISCUSSION

The right of every person to establish and join trade unions for the protection of their interests is stipulated by the most authoritative international instrument, the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948¹. The rights of trade unions and the guarantees of their activities are stipulated in more detail at the international level, for instance, in the conventions and recommendations of the International Labour Organisation, which is a specialised agency of the United Nations. In particular, in accordance with Articles 2 and 3 of the ILO Convention No. 87, Freedom of Association and Protection of the Right to Organise Convention (1948)², workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation, as well as the right to join such organisations with a single condition to be subject to the constitutions of the latter. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof³.

I. Ya. Kiselyov, a researcher of labour law of foreign countries, notes that the right to unite in trade unions constitutes one of the most important rights in a civilised society, and its implementation is an indicator of the existence of democracy therein. Trade union freedom presupposes political and financial independence of trade unions from the state, political parties, entrepreneurs, and the church, which is usually carefully verified upon the state registration of trade unions in market economies [11]. At present, the world witnesses a high authority of trade unions and the tendency to unite them at the supranational level. In recent years, the international trade union movement has evolved from disparate to various regional and intergovernmental organisations into a fairly powerful mechanism for representing workers who are employed primarily in transnational corporations (TNCs). Thus, at the 2nd Congress of IndustriALL, which is one of the largest and most influential international unions, which took place in Rio de Janeiro on October 3-7, 2016, the Secretary General of this trade union J. Raina noted the following: "In the struggle against capital, we need the maximum possible unity. Workers in the world do not need 600 different unions: unions must join forces to benefit workers" [12]. As noted in the legal

¹ Universal Declaration of Human Rights, adopted by the United Nations General Assembly. (1948, December). Retrieved from https://zakon.rada.gov.ua/laws/show/995_015#Text.

² ILO Convention on Freedom of Association and Protection of the Right to Organize No 87. (1948). Retrieved from https://zakon.rada.gov.ua/laws/show/993_125#Text.

³ *Ibidem*, 1948.

literature, one of the legal forms of international trade unions is the conclusion of international framework agreements with transnational corporations (TNCs), which are beneficial primarily to employees as they prevent the management of TNCs to take advantage of international wage differentiation, working conditions, competition between workers in different countries, as well as greater mobility of capital than that of workforce [13-15].

The current legislation of Ukraine gives citizens the right to establish and take part in trade unions, stipulates a fairly high legal status of trade unions, providing them with every opportunity to act as independent representatives and defenders of labour rights and interests of workers [16; 17]. This is evidenced by the stipulation of the legal status of trade unions in the Constitution of Ukraine (Article 36), as well as a wide scope of rights and powers of trade unions to influence labour relations enshrined in the Law of Ukraine "On trade unions, their rights and guarantees of activity" and the Labour Code of Ukraine. Extensive powers of trade unions, stipulated by the main national labour law of Ukraine, the Labour Code of Ukraine (LCU), are of particular importance for the proper operation of trade unions and security of their authority in labour relations. These powers allow them to influence management decisions made by the employer within the enterprise. This prompts the employer to take the opinion of the trade union into consideration and agree with it on appropriate decisions. Thus, in accordance with Part 1 Article 27 of the LCU, the employer must agree with the relevant elected body of the primary trade union organisation to set a test for employment for a period of three to six months. Article 43 of the LCU provides for several cases of termination of an employment contract at the initiative of the employer with the prior consent of the elective body of the primary trade union organisation (trade union representative). Pursuant to Part 1 Article 45 of the LCU at the request of the elected body of the primary trade union organisation (trade union representative) the employer must terminate the employment contract with the head of the enterprise, institution, organisation, if they violate labour legislation, collective agreements, Law of Ukraine "On trade unions, their rights and guarantees of activity". Article 64 of the LCU stipulates that overtime work may be carried out only with the permission of the elective body of the primary trade union organisation (trade union representative) of the enterprise, institution, organisation. In accordance with Part 1 Article 71 of the LCU, involvement of individual employees to work on weekends is allowed only with the permission of the elective body of the primary trade union organisation (trade union representative) of the enterprise, institution, organisation, and only in exceptional cases specified by law and in part 2 of the said article. Part 4 Article 79 of the LCU stipulates that the order of annual leave is determined by schedules approved by the employer in agreement with the elected body of the primary trade union organisation (trade union representative), and is communicated to all employees. In accordance with Part 3 Article 80 of the LCU, annual leave at the initiative of the employer, as an exception, may be postponed only with the written consent of the employee and in agreement with the elective body of the primary trade union organisation (trade union representative) in case the provision of annual leave for a previously agreed period may adversely affect normal course of operation of the enterprise, institution, organisation, and provided that part of the

leave of at least 24 calendar days will be used in the current working year¹.

Notably, the trend of the recent years in Ukraine has been an attack on the rights of trade unions. This is eloquently evidenced by the provisions of the latest drafts of the Labour Code of Ukraine and the draft Law of Ukraine "On Labour"², which were submitted to the Verkhovna Rada of Ukraine for consideration. These draft laws propose that most of the above decisions of the employer at best only inform the trade union. Thus, Article 39 "Term of probation upon employment" of the draft Labour Code of No. 1658 in the wording prepared for the second reading of 24.07.2017, does not stipulate the rights of the elective body of the primary trade union organisation upon establishing probation for employment for a period of three to six months. Article 98 of the Draft No. 1658 establishes only the possibility of terminating an employment contract with the head of a legal entity at the proposal of the elective body of the primary trade union organisation in case the head violates labour legislation, evades concluding a collective agreement or fails to perform obligations. Part 2 Article 153 of the Draft No. 1658 stipulates that the employer may apply overtime work with the obligatory prior notification of the elective body of the primary trade union organisation (trade union representative). In accordance with Part 4 Article 162 of the Draft No. 1658, the involvement of employees in work on their days-off is carried out by a written order (instruction) of the employer, which the relevant employees must read and understand prior to starting work on the day-off. A copy of the order (instruction) on the involvement of employees to work on the day-off shall be submitted to the elective body of the primary trade union organisation (trade union representative) no later than the next working day after its signing³.

Draft Labour Code of Ukraine No. 2410 dated November 8, 2019, submitted by the People's Deputies of Ukraine N.Yu. Korolevska, S.M. Larin, V.P. Bort, O.S. Kachnyi, Yu.V. Malt, V.F. Kaltsev, in Articles 39, 98, 153, 162 stipulates the same rules regarding the powers of trade unions as the above-mentioned Project No. 1658 [18]. In the draft Law of Ukraine "On Labour" No. 2708 of 28.12.2019, introduced by the Cabinet of Ministers of Ukraine, trade unions are mentioned only in the Final Provisions. In particular, the Cabinet of Ministers of Ukraine is instructed to organise work on the development of a draft law on the activities of trade unions in Ukraine within six months from the date of publication of this Law⁴. Special attention needs to be paid to the draft Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine (Regarding Certain Issues of Trade Unions' Activities)" No. 2681 of December 27, 2019. The explanatory memorandum to the draft law No. 2681 explains that the legislative framework that regulates this area is outdated, thereby revealing the necessity of introducing changes in the context of updating legislation and strengthening the role of the individual worker in trade unions. The purpose of the act is to harmonise the provisions of the Labour Code of Ukraine and of the Law of Ukraine "On trade unions, their rights and guarantees of activity" with modern working conditions, as well as to eliminate duplication of functions by trade unions as a subject to

¹ Labour Code of Ukraine. (1996, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08#Text>

² Draft Law of Ukraine No 2708 "On Labor". (2019, December). Retrieved from http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67833.

³ Labor Code of Ukraine. (1996, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08#Text>

⁴ *Ibidem*, 1996.

which such functions do not belong¹.

This purpose appears to be right, it is quite justified in terms of reforming national legislation and living conditions of the population of Ukraine. However, the analysis of the provisions of the draft law itself suggests yet another attempt to weaken the position of trade unions as defenders of labour rights of their members. Moreover, certain provisions of the draft Law No. 2681 do not comply with the provisions of international acts ratified by Ukraine, in particular the International Covenant on Economic, Social, and Cultural Rights and the ILO Convention No. 87– Freedom of Association and Protection of the Right to Organise Convention². In the legal literature, attention is drawn to the following shortcomings of the Draft No. 2681. Thus, V.V. Zhernakov points out that Draft No. 2681 established a limit on the number of trade unions in one enterprise (not more than 2 primary trade unions) and a quantitative qualification for one trade union (not less than 10 people). Furthermore, it was proposed to regulate the mandatory reporting of elected trade union bodies to their members and to establish control commissions in trade unions and associations of trade unions. The scholar notes that these rights belong exclusively to the organisations themselves, and they independently choose the ways to exercise the powers granted to them by current legislation. V.V. Zhernakov emphasises that as long as trade unions do not violate the law and do not affect the rights and legitimate interests of other entities, they are independent and free in their actions [19]. The provisions of the Draft No. 2681 on deprivation of the elective body of the primary trade union organisation of the powers stipulated by Paragraph 9 Part 1 Article 247 of the LCU also raise doubts regarding the decision to require the employer to terminate the employment contract (agreement) with the head of the enterprise, institution, organisation, in case it violates the Law of Ukraine "On trade unions, their rights and guarantees of activity", labour legislation, evades participation in negotiations concerning the conclusion or change of the collective agreement, does not perform obligations under the collective agreement, admits other violations of the legislation on collective agreements. This also includes the provisions on deprivation of the employer of the obligation stipulated by Part 2 Article 249 of the LCU, on the provision of premises for the work of an elective trade union body and a meeting of employees who are members of a trade union with all necessary equipment, communications, heating, lighting, cleaning, transport, security in accordance with the procedure stipulated by the collective agreement.

The author of this study believes that, both at present and in the future, it is necessary to preserve in the national labour legislation the rules aimed at ensuring the proper functioning of trade unions and maintaining their high authority and status as representatives and defenders of labour rights of their members in relations with employers. This will contribute to social peace in labour-capital relations and ultimately create the conditions for sustainable development of the national economy and statehood. At present, another problematic issue is that some trade unions cannot fully exercise their rights and powers under general labour legislation and legislation in the field of trade union

¹ Draft Law of Ukraine No 2681 "On Amendments to Certain Legislative Acts of Ukraine (Regarding Certain Issues of Trade Unions' Activities). (2019, December). Retrieved from http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67792.

² ILO Convention on Freedom of Association and Protection of the Right to Organize No 87. (1948). Retrieved from https://zakon.rada.gov.ua/laws/show/993_125#Text.

rights [20-25]. Thus, nowadays the national legislation allows to create trade unions in law enforcement agencies, in particular the National Police of Ukraine. In accordance with Part 1 Article 114 of the Law of Ukraine "On the National Police"¹, to protect their rights and legitimate interests, police officers may form trade unions and trade associations in accordance with the Law of Ukraine "On trade unions, their rights and guarantees of activity". In 2017, the All-Ukrainian Trade Union of the Ministry of Internal Affairs of Ukraine was established in Ukraine, which operates on the basis of national legislation and the Statute of the All-Ukrainian Trade Union of the Ministry of Internal Affairs of Ukraine, approved by the Constituent Congress of the All-Ukrainian Trade Union of the Ministry of Internal Affairs of Ukraine (Minutes No. 1 dated October 6, 2017).

The All-Ukrainian Trade Union of the Ministry of Internal Affairs of Ukraine constitutes an all-Ukrainian voluntary non-profit public organisation, which is established on territorial and branch grounds and unites civil servants, employees of the Ministry, territorial bodies, institutions, agencies under the Ministry of Internal Affairs of Ukraine with the purpose of representation, implementation, and protection of their labour, socio-economic rights and interests². Currently, the bodies and departments of the National Police of Ukraine have established and operating centres of the above-mentioned trade union [26-28]. Their activities mainly cover the provision of the membership fees: financial assistance to union members in connection with the birth of a child, for treatment due to illness of a union member or his close relatives, for the burial of a union member or his close relatives; gifts to minor children of trade union members for the holidays; tickets for union members to theatres and other cultural institutions; reimbursement to trade union members and their family members of the cost of vacation packages for health resort institutions and wellness facilities, etc. The most important task of any trade union is to protect the labour rights of its members, and trade unions that operate in the bodies and divisions of the National Police of Ukraine cannot implement them in full. First of all, this is conditioned by the fact that the main omnibus act governing service in the National Police of Ukraine – the Law of Ukraine "On National Police" does not stipulate the legal status of police unions and does not prescribe approval or permission on certain issues of service and dismissal from it in a trade union as is the case with regard to labour relations of employees in the Labour Code of Ukraine. The author believes that to ensure the proper functioning of trade unions in the bodies and units of the National Police of Ukraine for the protection of labour rights of police officers, it is necessary to increase the legal status of these organisations in relation to service in the National Police of Ukraine. For this purpose, it is expedient to prescribe the provisions of the Labour Code of Ukraine regarding the rights of trade unions in the Law of Ukraine "On the National Police".

CONCLUSIONS

1. In the current and future national labour legislation and legislation in the field of trade union rights it is necessary to preserve the rules aimed at ensuring the proper functioning

¹ Law of Ukraine No. 580-VIII "On National Police" dated 2 July 2015. Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19#Text> (accessed date: 18.04.2020).

² Charter of the All-Ukrainian Trade Union of the Ministry of Internal Affairs of Ukraine. Retrieved from https://mvs.gov.ua/upload/file/statut_vps_re_str..pdf.

of trade unions as representatives and defenders of labour rights of their members in relations with employers and maintaining high authority and status of trade unions at enterprises, institutions, organisations.

2. There is a necessity of introducing new forms and methods of activities of trade unions in Ukraine, as well as of coordinating these activities and uniting them with supranational trade unions.

3. It is necessary to ensure the equality of rights of all trade unions in Ukraine and the possibility of exercising in full the rights, powers, and guarantees of activities stipulated by national labour legislation and legislation in the field of trade union rights.

REFERENCES

- [1] The Cabinet has downgraded the forecast for inflation, wages, and GDP in 2020. Retrieved from <https://www.unian.ua/economics/finance/10943993-kabmin-pogirshiv-prognoz-shchodo-inflyaciji-zarplati-i-vvp-na-2020-rik.html>.
- [2] From March 12, a three-week quarantine will be introduced in all educational institutions. Retrieved from <https://mon.gov.ua/ua/news/z-12-berezhnya-zaprovdzhuyetsya-tritizhnevij-karantin-u-vsih-zakladah-osviti>.
- [3] Close all shopping malls, cafes and restaurants. Ukraine imposed severe restrictions due to coronavirus. Retrieved from <https://tsn.ua/ru/ukrayina/zakryt-vse-trc-kafe-i-restorany-v-ukraine-iz-za-koronavirusa-vveli-zhestkie-ogranicheniya-1509078.html>.
- [4] The government has approved new restrictive measures to combat the coronavirus. Retrieved from <https://www.kmu.gov.ua/news/uryad-zatverdiv-novi-obmezhuvalni-zahodi-u-borotbi-z-koronavirusom>.
- [5] Unemployment growth: is it possible to overcome the crisis in the labour market and at what cost. Retrieved from <https://www.slovoidilo.ua/2020/04/20/pogljad/ekonomika/zrostannya-bezrobittya-chy-mozhlyvo-podolaty-kryzu-rynku-praczi-ta-raxunok-choho>.
- [6] The number of unemployed in Ukraine has grown by almost 50 percent. Retrieved from <https://www.dw.com/uk/%D0%BA%D1%96%D0%BB%D1%8C%D0%BA%D1%96%D1%81%D1%82%D1%8C-%82%D0%BA%D1%96%D0%B2/a-53336148>.
- [7] Deshko, L., Ivasyn, O., Gurzhii, T., Novikova, T., & Radyshevska, O. (2019). Patenting of medicines in Ukraine through the prism of the association agreement with the eu and the trips agreement: improvement in medical and administrative regulations. *Georgian Medical News*, 288, 154-158.
- [8] Kwilinski, A. Volynets, R., Berdnik, I., Holovko, M., & Berzin, P. (2019). Commerce: Concept and legal regulation in modern economic conditions. *E Journal of Legal, Ethical and Regulatory Issues*, 22(2), 6.
- [9] Galiakbarova, G.G., Zharkenova, S.B., & Kulmakhanova, L.S. (2016). Revisiting jurisdiction of individual labour disputes in the Republic of Kazakhstan: Comparative legal analysis of the labour law application in countries near and far abroad. *Journal of Advanced Research in Law and Economics*, 7(1), 64-74
- [10] Zarosylo, V., Fatkhutdinova, O., Morozovska, T., Arifkhodzhaieva, T., & Strohanova, H. (2019). Legal regulation of occupational safety and health in the

- European Union and Ukraine: A comparative approach. *Bulletin of the National Mining University*, 2019(6), 150-154.
- [11] Kiselev, I. Ya. (1992). *Labour law in a market economy: the experience of Western countries*. Moscow: Nauka.
- [12] 122nd IndustriALL Congress, Rio de Janeiro, Brazil, 3-7 October 2016. Retrieved from <http://www.industriall-union.org/ru/2-y-kongress-industriall-rio-de-zhaneyro-braziliya3-7>.
- [13] Shabanov, R.I. (2020). The role of international trade unions in providing decent employment. Problems of development of social and labour rights and trade union movement in Ukraine. In: K. Yu. Melnyk (Ed.), *Proceedings of the VIII All-Ukrainian research-to-practice conference, May 28, 2020*, 140-142. Kharkiv: Kharkiv National University of Internal Affairs.
- [14] Boieva, O.S. (2019). Institute of legal protection of labour rights in Ukraine: Genesis and current state. *Humanities and Social Sciences Reviews*, 7(5), 777-781.
- [15] Rym, O., & Pylypenko, P. (2019). The European employment strategy as a tool promoting Ukraine's integration. *E-Journal of International and Comparative Labour Studies*, 8(3), 68-83.
- [16] Yaroshenko, O.M., Moskalenko, O.V., Velychko, L.Y., & Kovrygin, V.S. (2019). Property civil law liability and material liability of employees for damage caused to an employer: On the basis of civil law of Ukraine. *Asia Life Sciences*, 2, 735-748.
- [17] Humeniuk, T., Knysh, V., & Kuzenko, U. (2019). The influence of European integration on optimisation of the legal conditions of social policy in Ukraine. *Journal of Management Information and Decision Science*, 22(4), 541-554.
- [18] Klymenko, A.L. (2017). Social protection and social security in the conditions of European integration of Ukraine: Specified aspects. *Theory and Practice of Legal Science*, 2(12), 1-10.
- [19] Zhernakov, V.V. (2020). Transformation of the role of trade unions in the implementation of social and labour rights. Problems of development of social and labour rights and trade union movement in Ukraine. In: K. Yu. Melnyk (Ed.), *Proceedings of the VIII All-Ukrainian research-to-practice conference, May 28, 2020*, pp. 35-38. Kharkiv: Kharkiv National University of Internal Affairs.
- [20] Lyutov, N., & Golovina, S. (2018). Development of labour law in the EU and EAEU: How comparable? *Russian Law Journal*, 6(2), 93-117.
- [21] Novoselskaya, I., & Rushe, M. (2017). The codification of the legislation of Ukraine on social security. *Entrepreneurship. Economy and Law*, 7, 43-45.
- [22] Sliusarenko, K.V. (2017). EU Social Policy: Current challenges and prospects. *Economic Analysis*, 1(27), 80-90.
- [23] Yashchyshyna, I.V. (2017). Socialisation of EU innovation policy. *Science and Science Studies*, 4(98), 3-18.
- [24] Yaroshenko, O.M., Moskalenko, O.V., Sliusar, A.M., & Vapnyarchuk, N.M. (2018). Commercial secret as an object of labour relations: Foreign and international experience. *Journal of Legal, Ethical and Regulatory Issues*, 21(1), 10.
- [25] Galiakbarova, G.G., Zharkenova, S.B., & Kulmakhanova, L.S. (2019). Revisiting jurisdiction of individual labour disputes in the republic of kazakhstan: Comparative
-

legal analysis of the labour law application in countries near and far abroad. *Journal of Advanced Research in Law and Economics*, 7(1), 64-74.

- [26] Altuzarra, A., Gálvez-Gálvez, C., & González-Flores, A. (2019). Economic development and female labour force participation: The case of European Union countries. *Sustainability (Switzerland)*, 11(7), Article number 1962.
- [27] Ritzen, J., & Zimmermann, K.F. (2014). A vibrant European labour market with full employment. *IZA Journal of European Labour Studies*, 3(1), Article number 10.
- [28] Pender, E.R., Elgoibar, P., Munduate, L., García, A.B., & Euwema, M.C. (2018). Improving social dialogue: What employers expect from employee representatives. *Economic and Labour Relations Review*, 29(2), 169-189.

Kostiantyn Yu. Melnyk

Head of the Department of Labour and Economic Law
Kharkiv National University of Internal Affairs
61080, 27 L. Landau Ave., Kharkiv, Ukraine

Suggested Citation: Melnyk, K.Yu. (2020). Current state and trends in the legal regulation of trade unions in Ukraine. *Journal of the National Academy of Legal Sciences of Ukraine*, 27(2), 107-118.

Submitted: 22/01/2020

Revised: 20/04/2020

Accepted: 04/06/2020