

ppi 201502ZU4645

Esta publicación científica en formato digital es continuidad de la revista impresa
ISSN-Versión Impresa 0798-1406 / ISSN-Versión on line 2542-3185 Depósito legal pp
197402ZU34



CUESTIONES POLÍTICAS

Instituto de Estudios Políticos y Derecho Público "Dr. Humberto J. La Roche"
de la Facultad de Ciencias Jurídicas y Políticas de la Universidad del Zulia
Maracaibo, Venezuela



Vol.41

Nº 78

Julio

Septiembre

2023

Legal regulation of occupational safety and health

DOI: <https://doi.org/10.46398/cuestpol.4178.22>

Zoriana Kozak *

Lesia Shapoval **

Pavlo Cherevko ***

Abstract

The aim of the article was to discuss the issues of legal regulation of health and safety in Ukraine. The aim of the research was achieved with the help of general and special methods of scientific knowledge. It was concluded that in the conditions of martial law, the legislative approach to the adoption of new laws, amendments and additions to existing laws should be carried out in accordance with international legal standards, concerning the provision of adequate guarantees for persons exercising the right to work. The analysis of the content of normative legal acts and draft laws led to the development of relevant proposals in connection with the fact that the concept of the profile of the law should reflect a holistic approach to occupational safety and health, with emphasis on measures to prevent occupational accidents; improvement of working conditions (increasing the employer's liability for violations of legislation in the specified area, imposing on employees the duty to take care of their own safety and the health of others, etc.).

Keywords: labor rights; labor protection; occupational safety; health and labor; legal regulation.

* Senior Policy Expert of the Resource and Analysis Center "Society and Environment", Lviv, Ukraine. ORCID ID: <https://orcid.org/0009-0009-6104-8853>

** Candidate of legal sciences, Associate Professor, Associate Professor of the Department of the Civil and Juridical Disciplines of National Academy of Internal Affairs, Kyiv, Ukraine. ORCID ID: <https://orcid.org/0000-0003-4503-9075>

*** PhD in Law, Associate Professor, Associate Professor of the Department of Civil Law and Procedure of State University «Uzhhorod National University», Ukraine, Uzhhorod, Ukraine. ORCID ID: <https://orcid.org/0000-0002-5311-324X>

Regulación jurídica de la seguridad y salud en el trabajo

Resumen

El objetivo del artículo fue discutir los temas de regulación legal de la salud y seguridad en Ucrania. El objetivo de la investigación se logró con la ayuda de métodos generales y especiales del conocimiento científico. Se concluyó que en las condiciones de la ley marcial, el enfoque legislativo para la adopción de nuevas leyes, enmiendas y adiciones a las leyes vigentes debe llevarse a cabo de conformidad con las normas jurídicas internacionales, relativas a la provisión de garantías adecuadas para las personas que ejercen el derecho a trabajar. El análisis del contenido de los actos jurídicos normativos y los proyectos de ley condujo al desarrollo de propuestas pertinentes en relación con el hecho de que, el concepto de perfil de la ley, debería reflejar un enfoque holístico de la seguridad y salud en el trabajo, con énfasis en las medidas para prevenir accidentes laborales; mejora de las condiciones de trabajo (aumentando la responsabilidad del empleador por violaciones de la legislación en el área especificada, imponiendo a los empleados el deber de cuidar su propia seguridad y la salud de los demás, etc.).

Palabras clave: derechos laborales; protección laboral; seguridad laboral; salud y trabajo; regulación legal.

Introduction

Protection of the life and health of citizens in the process of their work, during the performance of official duties is one of the most important tasks of the state throughout the history of mankind (Pogorelova, 2020). Creation of optimal and safe working conditions at the enterprise, in institutions and organizations for employees of all branches of production is one of the urgent needs of today. The improvement of the production environment contributes to the increase of labor efficiency, preservation of working capacity and health of employees (Tymchenko and Zakrevsky, 2015), and a high level of ensuring safe and healthy working conditions is a guarantee of a successful state and a profitable capital investment for the state and for the employer.

Accidents at work and occupational diseases have devastating consequences for accident victims and their families, especially in human terms (death, injuries, disability, reduced quality of life, pain, sadness, suffering, low self-esteem) and financially (e.g., lost profit and loss of working capacity), as well as high direct and indirect losses to employers

and the state, the size of which can reach 4% of the gross national product (Takala, 2005).

According to the estimates of the International Labor Organization (hereinafter – the ILO), about 2.3 million people die annually in the world as a result of accidents at the workplace or due to work-related diseases – an average of 6,000 people every day. Also, about 340 million industrial accidents and occupational diseases occur every year around the world. At the same time, material losses from lost working days, medical expenses and compensation payments exceed 1.25 trillion dollars (approximately 4% of global gross domestic product) (Tsopa, 2019: 27).

Today, in Ukraine, legislative foundations have been formed to ensure the functioning of the model that combines state and contractual regulation in the field of conditions and labor protection. At the same time, state regulation of working conditions at the workplace is carried out by establishing minimum social standards, framework obligations, while specific quantitative parameters should be determined through the use of social dialogue mechanisms – during the conclusion of collective agreements and agreements of various levels.

At the same time, the aggravation of the problems of preserving and developing the labor potential in the conditions of the economic and demographic crisis, caused in particular by the war in Ukraine, requires the creation of effective mechanisms for ensuring safe and harmless working conditions.

It must be stated that today the state of ensuring labor safety in Ukraine is also quite low, and the severity coefficient of fatal accidents at work is much higher compared to the average indicators in the European Union (hereinafter – the EU). Privatization of large and creation of small and medium-sized enterprises, outdated and inadequate legislative framework on safety and health at work, as well as a high level of informal employment and undeclared work created significant obstacles to the prevention of accidents at work and occupational diseases, and their proper registration.

In addition, eight years of armed conflict and more than a year of full-scale war have turned Ukraine into one of the most mined countries in the world, and the large-scale destruction of infrastructure and industry requires considerable effort and resources.

In order to prevent cases of occupational injuries, occupational diseases, industrial accidents and other unexpected situations at work, a necessary task for our state is to reform the legislation in the field of occupational safety, taking into account the legal developments of the EU countries. The analysis and rethinking of the issues of legal regulation of labor provision are designed to formulate directions for improving the law-making practice of this social and legal phenomenon. In addition, the unprecedented

experience of Ukraine in the mentioned field, when work during martial law is associated with a large number of new, in particular, deadly risks, should become an example for countries where the possibility of armed conflicts is high.

1. Methodology of the study

Scientific research is built on a system of general scientific and special methods of scientific knowledge, in particular: the historical-legal method, which was applied in the study of the prerequisites for the emergence and regularities of the development and establishment of legal regulation of labor safety; the dialectical method – which made it possible to analyze the content of the concepts «labor safety», «legal regulation» in their development and correlation; a systematic method that made it possible to carry out research and systematic analysis of social relations that arise in the process of realizing the human right to occupational safety during work; the target method that was used to determine the specifics of provision in the field of legal regulation of labor protection and health; the method of observation, the manifestation of which is knowledge and study of the object of research; with the help of a prognostic method, the recommendations for improving the labor legislation of Ukraine, in particular, for improving the areas of legal regulation of legal relations in the field of labor protection and health; logical methods and techniques – deductions, inductions, analogies, analysis, which were used during the entire scientific research.

2. Analysis of recent research

The problem of legal regulation of industrial safety and occupational health and safety has been paid attention to in one way or another in their research by many scientists, whose works examine theoretical and methodological issues of management, planning, promotion of occupational health and safety, the effectiveness of the social insurance system against industrial accidents and measures on labor protection.

However, despite the large number of theoretical and practical scientific developments in the specified field, the expediency of a comprehensive study of the legal and scientific-methodological support of the national strategy of occupational safety and health does not lose its relevance. Among the complex of main problems, the problem of improving the normative and legal regulation of labor relations in the conditions of special legal regimes is extremely important, which is relevant not only for Ukraine, but also for other countries on the territory of which armed conflicts are ongoing or there is a threat of their occurrence.

The purpose of the article is to carry out a comprehensive analysis of the legal regulation of labor protection and health in Ukraine based on the study of scientific works on the theory of labor law and related fields, normative legal acts of Ukraine and judicial practice, to determine the prospects for improving the national legislation on labor and practices of its application.

The achievement of the set goal is subordinated to the solution of the following tasks: to determine the current state and trends of normative and legal regulation of the specified legal relations in Ukraine; to analyze individual legislative amendments to the legislation in the conditions of the extraordinary legal regime caused by the war; outline the main areas of improvement of the legislation regulating legal relations in the field of occupational health and safety.

3. Results and discussion

3.1. General characteristics of the legal regulation of occupational health and safety in Ukraine

Legal regulation of labor relations in the field of occupational health and safety has its own specific features: legal regulation is carried out with the help of a comprehensive system of legal means; formalization of labor relations, which arise in the process of ensuring labor safety and health and are enshrined in the provisions of the legislation, and are used in the regulation of these legal relations; legal regulation has a regulatory effect and consists in the degree of legal influence on labor relations while ensuring occupational health and safety.

The concept of providing employees with working conditions that meet the requirements of occupational safety and hygiene was first formulated in Art. 7 of the International Covenant on Economic, Social and Cultural Rights (International Covenant On Economic, Social And Cultural Rights, 1966), ratified by Ukraine in 1973. This document provided an interpretation of the right of every person to favorable working conditions defined by the Universal Declaration of Human Rights (Universal Declaration Of Human Rights, 1948).

The implementation of fundamental rights in the field of labor, which is one of the main strategic goals of the ILO, was reflected in the Decent Work Concept introduced in 1999, an important component of which is occupational safety. The Constitution of Ukraine established a number of labor rights of citizens, which are norms of direct effect, which include, in particular, the right to proper, safe and healthy working conditions.

Article 43 of the Constitution of Ukraine established the right to work for every citizen. The state provides the opportunity to earn a living by work that is not prohibited by law and that a person freely chooses or freely agrees to (Constitution Of Ukraine, 1996). When it comes to the right to work as a natural and inalienable right of a person to own and use his abilities to work (physical, creative and intellectual), the development and provision by the state of the mechanisms for the realization of such a right comes to the fore.

At the national level, the legal regulation of the specified activity is carried out on the basis of the Code of Labor Laws and the Law of Ukraine «On Employment of the Population», according to which everyone has the right to freely choose the place, type of activity and type of occupation, which is ensured by the state through the creation of legal, organizational and economic conditions for such a choice (On Employment Of The Population, 2012).

The legislation of Ukraine on labor protection is a system of interrelated legal acts that regulate relations in the field of social protection of citizens in the process of work. It consists of the Law of Ukraine «On Labor Protection», the Code of Labor Laws of Ukraine, the Law of Ukraine «On Mandatory State Social Insurance» and the normative legal acts adopted in accordance with them.

In Art. 49 of the Constitution of Ukraine enshrines the right of every citizen to health care, medical assistance and medical insurance (Constitution Of Ukraine, 1996). This norm reflects the requirements of global and regional international legal standards in the field of health care regarding the establishment of the relevant right, as well as the means of its enforcement that the state has at its disposal.

Among the laws, a special place is occupied by the Civil Code of Ukraine dated January 16, 2003, which for the first time at this level established a number of important human rights in the field of health care, in particular the right to health care (Article 283), medical assistance (Article 284), medical information (Article 285), medical confidentiality (Article 286), etc. (Civil Code Of Ukraine, 2003).

According to the Law of Ukraine “On Labor Protection”, labor protection is a system of legal, social-economic, organizational-technical, sanitary-hygienic and medical-prophylactic measures and means aimed at preserving the life, health and working capacity of a person in the process of work activity (On Labor Protection, 2002). This law defines the main provisions regarding the implementation of the constitutional right of employees to protect their life and health in the process of work, to proper, safe and healthy working conditions, regulates, with the participation of the relevant state authorities, relations between the employer and the employee on issues of safety, occupational hygiene and industrial environment and

establishes a unified procedure for the organization of labor protection in Ukraine.

Modern, developed labor law as such is impossible without the complex regulatory and legal interaction of international and national labor standards. After the signing of the Association Agreement between Ukraine and the EU, Ukraine is making significant efforts to bring the current legislation into line with international and European standards on safety and health at work.

Recently, these efforts were enshrined in the Concept of reforming the labor protection management system in Ukraine approved by the Cabinet of Ministers of Ukraine (hereinafter referred to as the CMU) in 2018 (Resolution Of The CMU No. 989-r, 2018), which creates the basis for reforming and bringing the national safety system into line and health at work to EU and ILO standards and offers a plan for its implementation.

In addition, EU Directives on safety and health at work, such as 2009/104/EC of September 16, 2009, concerning the minimum requirements for safety and health during the use of work equipment by workers during work (Directive No. 2009/ 104/EC, 2009) and 89/656/EEC of November 30, 1989 (Directive No. 89/656/EEC, 1989), concerning minimum safety and health requirements for the use of personal protective equipment by workers at the workplace, were enshrined in the current normative and legal framework through the orders of the Ministry of Social Policy of Ukraine.

However, the high rates of accidents at work and occupational diseases indicate that Ukraine still has a lot to do when it comes to preventing occupational risks and promoting the safety, health and welfare of workers.

In order to improve working conditions in Ukraine and ensure a high-quality, sustainable and successful process of approximation of national legislation to international labor standards, there are still a number of challenges that need to be overcome. Among other things, we are talking about the following:

- overly detailed, complex and outdated legal framework for safety and health at work, consisting of too many laws/norms that often contradict each other;
- invalid provisions of legislation, for example: a) provisions regarding workers who work in difficult, harmful and dangerous conditions and are entitled to higher wages and additional privileges. This not only encourages workers to work in such conditions, it also removes responsibility from employers for and reduces motivation to create safe and healthy working conditions; b) prescriptions according to which employers are obliged to spend at least 0.5% of the wage

fund for the previous year on measures to create safe and healthy working conditions.

- The specified provision reduces the motivation of employers who already have modern safety and health conditions at work, and exempts from responsibility those employers who have unsatisfactory working conditions, but have complied with the specified norm. In addition, the list of labor protection measures and means, as well as types of labor protection services, provided for by the Law «On Labor Protection», does not include widely recognized relevant types of occupational safety and health activities provided for, for example, in the Occupational health services convention, 1985 (No. 161) (Occupational Health Services Convention, 1985);
- national legislation on safety and health at work does not cover all sectors of the economy, all employers and all employees. Including self-employed workers; trainees, apprentices, trainees and persons in other situations that should be considered as vocational training; an administrator, director, manager or a person performing their functions who do not have an employment contract, but receive remuneration for this activity; a person in a situation where he works for another person without a formalized employee-employer relationship is economically dependent on the beneficiary of the activity; as well as employees who have an employment relationship, but do not have an official or written employment contract, for example, fully or partially undeclared employees;
- the legislation on safety and health at work does not provide for employers' obligations to use and constantly adapt to changing circumstances the necessary measures for the safety and health of employees, including assessment and prevention of occupational risks, consultation with employees and their participation in solving safety issues and health at work, supervision of health, provision of information, training, necessary organization and means;
- the national legal framework on safety and health at work does not provide for the responsibility of employers, which cannot be transferred to third parties, for the safety and health of employees in all aspects related to work;
- the current process of approximation of national legislation to EU norms is focused on the implementation of separate directives, and not on the transposition of the general EU architecture on safety and health at work, starting with bringing it into line with the Framework Directive 89/391/EEC (Directive No. 89/391/EEC, 1989), and only after that – to separate directives;

- the level of current legal acts used to transpose EU directives on safety and health at work is inadequate, as they do not have sufficient legal force to ensure their effectiveness and sustainability.

3.2. Legal regulation of occupational health and safety in Ukraine in the postcovid and postwar period

The cause of work-related death, injury and illness is constantly changing around the world. These changes can be gradual or drastic, but in any case, they affect the safety, health and well-being of workers. The usual approach to risk management is insufficient in the complex conditions faced by organizations today.

It is worth emphasizing that the COVID-19 pandemic is one of the new risk factors that have proven the outdated approach used by organizations. A rethinking took place – large-scale measures and innovative political solutions are absolutely necessary to overcome the crisis, to preserve the standard of living of the population and restore the economy and well-being after the pandemic.

Currently, the reform of labor protection and health in Ukraine is taking place in two key directions – at the level of legislation and taking into account digitization and digital transformation. Given the subject of the study, we will focus on the legislative level.

The need to implement international standards in the field of occupational health and safety in our country is of particular practical importance due to Ukraine's desire to join the European Community, and the Law of Ukraine "On Occupational Safety" adopted in 1992 is outdated for obvious reasons. Having signed and ratified the Association Agreement between Ukraine and the EU in 2014, Ukraine undertook to ensure the gradual adaptation of legislation in accordance with the directions defined in the Agreement and their effective implementation.

In order to fulfill its obligations under the Agreement, Ukraine undertakes to gradually (from 2 to 10 years) bring its legislation closer to EU legislation in the field of occupational health and safety by implementing 27 EU directives. At the same time, it is worth noting the key Directive 89/391/EEC of June 12, 1989 "On the introduction of measures to improve the safety and health of workers at the workplace" (Sukhanenko, 2021).

Below, we will examine what steps have been taken in this regard, having analyzed the draft laws in the specified area, developed and submitted for discussion.

The Ministry of Economy published a draft of the Law of Ukraine "On Safety and Health of Workers at Work" (hereinafter referred to as the draft law) on its official website. The document was developed with the aim of

forming a new national system for the prevention of occupational risks by implementing at the legislative level a risk-oriented approach in the field of organizing the safety and health of employees and implementing the provisions of the Council Directive 89/391/EEC on the introduction of measures designed to encourage the improvement of safety and health protection employees at work (hereinafter – the European Council Directive No. 89/391/EEC).

The draft law proposes to introduce a new national system for the prevention of industrial risks, based on the principles of risk assessment, risk control and management, which are basic for the construction of similar systems in developed countries of Europe and the world.

The consistent hierarchy of these principles is defined by European Council Directive No. 89/391/EEC and provides for: risk prevention; assessment of risks that cannot be avoided; elimination of sources of risks; adaptation of working conditions to the employee, especially during the arrangement of workplaces, selection of production equipment, work methods; adaptation to technical progress; replacement of high-risk equipment with safe or less dangerous equipment; development of an agreed general policy for the prevention of industrial risks, etc.

Therefore, in contrast to the existing system, the approaches proposed by the draft act provide for the organization of the safety and health system of employees according to the “proactive” principle of preventive actions.

A change in the principles of building the system involves, among other things, a change in the object of state policy influence: from the current “labor safety” or “labor protection” to the European “employee safety”. The draft act envisages the introduction of a system of minimum requirements for the safety and health of employees based on the European example, and regular assessment by the employer of risks that may arise at a specific workplace, development and implementation of measures to minimize or eliminate them.

The analysis of the investigation materials of accidents at work show that the majority of measures aimed at preventing accidents consist in conducting unscheduled briefings on occupational safety issues. Such a uniform approach, which is not aimed at eliminating the causes of accidents, leads to their repetition and does not contribute to their prevention.

Therefore, the draft law is aimed at increasing the effectiveness of procedures for investigating accidents, occupational diseases and accidents. Also, the draft act envisages the introduction of informing the competent authorities about all accidents, and keeping records by the employer of all incidents that could potentially lead to an accident.

In general, we share the point of view that the implementation of European Council Directive No. 89/391/EEC provided for by the draft law is a logical and consistent continuation of the chosen course of approximation of Ukrainian legislation to EU legislation and will contribute, in particular: to increasing the level of protection of life and health of employees; increasing the responsibility of employers for creating proper working conditions and a safe working environment; simplification of legislation in the field of safety and health of employees, reduction of the administrative and regulatory burden on the employer; introduction of mechanisms for improving the safety conditions of workers and relevant economic incentives; strengthening fair competition, expanding access of Ukrainian enterprises to the international market and increasing their competitiveness on this market; gradual implementation of European Union legislation into national legislation (Guidelines on ensuring safety and health at work in war and post-war times, 2021).

There is no doubt that the process of developing any legal act, conducting consultations and discussing it with national stakeholders in order to improve it and achieve a wider consensus, as well as alignment with relevant international and European labor standards, is always complex, time-consuming and time-consuming. However, this algorithm will provide a better and more balanced final version of the legal act.

The introduction of martial law in Ukraine on the basis of the Law «On the Legal Regime of Martial Law» (On The Legal Regime Of Martial Law, 2022) led to a new stage in the development of labor relations. The sphere of labor protection and health, in which the vital interests of the citizens of the state are intertwined, is no exception, and required an immediate reaction from the legislator in order to ensure its normal functioning. Conflicts between the interests of employees and employers, which are inevitable even in peacetime, have become even more acute in the conditions of martial law, and require prompt intervention by the state with the help of appropriate legal regulation in the form of adopting new laws, making changes and additions to existing legislation.

The purpose of the adoption of the draft Law of Ukraine «On Amendments to Certain Laws of Ukraine Regarding Deregulation in the Field of Labor Protection by Changing the Permit System to the Insurance System for Employees Performing High-Danger Work» (hereinafter – the Draft Law No. 2655-IX) is to simplify the procedure for starting work for employers increased safety and increasing their responsibility due to the introduction of mandatory employee life and health insurance (Draft Law Of Ukraine No. 2655-IX, 2023).

Occupational health and safety legislation requires employers to provide adequate, safe and healthy working conditions. At the same time, in order to acquire the right to perform work of increased danger and to operate (use)

machines, mechanisms, and equipment of increased danger, the employer must currently obtain appropriate permits in accordance with Article 21 of the Law of Ukraine «On Labor Protection» (On Labor Protection. Law Of Ukraine, 2015), and the mechanism and method are determined by the Procedure for Issuing Permits for Performing High-Danger Works and for the Operation (Use) of Machines, Mechanisms, and High-Danger Equipment, approved by Resolution of the Cabinet of Ministers of Ukraine No. 1107 dated October 26, 2011 (Resolution Of The Cabinet Of Ministers Of Ukraine No. 1107, 2011).

However, obtaining these permits is a rather time-consuming procedure, in particular, associated with the high cost of conducting an examination of the state of labor protection and safety of the industrial production of the business entity.

Such a procedure in many cases has a formal character. In addition, within the existing legislative mechanisms of supervision and control over compliance with legislation in the field of labor protection is difficult to verify. or impossible at all. Even with a positive expert opinion, the creation of safe conditions, in particular regarding the performance of high-risk works, is not guaranteed due to the employer's lack of sufficient motivation for their creation, in particular financial (for example, the obligation to compensate the damage caused to the employee) (Explanatory Note To The Draft Law Of Ukraine, 2023).

The negative perception of such a permit procedure is exacerbated by the high corruption risks that accompany the actions of officials and constantly become the subject of law enforcement authorities' attention. At the same time, the global experience of reimbursement of costs is based on the wide involvement of guarantees of compensation of losses from insurance systems in these processes. The European experience has long been based on a sufficiently effective model, when insurance is a mandatory condition for those who conduct business related to increased risks for employees, when those who organize the performance of high-risk work insure their liability to potential victims. This ensures that the employer will be motivated to create safe conditions, and the victims will receive compensation for damages (Explanatory Note To The Draft Law Of Ukraine, 2023).

In our opinion, the introduction of the insurance system for the performance of high-risk works will bring the legal regulation of occupational health and safety in Ukraine closer to the principles that are generally recognized in the world. The state will carry out the supervisory function in a more civilized way, agreeing on the main basic conditions for concluding insurance contracts, including such parameters as the sum insured, the procedure for making payments, etc.

In general, we consider the importance of adapting national legislation in the field of legal regulation of occupational health and safety to the requirements and standards of the EU Directives to be indisputable.

In particular, among other things, in accordance with the provisions of Directive No. 89/391/EEC, the Code of Labor Laws of Ukraine and the Law of Ukraine «On Labor Protection» should be supplemented with a provision on the employer's obligations to take measures necessary for the safety and health of employees, including measures to prevent professional risks, information and training, etc., as well as supplement the relevant legislation with the duty of employees to take care of their own safety and the health of others.

In conclusion, we note that the legal regulation of occupational safety and health of workers is carried out with the help of a large number of local legal acts (standards, rules, instructions, clarifications, etc.), however, a unified legal act that would define a comprehensive approach to occupational safety and health of workers, regardless of the form of ownership, type of activity and branch of production, has not yet been adopted.

The problem of ensuring safety, occupational health and safety in Ukraine cannot be completely solved by the outlined issues. We see the prospects for further scientific investigations and their practical implementation in: economic stimulation of employers to create safe working conditions; differentiation of violations of legislation in this area; increasing responsibility for violations of legislation, etc.

Conclusions

On the basis of the conducted scientific review and analysis of the peculiarities of the legal regulation of occupational health and safety in Ukraine, certain reasoned conclusions should be drawn.

Legal regulation of labor and health protection – streamlining labor relations and enshrining them in the relevant legal norms, with the aim of their protection, development and ensuring a high level of modern production environment, which excludes the influence of dangerous and harmful factors on the life and health of employees.

In the conditions of martial law and in the post-war period, the legislative approach to the adoption of new laws, amendments and additions to the current acts in Ukraine must take place in compliance with international legal standards regarding the provision of adequate guarantees in the field of occupational health and safety, which consist in: simplifying significant the number of legal acts in the specified area, by carrying out their inventory, modernization and systematization; harmonization of national legislation

with international labor norms and European standards; formation of effective state mechanisms, which will ensure effective implementation and inevitable execution of legal acts.

The creation of a modern model of occupational safety and health protection in Ukraine requires, among other things: improvement of conceptual support and current legislation on occupational safety and occupational health and the mechanism of its implementation; creation of conditions for the implementation of international labor norms and standards on occupational health and safety to national legislation. Directions for improving labor legislation in the field of legal regulation of labor protection and health in Ukraine are proposed. In particular, the profile law should reflect a holistic approach to occupational safety and health of employees with an emphasis on measures to prevent accidents and accidents at work, improve working conditions (strengthening the employer's responsibility for violations of legislation in the specified area, imposing on employees the duty to take care of their own safety and health of others, etc.).

Bibliographic References

- DRAFT LAW OF UKRAINE. 2022. On the Safety and Health of Employees at Work. Available online. In: <https://www.me.gov.ua/Documents/Detail?lang=uk-UA&id=1d23af02-a0ec-4458-9d88-2e4c9df8669f&title=ProektZakonuUkrainiproBezpekuTaZdoroviaPratsivnikivNaRoboti>. Consultation date: 25/02/2023.
- DRAFT LAW OF UKRAINE. 2023. On Amendments to Certain Laws of Ukraine on Deregulation in The Field of Labor Protection by Changing the Permitting System to the Insurance System for Employees Performing High-Risk Work. Available online. In: <https://www.me.gov.ua/Documents/Detail?lang=uk-UA&id=7b623c3d-748c-480b-b973-2d24db8ab623&title=ProektZakonuUkrainiproVnesenniaZminDoDeiakikhZakonivUkrainiSchodoDereguliatsiiUSferiOkhoroniPratsiShliakhomZminiDozvilnoiSistemiNaSistemuStrak>. Consultation date: 25/02/2023.
- EUROPEAN COUNCIL. 1989. Directive No. 89/391/EEC, concerning the introduction of measures to encourage improvements in the safety and health of workers at work. Official Journal of the European Communities, L391, 183/1-183/8. Available online. In: <http://eur-lex.europa.eu/legal-content/PT/TXT/PDF/?uri=CELEX:01989L0391-20081211&from=EN>. Consultation date: 25/02/2023.

EUROPEAN COUNCIL. 1989. Directive No. 89/656/EEC, on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace. Official Journal of the European Communities, L 393, 393/18-393/28. Available online. In: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31989L0656&from=EN>. Consultation date: 25/02/2023.

EUROPEAN PARLIAMENT, & EUROPEAN COUNCIL. 2009. Directive No. 2009/104/EC, concerning the minimum safety and health requirements for the use of work equipment by workers at work. Official Journal of the European Union, L 260, 260/5-260/19. Available online. In: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0104&from=EN>. Consultation date: 25/02/2023.

EXPLANATORY NOTE TO THE DRAFT LAW OF UKRAINE. 2023. On Amendments To Certain Laws Of Ukraine On Deregulation In The Field Of Labor Protection By Changing The Permitting System To The Insurance System For Employees Performing High-Risk Work. Available online. In: <https://www.me.gov.ua/Documents/Detail?lang=uk-UA&id=7b623c3d-748c-480b-b973-2d24db8ab623&title=ProektZakonuUkrainiproVnesenniaZminDoDeiakikhZakonivUkrainiSchodoDereguliaciiUSferiOkhoroniPratsiShliakhomZminiDozvilnoiSistemiNaSistemuStrakhuvanniaPratsivnikiv-YakiVikonuiutRobotiPidvischenoiNebezpeki>. Consultation date: 25/02/2023.

GUIDELINES FOR ENSURING SAFETY AND HEALTH AT WORK IN WARTIME AND POSTWAR TIMES. 2021. Available online. In: <https://ohoronapraci.kiev.ua/article/anonsi/nastanovi-iz-zabezpecenna-bezpeki-ta-zdorova-na-roboti-u-voennij-i-povoennij-cas>. Consultation date: 25/02/2023.

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS. 1966. Available online. In: http://zakon5.rada.gov.ua/laws/show/995_042. Consultation date: 25/02/2023.

INTERNATIONAL DOCUMENT. 1985. OCCUPATIONAL HEALTH SERVICES CONVENTION. No. 161. Available online. In: https://zakon.rada.gov.ua/laws/show/993_042#Text. Consultation date: 25/02/2023.

LAW OF UKRAINE. 1992. On Labor Protection. No. 2695-XII. Available online. In: https://zakononline.com.ua/documents/show/151241___591220. Consultation date: 25/02/2023.

- LAW OF UKRAINE. 1996. CONSTITUTION OF UKRAINE. No. 254к/96-BP. Available online. In: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>. Consultation date: 25/02/2023.
- LAW OF UKRAINE. 2002. ON AMENDMENTS TO THE LAW OF UKRAINE “ON LABOR PROTECTION”. No. 229-IX. Available online. In: https://zakononline.com.ua/documents/show/235825___512179. Consultation date: 25/02/2023.
- LAW OF UKRAINE. 2003. CIVIL CODE OF UKRAINE. No. 435-IV. Available online. In: https://zakononline.com.ua/documents/show/234444___570302. Consultation date: 25/02/2023.
- LAW OF UKRAINE. 2012. ON EMPLOYMENT OF THE POPULATION. No. 5067-VI. Available online. In: <https://zakon.rada.gov.ua/laws/show/5067-17>. Consultation date: 25/02/2023.
- LAW OF UKRAINE. 2022. ON THE LEGAL REGIME OF MARTIAL LAW. No. 389-VIII. Available online. In: https://ips.ligazakon.net/document/view/t150389?an=0&ed=2022_09_06. Consultation date: 25/02/2023.
- POGORELOVA, Lyudmyla. 2020. “The genesis of legal regulation of occupational safety” In: *Entrepreneurship, economy and law*. Vol. 7, pp. 127-131.
- RESOLUTION OF THE CABINET OF MINISTERS OF UKRAINE. 2011. THE PROCEDURE FOR ISSUING PERMITS FOR THE PERFORMANCE OF WORKS OF INCREASED DANGER AND FOR THE OPERATION (USE) OF MACHINES, MECHANISMS, EQUIPMENT OF INCREASED DANGER. No. 1107. Available online. In: <https://ips.ligazakon.net/document/KP111107>. Consultation date: 25/02/2023.
- RESOLUTION OF THE CABINET OF MINISTERS OF UKRAINE. 2018. ON THE APPROVAL OF THE CONCEPT OF REFORMING THE OCCUPATIONAL HEALTH AND SAFETY MANAGEMENT SYSTEM IN UKRAINE AND THE APPROVAL OF THE ACTION PLAN FOR ITS IMPLEMENTATION. No. 989-r. Available online. In: https://zakononline.com.ua/documents/show/369531___369596. Consultation date: 25/02/2023.
- SUKHANENKO, Victoria. 2021. Viral transformation: how has employers’ attitudes towards occupational health and safety changed? Available online. In: <https://www.bdo.ua/uk-ua/blog-2/consulting/june-2021/viral-transformation>. Consultation date: 25/02/2023.

TAKALA, Jukka. 2005. Introductory Report: Decent Work – Safe Work. International Labour Office. Available online. In: https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-moscow/documents/genericdocument/wcms_312093.pdf. Consultation date: 25/02/2023.

TSOPA, Vitaliy. 2019. “Risk Management Principles, Structure and Process” In: Occupational Safety. No. 1, pp. 26-29.

TYMCHENKO, Gna; ZAKREVSKIY, Andriy. 2015. Labor protection and life safety in the field of “Human Health”. Tutorial. Kharkiv, Ukraine.

UNIVERSAL DECLARATION OF HUMAN RIGHTS. 1948. Available online. In: https://zakon.rada.gov.ua/laws/show/995_015#Text. Consultation date: 25/02/2023.



UNIVERSIDAD
DEL ZULIA

CUESTIONES POLÍTICAS

Vol.41 N° 78

*Esta revista fue editada en formato digital y publicada en julio de 2023, por el **Fondo Editorial Serbiluz**, Universidad del Zulia. Maracaibo-Venezuela*

www.luz.edu.ve
www.serbi.luz.edu.ve
www.produccioncientificaluz.org