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The role of collective-contractual regulation in ensuring the right of agricultural workers to a safe and healthy working environment

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Abstract

The relevance of the study is determined by the need to investigate changes at the international standards level: the inclusion of the right to a safe and healthy working environment in the fundamental principles and rights at work worldwide. This also caused the need for appropriate adjustments to the national legal framework. The second factor of relevance of the study is the novelties of national legislation on collective and contractual regulation of labour and related relations. Analysis of the impact of such changes on the settlement in collective contracts and agreements of the issue of a safe and healthy working environment for people engaged in agriculture, identification of problematic aspects and development of proposals for their overcoming define the purpose of the study. The achievement of this goal was facilitated by the use of a set of methods of scientific knowledge: philosophical (dialectical), general scientific (analysis, synthesis), and special scientific (formal-legal, comparative-legal). As a result of the study conducted, compliance with international standards of changes implemented in Ukrainian legislation regarding the conclusion of collective contracts and agreements was determined. It is proposed to extend the scope of collective agreements to all

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those who work in agriculture, including members of farms and agricultural cooperatives, to guarantee a safe and healthy working environment and to the work of the most vulnerable categories of workers (women, minors, persons with disabilities). The need to replace the term “labour protection” in Ukrainian legislation with “safety and health of employees at work” is justified since it is more consistent with the object of protection and correlates with international terminology. It is established that the norms of the current industry agreement do not correspond to the needs of the present. It is recommended that the development of the new document reflect in more detail the specific features of measures for the safety and health of employees at work, due to the specific features of production processes in agriculture and the realities of war and post-war times. The results obtained fill the gap in scientific research of the relevant issues, are valuable from the standpoint of the opportunity to apply them in the further reform of legislation on the field of collective-contractual regulation in agriculture, and will also be useful for the preparation of collective agreements of agricultural entities

Keywords: safe working conditions; collective agreement; labour protection; legal regulation; agricultural production; farming

Introduction

Having proclaimed in Article 3 of the Constitution of Ukraine (1996) as the highest social values of a person, human life and health, and their safety, the state has committed itself to assert and ensure the relevant rights and freedoms. This, according to the mentioned norm of the Basic Law, is recognised as the main duty of the state. Another constitutional norm – Part 3 of Article 43, establishes for everyone the right to proper, safe, and healthy working conditions, or the right to labour protection. Based on the above, it is the right of every person in Ukraine, which is realised primarily in relations using human labour and should be guaranteed to all employees at the proper level. Regardless of the form of ownership of the subject where the person works, their industry affiliation, type/area of activity. Work in agriculture is no exception. Previously, attention was focused on the specific features of agricultural activities in the context of ensuring labour protection (Novak, 2022).

However, the need for further research in the area of identifying problematic issues in the

field of ensuring the rights of agricultural workers to proper, safe, and healthy working conditions and formulating ways to solve them does not lose relevance and is due to the following. There were several substantial events at the International and state levels from the standpoint of legal regulation of labour protection. The first is the decision of the International Labour Conference to amend § 2 of the International Labour Organisation Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998), namely, supplementing the fundamental principles and rights at work worldwide with the right to a “safe and healthy working environment”. The second is the renewal of the current legislation on collective agreements: by the Law of Ukraine “On Amendments to Some Legislative Acts of Ukraine Regarding Strengthening the Protection of Workers’ Rights” (2022), among a number of innovations, the scope of concluding collective agreements was expanded to include employers who are individual entrepreneurs. Namely, the

family farms fall under this category. The third is the formation of promising legislation on collective contracts and agreements: on 23.02.2023, the Law of Ukraine "On Collective Contracts and Agreements" (2023) was adopted, which will enter into force after a six-month period from the date of termination or cancellation of martial law in Ukraine, which introduces new approaches to collective-contractual regulation of labour relations, including relations on labour protection. Finally, the fourth event is a legislative initiative to reform the basic principles of legal regulation of labour protection: The Directorate of Labour Development and conditions of Remuneration of the Ministry of Economy of Ukraine presented the Draft Law of Ukraine "On the Safety and Health of Employees at Work" (2022).

The necessity and timeliness of the study are also due to the situation in the field of scientific developments on the problems of collective-contractual regulation of labour protection in agriculture. Without delving into the retrospective of research on this issue, it should be noted that there have been virtually no findings by Ukrainian researchers over the past 3-5 years. Substantial work in the area of investigation of modern problems of collective-contractual regulation of labour relations is conducted by H. Chanyшева. Among the latest are her papers, which thoroughly analyse the above-mentioned Law of Ukraine "On Collective Contracts and Agreements" (Chanyшева, 2023), highlights the specific features of the conclusion and operation of collective contracts and agreements in Ukraine under martial law (Chanyшева, 2022). Compliance of the legislation of Ukraine with international standards in terms of concluding collective agreements and conducting collective negotiations was the subject of the study by I. Dashutin *et al.* (2022). Ye. Lanchenko (2018) devoted his

study to collective and contractual regulation of labour relations in the agricultural sector in the context of rural development. Foreign researchers also focus on the general problems of the outlined subjects. Here, it is necessary to note the following papers: L. Ben and A. Sag (2021) on "non-union collective agreements", in which the authors explore the possibility of entering into collective agreements without the involvement of unions and the feasibility of appropriate reform of Australian law; L. Lurie (2020) on collective agreements and benefits in terms of occupational health and safety in Israel; X. Xinpeng *et al.* (2023) on the relationship between occupational health, entrepreneurship innovation, and sustainable development in China. However, these are only isolated studies that do not reflect the features inherent in the collective-contractual regulation of labour protection in agriculture in Ukraine, considering the dynamics of changes in the legal field.

The purpose of this study is to fill in the gap in scientific research on the impact of legislative innovations on collective contracts and agreements in the agricultural sector, and the need to ensure the implementation of the right of agricultural workers to a safe and healthy working environment with the formulation of new conclusions and proposals for legal science. Achieving this goal will be implemented through the solution of the following main tasks: determining the scope of collective contracts and agreements in agriculture; investigating international legislation in the field of collective and contractual regulation of labour protection in agriculture and the state of its accounting in Ukrainian regulatory legal acts; analysing the content of existing collective contracts and agreements in terms of labour protection with the definition of the main problems and developing recommendations for their solution.

Materials and Methods

The solution of the tasks set and the achievement of a certain goal became possible through the use of a number of methods of scientific knowledge. The methodological basis of the study was the philosophical (dialectical) method, a group of general scientific methods – logical, analysis, and synthesis, and special scientific (formal-legal and comparative-legal) methods. The dialectical method was used to clarify the state and role of collective-contractual regulation of relations in the field of ensuring a safe and healthy working environment. The analysis method was used throughout the study. In particular, doctrinal approaches to collective-contractual regulation of relations in the field of ensuring a safe and healthy working environment in agriculture were analysed. The same method allowed identifying shortcomings in the relevant regulatory acts. Using the synthesis method, the general state of regulatory support for collective-contractual regulation of the examined relations was evaluated. The determination of trends in the legal provision of the right to a safe and healthy working environment for agricultural workers was conducted using the comparative legal method of scientific knowledge. The formal legal method was used to clarify the content of the requirements of regulatory acts regulating collective and contractual regulation of labour relations, in particular, relations on the safety and health of agricultural workers.

The normative basis of the study was formed by acts of Ukrainian and international legislation. Primarily, the acts of the International Labour Organisation: Convention No. 155 on Occupational Safety and Health (1981), Convention No. 187 on Promotional Framework for Occupational Safety and Health (2006), Convention No. 98 on Right to Organise and Collective Bargaining (1949), Convention No. 154 on Collective Bargaining (1981),

Convention No. 184 on Safety and Health in Agriculture (2001), Recommendation No. 164 on Occupational Safety and Health and Industrial Environment (1981), Recommendation No. 197 on Promotional Framework for Occupational Safety and Health (2006), Recommendation No. 192 on Safety and Health in Agriculture (2001). The versatility and complexity of the study problem led to the use of regulations of various industry affiliations. Firstly labour legislation: Labour Code of Ukraine (1971), Laws of Ukraine “On Collective Contracts and Agreements” (1993), and “On Labour Protection” (1992). The specific features of relations on the use of labour of individuals in agriculture were identified through the norms of the Law of Ukraine “On Farming” (2003) and the Law of Ukraine “On Agricultural Cooperation” (2020). Comprehensive and objective investigation is also provided through the analysis of promising legislation: the Law of Ukraine “On Collective Contracts and Agreements” (2023) and the Draft Law of Ukraine “On the Safety and Health of Employees at Work” (2022). When determining the state of the conclusion of collective agreements in agriculture, the author analysed statistical data published on the official website of the State Statistics Service of Ukraine (2022a; 2022b).

Results and Discussion

It is worth starting with an analysis of the role of collective contracts and agreements to guarantee the right to a safe and healthy working environment for agricultural workers defined at the level of international legal regulation. There are several conditional levels of international regulations regulating this issue.

The first is the general or fundamental level. This is, first of all, the Convention of the International Labour Organisation No. 155 on

Occupational Safety and Health (1981), ratified by Ukraine on 02.11.2011 and Recommendation of the International Labour Organisation No. 164 on Occupational Safety and Health and Industrial Environment (1981), Convention of the International Labour Organisation No. 187 on Promotional Framework for Occupational Safety and Health (2006), and Recommendation of the International Labour Organisation No. 197 on Promotional Framework for Occupational Safety and Health (2006). These acts lay the foundations and are a kind of guidelines for the implementation of measures to create a safe and healthy working environment. The above-mentioned conventions and recommendations apply to all areas of economic activity, and their provisions should be considered by all members of the International Labour Organisation (ILO), regardless of ratification of the conventions. From the content of Conventions of the ILO No. 155 (1981) and No. 187 (2006), experts formulate general principles for creating a safe and healthy work environment. The first principle is a systematic approach to managing a safe and healthy work environment. It is implemented through a coordinated national policy in this area. Moreover, this policy covers not only the national level, but also the level of the enterprise. The second one defines the principle of preventing accidents and causing harm to the health of employees. This is a globally recognised trend of preventing the negative consequences of exposure to harmful and dangerous industrial factors on a person in the process of work instead of inefficiently responding to accidents that have already occurred and eliminating their consequences. Finally, the third principle of creating a safe and healthy work environment is the principle of involvement of employers and employees. It is objectified through the provisions of Conventions of the ILO No. 155 (1981) and No. 187 (2006) on the need for consultation

and cooperation between these actors in the decision-making process (International Labour Organisation, 2022). Such cooperation is possible within the framework of collective-contractual regulation, in particular, in the process of collective negotiations. The right to collective bargaining at a fundamental level is defined by the Conventions of the ILO No. 98 on Right to Organise and Collective Bargaining (1949) and No. 154 on Collective Bargaining (1981). The right to collective bargaining, the right to safe and healthy working conditions, the right to conclude collective agreements, and the right to take part in determining and improving working conditions and the studying environment are also enshrined at the level of the European Social Charter (revised) (1996). These rights are granted to workers without restrictions in the field of economic activity in which they exercise their ability to work.

Regarding the second conditional level of international regulations defining the role of collective contracts and agreements in ensuring the right to a safe and healthy working environment for agricultural workers, then it is advisable to include special regulations specifically for the agricultural sector. First of all, it is the Convention of the ILO No. 184 on Safety and Health in Agriculture (2001), which is the basis for the exercise of the right to a safe and healthy working environment in agricultural activities. Analysis of the content of this document shows a substantial role of collective agreements in achieving the goals set. At the level of a collective agreement, according to Article 8 of the Convention of the ILO No. 184, the procedure for the use and implementation of the rights of agricultural workers may be established, among which the same norm defines the rights to: inform and advise on issues related to occupational safety and health; take part in the implementation and revision of measures on

occupational safety and health through the election of representatives from among their number to the committees on occupational safety and health; cooperate with employers in the performance of the latter's duties on the organisation of occupational safety and health. It is advisable to include the Recommendation of the ILO No. 192 on Safety and Health in Agriculture (2001) to the same level. Moreover, this document covers the provisions of the Convention of the ILO No. 184 (2001), contains a very important indication from the standpoint of the specific features of relations on the use of labour in agriculture. 12 Recommendation of the ILO No. 192 obliges ILO member countries to take measures to gradually extend the provisions of Convention No. 184 on self-employed farmers. That is, not only to be limited to employees of agricultural enterprises but also to cover working members of the farms. This study will discuss the relevant position of national legislation below. Article 12 of the Recommendation of the ILO No. 192 (2001) provides for considering the opinion of representative organisations of self-employed farmers in the formation, implementation, and revision of state policies in the field of occupational safety and health in agriculture. It is necessary to consider the fact that according to Article 3 of the Convention of the ILO No. 141 on Rural Workers' Organisations (1975), all categories of rural workers (both those who are employees, that is, work under an employment contract, and those who work at their own expense) have the right to create organisations and join existing organisations that represent the interests of such rural workers. For Ukraine, this thesis is very important in the context of the subject composition of collective agreements (which will be discussed later in the paper). Thus, at the international level, collective agreements play a substantial role in ensuring the practical

implementation of the right to a safe and healthy working environment for agricultural workers.

Turning to the national level of legal regulation of the issue under study, it is first necessary to analyse the basic requirements for concluding collective agreements in the field of agriculture and their scope. Now, according to Article 2 Law of Ukraine "On Collective Contracts and Agreements" (1993), a collective agreement is concluded at enterprises, institutions, organisations (i.e. legal entities), and with employers who are individuals. Moreover, it does not matter whether or not such an individual has the status of a business entity. The possibility of collective bargaining with individual employers is a relatively new phenomenon for Ukraine, which was introduced by the Law of Ukraine "On Amendments to Some Legislative Acts of Ukraine Regarding Strengthening the Protection of Workers' Rights" (2022). Such a step, from the standpoint of collective agreements covering agricultural workers, is correct based on the following. The agricultural sector is characterised by the presence of a substantial number of individual entrepreneurs. According to the latest available statistics (State Statistics Service of Ukraine, 2022b), the number of these entities (as of 2021) was 18,890 out of the total number of business entities in agriculture – 57,374. That is, more than a third. Their inclusion in the subjects of collective-contractual regulation of relations on the employment of employed persons certainly strengthens the protection of the rights of those working in agriculture. Nevertheless, scientific circles express the opinion that it is necessary to normalise the minimum number of employees working for an individual entrepreneur as a condition for the mandatory conclusion of a collective agreement. In Particular, H. Chanysheva (2022) believes that it would be correct to establish at the level of the Law of

Ukraine “On Collective Contracts and Agreements” such a minimum “threshold” for employers – individuals who are not entrepreneurs – at least 3-5 employees, for employers of individuals registered as business entities – at least 10-15 people. Therewith, the researcher does not give arguments about such indicators. Therefore, this position is debatable, especially in relation to the agricultural sector. The fact is that, according to

statistics, in the structure of business entities for this type of economic activity, the dominant place is occupied by business entities with the number of employees up to 9 people, both in general and among individual entrepreneurs. Figure 1 shows the percentage ratio of the number of operating business entities in agriculture with a distribution by the number of employed employees as of 2021 (these are the latest open data).

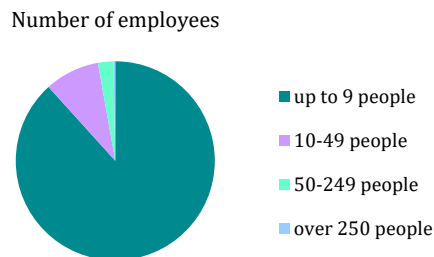


Figure 1. The ratio of the number of operating business entities in agriculture with the distribution by the number of employed employees as of 2021, %

Source: the histogram is based on the latest published official data of the State Statistics Service of Ukraine (2022b)

Among the above number of individuals, entrepreneurs who employ up to 9 people make up 99.3%; from 10 to 49 people – 0.7%. As of 2021, there were no individuals with the status of a business entity that employed more than 50 employees at all. Therefore, the establishment of a minimum number of employees, even up to 10 people, will automatically remove the vast majority of business entities in the field of agriculture from the scope of collective-contractual regulation. This, according to the author of the article, is negative, does not meet the above standards of international legal regulation and worsens the situation of persons employed in the agricultural sector. Promising legislation – The Law of Ukraine “On Collective Contracts and Agreements” (2023) also does not contain any minimum restrictions on the possibility of entering into a collective

agreement with both a legal entity and an individual employer, which is the right thing to do.

However, even in the current state of affairs, collective agreements do not cover all employees of the agricultural sector. Not the least role in this is played by the fact that the current legislation provides for dispositivity in the issue of the existence of a collective agreement – the parties decide at their own discretion whether a collective agreement is needed or not (Smoliarova & Bodziak, 2020). According to the State Statistics Service of Ukraine, as of December 31, 2021, agriculture ranked fifth in terms of the number of collective agreements concluded and registered (Fig. 2).

In terms of the number of employees covered by collective agreements, the agricultural sector is in seventh place (Fig. 3).

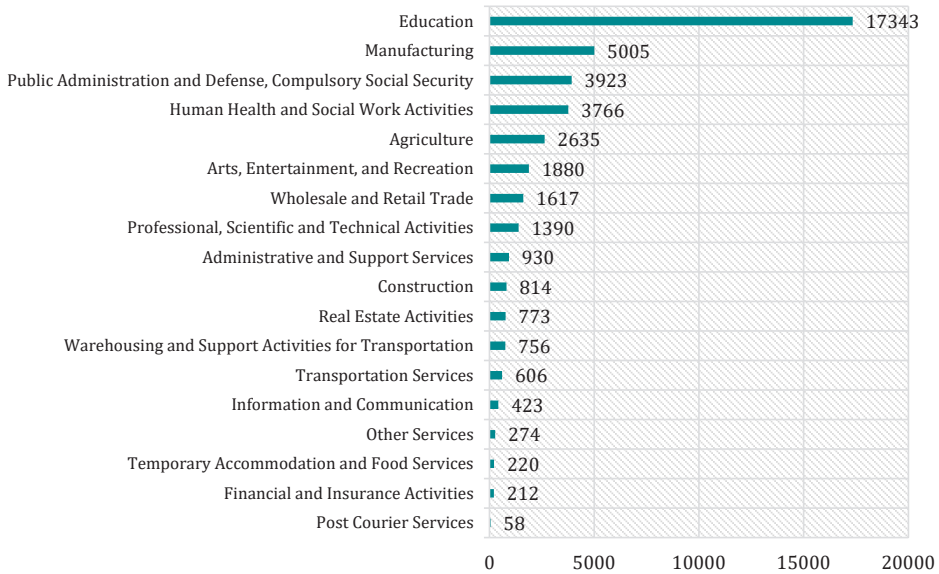


Figure 2. Number of collective agreements concluded and registered by type of economic activity, units

Source: the histogram is based on the latest published official data of the State Statistics Service of Ukraine (2022a)

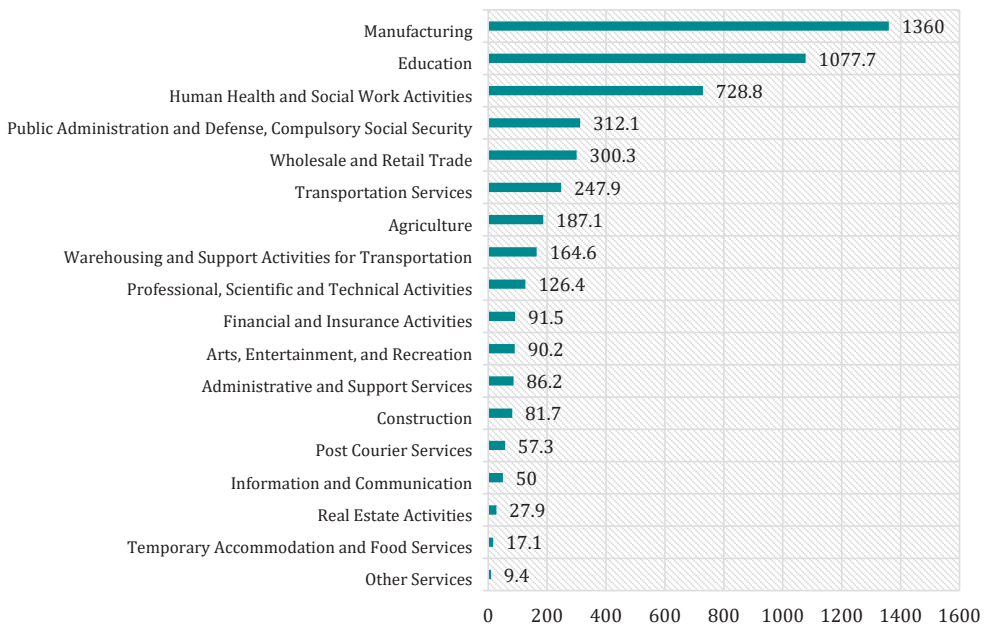


Figure 3. Number of employees covered by collective agreements, thousand people

Source: the histogram is based on the latest published official data of the State Statistics Service of Ukraine (2022a)

Analysing the number of employees covered by collective agreements as a percentage of the accounting number of full-time

employees, which is the most illustrative indicator, in agriculture this indicator is only 58.4% (Fig. 4).

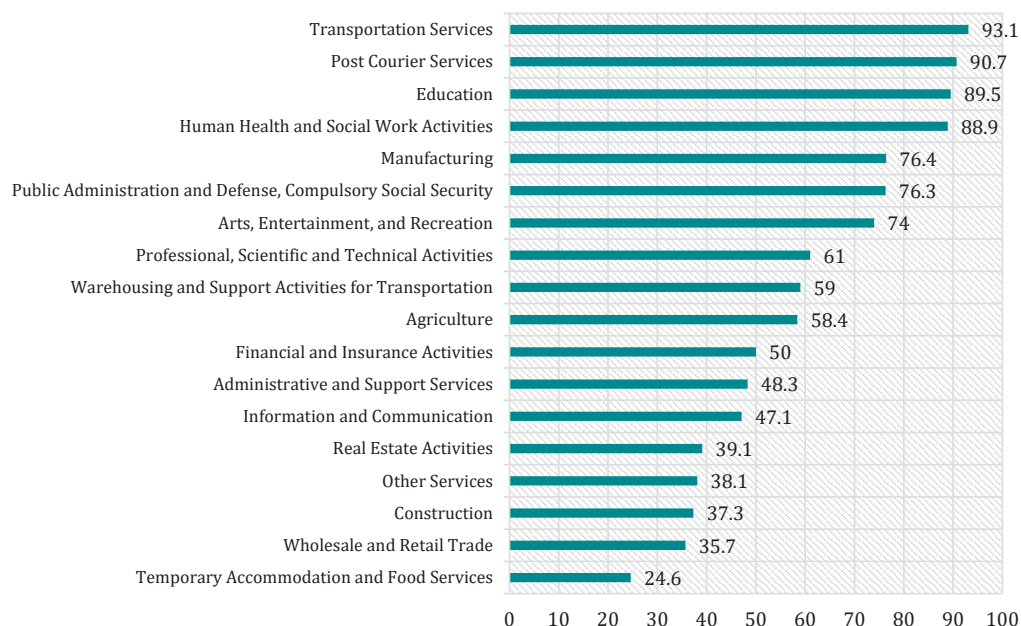


Figure 4. Number of employees covered by collective agreements as a percentage of the registered number of full-time employees, %

Source: the histogram is based on the latest published official data of the State Statistics Service of Ukraine (2022a)

In other words, almost half of agricultural workers are not yet subject to collective agreement regulation and are deprived of the guarantees provided by the collective agreement, in particular, regarding a safe and healthy working environment. This is a rather unfavourable situation for employees, especially now, under martial law, when guaranteeing their rights is difficult. The Law of Ukraine "On the Organisation of Labour Relations under Martial Law" (2022) granted employers the right to initiate the suspension of certain provisions of the collective agreement. However, based on the systematic interpretation

of the mentioned normative act, experts say that the provisions of the collective agreement that can be suspended by the employer include provisions on termination of the employment contract; working hours and rest time; working at night; features of work of certain categories of employees; remuneration; guarantees of remuneration; guarantees of the activities of trade unions (Yatsyshyn, 2022). Regulations on the safety and health of employees at work are not included in this list.

The next important aspect of increasing the role of collective-contractual regulation of

relations in the field of a safe and healthy working environment for agricultural workers is the scope of collective agreements. According to Article 9 of the current Law of Ukraine “On Collective Contracts and Agreements” (1993), the collective agreement applies to all employees and employers. Therefore, the membership of such employees in the trade union does not matter. Upon entry into force of the Law of Ukraine “On Collective Contracts and Agreements” (2023), the scope of the collective agreement will undergo changes. According to Part 4 of Article 5 of this normative act, only those provisions of the collective agreement that are such by virtue of legal requirements or for the parties to collective agreements will be binding both for employees who are members of a trade union and for those who are not its members. The conditions for extending other provisions of the collective agreement to certain employees can be set out in the collective agreements themselves. This provision carries substantial risks, as it requires a very careful and balanced approach to the formulation of the content of collective agreements to avoid abuse by employers and deterioration of the situation of employees.

The agricultural sector is characterised by the presence of specific entities (farms and agricultural cooperatives), which use, in addition to hired labour (based on an employment contract), also the work of their members. Regarding the legal registration of relations on the employment of members of agricultural cooperatives, according to Part 2 of Article 26 of the Law of Ukraine “On Agricultural Cooperation” (2020), this can be the conclusion of an employment contract, the execution of a civil contract, or the registration of the use of labour on another basis (it is not mentioned what kind of basis it is in the law). As for the most optimal way to legally consolidate the implementation by members of an agricultural

cooperative of their labour involvement in its activities, the expediency of concluding an employment contract has already been justified earlier (Novak & Melnyk, 2020). As for the members of farms, the Law of Ukraine “On Farming” (2003) clearly distinguishes between employees of the farm with whom an employment contract (contract) is concluded and members of the farm whose work is regulated by the charter of the farm. Despite the existence in scientific circles of a separate opinion on the need to unify the legal regulation of relations on the employment of members of farms with the full extension of labour legislation to them and the conclusion of employment contracts with these persons (Veryomenko, 2017). In contrast to this judgment, the position of L. Velychko (2018) regarding the impossibility of combining membership and employment relations can be presented, primarily because of their different object.

It follows from the above that if a collective agreement is concluded, employees of these agricultural business entities are subject to it on a general basis. As for working members – not employees, it is worth noting the following. According to Part 2 of Article 3 of the Labour Code of Ukraine (1971), the specific features of the study of members of farms and cooperatives should be regulated by special legislation and charters of such entities. However, labour protection guarantees should be provided to these categories of employees in accordance with the procedure established by labour legislation. According to Article 13 of the Labour Code of Ukraine (1971) and Article 7 of the Law of Ukraine “On Collective Contracts and Agreements” (1993), regulation of labour conditions and protection is one of the mandatory components of the content of a collective agreement. In Article 20 of the Law of Ukraine “On Labour Protection” (1992), a direct

indication is present that the parties to the collective agreement provide for social guarantees for employees in the field of labour protection. The study fully supports the thesis by N. Kviat and O. Tkachuk (2023) that through the implementation of the requirements of the collective agreement, the business entity forms conditions that contribute to increasing the level of protection of employees' rights, and a balance of interests of the parties to labour relations is achieved. Thus, considering the expansion of the scope of labour legislation in terms of labour protection guarantees for members of farms and cooperatives, it can be concluded that it is necessary to extend the relevant provisions of collective agreements to these categories of employees. For regulatory consolidation of such a step, it is proposed to supplement Part 1 of Article 9 of the Law of Ukraine "On Collective Contracts and Agreements" (1993) and Part 4 of Article 5 of the Law of Ukraine "On Collective Contracts and Agreements" (2023) with the following sentences: "guarantees established by collective agreements on the safety and health of employees at work, the work of underage employees and women, persons with disabilities apply to all employees, regardless of the grounds for their work". It is also advisable to support the position of O. Melnychuk (2019) regarding the need to preserve the provision of labour protection guarantees for members of cooperatives, their associations, and members of farms in accordance with the procedure defined by labour legislation when developing the content of a promising codified regulatory act on regulating labour relations to replace the current Labour Code.

The settlement of the issue of the specific features of the safety and health of persons employed in agriculture at the level of collective agreements, considering the basic norms of legal

acts on labour protection, is a combination of centralised and local legal regulations. This approach is evaluated positively by researchers (Lysiak, 2018), as one that allows filling the gap in the legal regulation of labour relations of members of agricultural enterprises and considering the specific features of the activities of a particular business entity as much as possible. At the local level of collective-contractual regulation of relations on the use of labour, the obligations of the employer and employee regarding working conditions are recorded (Yakovlev, 2019). The local level of settlement of issues of safety and health of employees at work is progressive based on the specific features of the legal nature, the procedure for creating, filling with meaningful content and implementation of collective agreements, and their social importance. As emphasised by D. Sirokha (2019), local regulations allow quickly and flexibly regulating social and labour relations and ensure their dynamic development. In addition, it is the collective agreement as a local regulatory act that can and should not only fill in the gaps in the legal regulation of relations to ensure the safety and health of agricultural workers but also increase the level of their protection in comparison with centralised legislation, thus solving social problems of society (Sychova, 2019). Another advantage of fixing the provisions on the safety and health of employees at work in the collective agreement and the argument in favour of its presence in agricultural enterprises is that the implementation of these provisions is easily controlled by both trade unions and authorised state bodies (Khrabatyn, 2021). This is an additional guarantee of protecting the right of employees to safe and healthy working conditions. The valuable opinion is that of O. Varenik (2020) on achieving a balance of interests, needs of employees, and

interests of the employer through local labour protection regulations (to which the researcher includes the collective agreement).

In this study, the phrase “safety and health of employees at work” is deliberately used, in fact, instead of the category “labour protection”, since it is advisable to update the legal terminology in this part. The arguments in favour of this approach are as follows. The legal definition of the concept of “labour protection” is contained in Article 1 of the Law of Ukraine “On Labour Protection” (1992). According to this norm, labour protection is understood as a system of measures that differ in content and nature (legal, treatment and prevention measures, sanitary, hygienic, organisational, technical, social, and economic). Their purpose is to preserve, primarily, the life and health, and the working capacity of a person in the process of conducting the latter’s labour activity. In scientific circles, there is an opinion that it is advisable to support that it is not work that is protected, but the life and health of the person who works. As objects of labour protection, researchers refer to a) an employee who performs a certain labour function, b) the environment in which this labour function is implemented (Hryban & Hlukhoveria, 2017; Klochko, 2020). Then it is logical to refer to not “labour protection”, but to “safety and health of employees at work”. This fully complies with international standards. The ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998) defines the right to a “safe and healthy working environment”, not the right to “occupational safety”. Similarly, the Constitution of Ukraine (1996) establishes the right to “proper, safe, and healthy working conditions”. The correct approach of the legislator when formulating the name and content of Draft Law of Ukraine “On the Safety and Health of Employees at Work” (2022) is notable,

which is positioned as a relevant replacement for the current Law of Ukraine “On Labour Protection” (1992). Article 1 of the Draft Law defines the basic concept of “safety and health of employees at work” as a system of measures and means aimed primarily at preventing and minimising the impact on employees of occupational factors and risks that are dangerous and/or harmful, preserving the life, health of employees, and their ability to work. These tools and measures should be taken at all stages of the workflow, including those that are preliminary, such as design and planning. Hence, it is appropriate to define among the mandatory components of the terms of the collective agreement the condition on “safety and health of employees at work” instead of “labour conditions and protection” (in Part 1 of Article 7 and others of the Law of Ukraine “On Collective Contracts and Agreements”, 1993) and instead of “occupational safety, health, and hygiene” (in Part 2 of Article 21 and others of the Law of Ukraine “On Collective Contracts and Agreements”, 2023).

Collective-contractual regulation of the safety and health of agricultural workers is not limited to the local level – collective agreements. It also covers collective agreements. Moreover, they can and should reflect the specific features of agricultural labour and define special provisions for the proper regulation of all aspects of relations on the use of such labour. In Particular, N. Bagai (2009) positions the industry agreement in agriculture in this way. However, there are a number of problems in this area. First of all, this is a certain obsolescence of the current basic system for agriculture in the Sectoral Agreement between the Ministry of Agrarian Policy and Food of Ukraine, the All-Ukrainian Association of Employers’ Organisations “Federation of Employers of the Agro-Industrial Complex and Food of Ukraine” and the Professional Union of Workers

of the Agro-Industrial Complex of Ukraine in Agriculture for 2014-2020 (n.d.), which is still valid today. The task set – the development of an industry-specific programme for improving the state of safety, health, and hygiene of workspace and the industrial environment for 2014-2018 was not completed. The provisions of Section VII “Occupational Health and Safety” at a low level reflect industry specific features. In fact, only in paragraph 7.19 (regarding the prohibition of involving women of childbearing age in working with pesticides and agrochemicals) one of the features of agricultural production was mentioned – a high degree of chemicalisation. The remaining provisions of the section under review are limited to general provisions that could take place in a sectoral agreement in any field of economic activity.

Considering changes in national and international legislation, at least in the labour protection field, martial law, and the specific features of the post-war period, work on concluding a new industry-level agreement should be conducted in the near future. Resolution of the Presidium of the Federation of Professional Trade Unions of Ukraine No. P12/1h (2022) defined “Main Tasks of Collective and Contractual Work for 2023”. Among other things, the mentioned tasks include the development, with the participation of the parties to the collective agreement, of such an important document from a globally recognised risk-oriented approach to organising labour protection as a local-level document: the Plan of Comprehensive Measures to achieve the established standards of occupational safety and hygiene, a safe and healthy working environment. Attention is also focused, again at the local level of collective agreement regulation, on the need for preventive work to prevent accidents, occupational diseases, and emergencies. This includes not only determining the list of relevant measures

but also specifying the necessary volumes and sources of their financing. The importance of fixing at the level of sectoral, territorial agreements, and collective agreements such specific measures as: providing employees with means of protection against the consequences of military operations during martial law (helmets, gas masks, bullet-proof vests, etc.); organisation of psychosocial support for employees under martial law and in the post-war period. All these recommendations should be considered in the new sectoral agreement for the agricultural sector. Mandatory, according to the author of the study, is the inclusion in the content of the sectoral agreement in agriculture and in collective agreements of provisions on training in the basics of mine safety, first aid for explosive injuries, and other security issues caused by military operations.

It is worth noting another innovation of the Law of Ukraine “On Collective Contracts and Agreements” (2023) – the introduction of new types of collective agreements for Ukraine. This refers to industry agreements of limited action (in industries where there are no subjects of the parties at the industry level that meet the criteria of representativeness) and territorial agreements in a separate industry (for industries where local self-government bodies or local state authorities are authorised to regulate the issue of remuneration or other working conditions). This novelty opens up new prospects for further guaranteeing the right of agricultural workers to a safe and healthy working environment through the reflection of this aspect in the relevant agreements. Researchers have already identified the prospects for concluding collective agreements at the community level as an effective tool for social partnership, the development of the social and labour field, and the socio-economic development of rural areas (Lanchenko, 2018). This approach

can be considered appropriate since it is this level that can and should consider the full range of local characteristics of agricultural activities and focus on appropriate measures to create a safe and healthy working environment for employees.

Conclusions

The expansion at the level of international acts of basic principles and rights in the world of work by the right to a safe and healthy working environment determines the need for appropriate changes in regulatory support at the level of states, including Ukraine as a member of the International Labour Organisation and other international institutions. Along with individual contractual regulation, collective contractual regulation through collective contracts and agreements is an effective tool for regulating the provision, guarantee, protection, and defence of this right. The changes that have taken place in the regulatory support of relations for the conclusion of collective contracts and agreements in Ukraine correspond to international trends and are generally positive.

The agricultural sector is characterised by a low degree of coverage of employees by collective agreements. It is necessary to conduct information and advisory work and create information resources to popularise knowledge about the advantages of a collective agreement not only at large but also at small agricultural enterprises to improve the situation. Establishing a minimum number of employees as a condition for the mandatory conclusion of a collective agreement is impractical due to the risk of excluding the vast majority of agricultural workers from collective agreements.

Considering the progressiveness of collective-contractual regulation and the effectiveness of this tool in the context of protecting employees,

the author of the study proposes to legislate the obligation to extend the provisions of collective agreements in terms of guaranteeing the safety and health of employees at work, the work of underage workers and women, persons with disabilities, to all employees, including members of farms, agricultural cooperatives.

The need to replace the category “labour protection” with “safety and health of employees at work” is to unify the terminological apparatus considering the actual object of protection. It was concluded that there is a low degree of reflection of the specific features of ensuring the safety and health of employees in the current collective agreement at the industry level for agriculture. The urgency of adopting a new sectoral agreement in agriculture, which would consider new realities and risks for those working in this industry, in particular, due to military operations and the specific features of the post-war period, was justified.

It was established that the expansion of the list of collective agreements by sectoral agreements of limited action by territorial agreements in a particular industry is positive and such that it will allow consideration of the specific features of agricultural activities in specific territorial communities as much as possible. The need for ratification of the ILO Convention of 1975 on rural workers’ organisations to ensure proper representation of the interests of persons engaged in agricultural production was proved.

The results obtained can be used in rule-making activities in the formation of changes, additions, and updates of regulatory acts in the field of collective-contractual regulation of relations to ensure a safe and healthy working environment in agriculture. The formulated generalisations also have practical value – for formulating the content of the sections “safety and health of

employees” in collective agreements of specific business entities in the agricultural sector.

The areas of further scientific research can be: analysis of shortcomings in the content of existing collective agreements at agricultural enterprises with the definition of typical shortcomings in terms of safety and health of employees at work; formulation of methodological recommendations for training employees and employers on the conclusion of collective agreements and their

implementation; improvement of special legislation in terms of safety and health requirements of employees for certain types of work in agriculture and certain branches of agricultural production.

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Conflict of Interest

None.

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Роль колективно-договірного регулювання в забезпеченні права працівників сільського господарства на безпечне та здорове робоче середовище

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Анотація

Актуальність роботи зумовлено необхідністю дослідити зміни на рівні міжнародних стандартів: включення до основних принципів та прав у світі праці права на безпечне та здорове робоче середовище. Це також викликало потребу відповідного корегування і національного правового поля. Другий фактор актуальності статті – новели національного законодавства щодо колективно-договірного регулювання трудових та пов'язаних з ними відносин. Аналіз впливу таких змін на врегулювання в колективних договорах та угодах питання безпечного та здорового робочого середовища для осіб, зайнятих у сільському господарстві, виокремлення проблемних аспектів та вироблення пропозицій щодо їх подолання окреслюють мету дослідження. Досягненню поставленої мети сприяло застосування комплексу методів наукового пізнання: філософського (діалектичного), загальнонаукових (аналізу, синтезу), спеціально-наукових (формально-юридичного, порівняльно-правового). У результаті проведеної роботи визначено відповідність міжнародним стандартам впроваджених в українському законодавстві змін щодо укладання колективних договорів і угод. Запропоновано поширити сферу дії колективних договорів на всіх, хто працює в сільському господарстві, зокрема й членів фермерських господарств та сільськогосподарських кооперативів, щодо гарантії безпечного та здорового робочого середовища й щодо праці найбільш вразливих категорій робітників (жінок, неповнолітніх, осіб з інвалідністю). Обґрунтовано потребу замінити в українському законодавстві термін «охорона праці» на «безпека та здоров'я працівників на роботі», оскільки він більшою мірою відповідає об'єкту охорони та корелюється з міжнародною термінологією. Встановлено невідповідність норм чинної галузевої угоди потребам сьогодення. Рекомендовано в розробці нового документу детальніше відобразити особливості заходів щодо безпеки та здоров'я працівників на роботі, зумовлених специфікою виробничих процесів у сільському господарстві та реаліями воєнного й повоєнного часу. Отримані результати заповнюють прогалину в наукових дослідженнях відповідної проблематики, цінні з погляду можливості застосувати їх у подальшому реформуванні законодавства щодо сфери колективно-договірного регулювання в сільському господарстві, а також стануть в пригоді для підготовки колективних договорів аграрних суб'єктів господарювання

Ключові слова: безпечні умови праці; колективний договір; охорона праці; правове регулювання; сільськогосподарське виробництво; фермерське господарство