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Ensuring the labour rights of freelancers: Challenges and prospects for legitimising income

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Abstract

The relevance of examining the protection of freelancers' labour rights and the de-shadowing of income derived from freelance activities arises from the high level of informal earnings in this sector and the current inability of Ukrainian legislation to apply effective legal mechanisms for state regulation and the enforcement of these workers' rights. Accordingly, the primary objectives and aim of this study were to identify methods for legitimising income from freelance work and to outline a set of legal measures aimed at encouraging the protection of freelancers' rights. The research explored the specific features of freelance activity in Ukraine and Europe, analysed the existing legal framework, and identified key gaps related to the regulation of freelance work in the region. A legal analysis was conducted to examine the dynamics of income generated from freelance work across various Ukrainian cities. Particular attention was given to an assessment that identified the weaknesses, strengths, risks and opportunities related to the further development of this form of employment. Through comparative legal analysis, the study highlighted key aspects of international experience in regulating freelance activity, which informed the development of recommendations aimed at addressing legal gaps in Ukrainian labour legislation. The practical

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relevance of the proposed recommendations lies in the potential to establish a new economic and legal framework for freelance work, enhance the effectiveness of state regulation, and introduce a range of measures to stimulate the de-shadowing of income earned through freelance activity

Keywords: legalisation; remote employment; labour market; virtual environment; remote work; information technologies

Introduction

The processes of informatisation, globalisation, and intellectualisation have rapidly transformed all spheres of public life in societies of the Global North. These developments have significantly influenced the socio-economic progress of individual states and the world at large, opening up new opportunities while also presenting new challenges. The labour market has undergone particularly notable changes under this influence. A growing number of professionals from various sectors now devote most of their working time to freelance projects, viewing them as an optimal means of realising their professional potential. Freelancing is gaining increasing popularity in both Ukraine and European Union countries, as evidenced by statistical data and analytical studies. In Ukraine, the number of freelancers is rising at a remarkable pace. For instance, while only 1,200 users were registered on the Freelancehunt platform in 2006, this figure had reached one million by 2021 (Zyuzin & Topchii, 2020). Demand for freelancers is also growing: in the first few months of 2023, demand increased by 84% compared to the same period the previous year (Bondarenko, 2023). The incomes of Ukrainian freelancers are also on the rise. Between 2019 and 2021, the average income of specialists working with foreign clients increased by 18%, while the total volume of transactions grew by 55% (Melnytska, 2021).

The European Union has also witnessed significant changes in the structure of its labour market. The employment rate in the European Union (EU) for those aged between 20 and 64

has shown a positive trend in recent years. Before the COVID-19 pandemic, this figure consistently increased, reaching 73.1% in 2019. However, in 2020, due to the pandemic's impact, the employment rate saw a 0.9 percentage point decrease. By 2021, it had recovered to pre-pandemic levels, and in 2022, the figure rose by 1.5 percentage points, reaching an all-time high of 74.6% (EU Jobs, 2022). This positive trajectory indicates a gradual recovery and growth in the EU labour market following the pandemic. However, it is worth noting that regional disparities in employment rates persist. For instance, in many Eastern and Baltic Member States, capital regions typically exhibit the highest employment levels, whereas in some Western countries, such as Belgium and Austria, capital regions show some of the lowest figures. Overall, the EU labour market continues to adapt to new challenges, including automation, technological advancements, and demographic shifts, which are influencing employment structures and the increasing popularity of remote working arrangements. Simultaneously, the EU labour market is feeling the effects of these changes, which are altering the structure of employment, boosting the popularity of remote work, and creating new regulatory challenges for the labour market.

Among contemporary studies of freelance labour relations, G. Torun's (2024) dissertation stands out, offering a compelling analysis of how neoliberal values shape the concept of freedom within freelancing. The author highlights that

these values often coincide with constraints on worker autonomy, creating a paradoxical situation where the freedom to set one's own schedule can, in fact, lead to increased exploitation. Complementing this, research by V. Pulignano *et al.* (2024) delves into the socio-technical aspects influencing worker autonomy, revealing that platform organisational structures can significantly impact the amount of unpaid labour. This underscores the importance of flexible platform management approaches to ensure fairness in employment.

Furthermore, S. Brooke and A. Rao (2024) discuss how the design of platform interventions can mitigate discrimination in freelance labour markets. Their study explores the effectiveness of various approaches that can promote more equitable access to opportunities and reduce instances of discrimination, making this a crucial contribution to understanding social justice in digital labour markets. The recent study by F. Beckmann and F. Hoose (2023) considers the broader implications of the platform economy for traditional labour and social institutions. The authors point out that platforms may undermine traditional institutions, leading to the de-institutionalisation of workers' rights and social protection. This highlights the urgent need to develop new regulatory mechanisms to safeguard labour rights in the context of the modern economy. At the same time, G. Gu and F. Zhu (2021) have noted that the growth of this type of remote employment enables countries to expand their share in the international market, enhances economic security, and contributes to reducing unemployment.

In his article, D. Zenkin (2024) explores the key challenges faced by freelancers and the selfemployed. These include a lack of stable income, unregulated labour relations, limited access to social protections, and unpredictable working conditions. The author emphasises that these factors increase the risk of exploitation and

hinder the protection of workers' rights in the gig economy.

In light of the above, particular attention should be given to the legitimising income earned through freelance activity, the development of a new economic and legal framework for this form of employment, and the formulation of recommendations aimed at improving the existing legislative framework. This can be achieved by examining the nature and functioning of freelance work, identifying its specific features and development trends, and analysing statistical data on freelancing in Ukraine and the EU. It is also important to study international experience, as this can support the assessment of how freelancers' labour rights are protected and help identify shortcomings and gaps in current legislation in this area.

Materials and Methods

The research undertaken in the field of legitimisation of income and the protection of freelancers' labour rights was carried out using methodological approaches that reveal both the theoretical and practical dimensions of the analysis. Through the application of a theoretical approach, the concept of freelancing, its defining features, and the principles underpinning this form of remote work were explored. A systemsbased approach enabled the analysis to take into account the current state of freelance activity in Ukraine and the EU, while also considering potential future developments. The method of systems analysis helped identify trends in the development of freelancing, particularly by city and outlined the distribution of freelance work across different sectors. It also facilitated an examination of income dynamics among freelancers and the average earnings from January to December 2024. To this end, the official report of the Freelancehunt platform (Bondarenko, 2023) was analysed, providing statistics on average earnings among Ukrainian freelancers, popular industries, and shifts in the structure of

commissioned work. Additionally, the Payoneer Global Freelancer Income Report (2024), which examines global income trends in the freelance sector, was utilised.

The historical and legal methodological approach supported the analysis of the development of legislative frameworks governing key aspects of labour rights in Ukraine and the EU. Through problem-based analysis, the main obstacles to the legalisation of income earned through freelance work were identified. A comparative analysis was conducted to examine the specific regulatory approaches to freelance activity in countries such as France (Labour Code of France, 2016) and Germany (Federal Ministry of Finance, 2021), highlighting potential solutions to issues concerning income legitimisation and the protection of freelancers' labour rights. The formal legal analysis contributed to the identification of the key features and challenges in the legal regulation of freelancing, particularly concerning informal earnings and the safeguarding of labour rights. This analysis was applied to relevant legislative documents from both Ukraine and the European Union that regulate remote work, the labour rights of freelancers, and the legitimisation of their income in Ukraine.

A number of legislative acts regulating freelance activity, remote work, and home-based employment in Ukraine have been examined. In particular, the Law of Ukraine No. 835-VIII "On Amendments to the Law of Ukraine "On State Registration of Legal Entities and Individual Entrepreneurs" (2015) provides a legal basis for freelancers to register as sole proprietors, thereby facilitating the legitimisation of their income. The Law of Ukraine No. 2164-VIII "On Amendments to the Law of Ukraine "On Accounting and Financial Reporting in Ukraine" (2017) outlines the specifics of income reporting and accountability for freelancers to tax authorities. The Labour Code of Ukraine (1996) establishes the foundations for

regulating labour relations, including provisions for remote work, which have gained particular relevance in recent years. Important additions include the Law of Ukraine No. 1213-IX "On Amendments to Certain Legislative Acts of Ukraine Concerning Improvement of Legal Regulation of Remote, Home and Flexible Work" (2021), which details the conditions for concluding contracts with non-fixed working hours, and the Law of Ukraine No. 1213-IX (2023), which sets out modern standards for organising work outside of traditional office settings.

Results and Discussion

First and foremost, it should be noted that a unified definition of freelance activity has not yet been established in contemporary academic discourse. Scholars such as V. De Stefano (2016) and U. Huws and N. Spencer (2018) often equate the terms "freelance activity", "remote work", and "telework". However, despite sharing several common features, these forms of employment differ in their legal nature. Freelance activity is typically characterised by an employment relationship between an employer and a worker, formalised through a labour contract, where digital technologies are used primarily as a means of communication. This provides grounds to classify the worker as a subject of labour law. Accordingly, remote work that is based on an employment relationship should not be considered part of commercial legal relations.

The term freelance activity is most appropriately defined as the work of an independent specialist who is not in an employment relationship with a specific employer or client, but instead carries out specific tasks and provides services to various clients based on civil law contracts (Law of Ukraine No. 3321-IX, 2021). However, this definition does not fully capture the specific features of how freelance activity is implemented in practice. Freelancing continues to develop rapidly in Ukraine against the backdrop of digitalisation and

globalisation. The adoption of the Law of Ukraine No. 2421-IX (2022) marked an important step towards the legal recognition of this form of work, establishing a legal basis for regulating cooperation between freelancers and clients, as well as for providing access to social protections. Nevertheless, despite this progress, several challenges remain unresolved. One key issue is access to social insurance, which – although formally provided for in current legislation (Law of Ukraine No. 1105-XIV, 1999) – remains limited in practice. Additional difficulties are related to the taxation of freelance income. Existing mechanisms often impose an excessive tax burden, which, as in the period prior to the adoption of new legislation, continues to drive many freelancers to operate informally. Cooperation with foreign clients further complicates the situation, as issues such as currency regulation and the protection of freelancers' rights in cross-border arrangements remain poorly regulated (Andrusiuk, 2020).

Remote work in Ukrainian legislation is regulated by the Law of Ukraine No. 3321-IX (2023), which introduced amendments to the Labour Code of Ukraine (1996). Article 60-2 defines remote work as the performance of employment duties outside the traditional workplace through the use of information and communication technologies. Employees are entitled to choose their place of work independently, and the terms of employment are governed by a labour contract, which ensures legal protection (Law of Ukraine No. 3321-IX, 2023). Home-based work has also been clearly regulated in Ukrainian legislation, particularly in Article 60-1 of the Labour Code of Ukraine (1996). Unlike remote work, home-based work is carried out at the employee's place of residence without significant use of digital technologies. The employer is responsible for providing the necessary equipment and ensuring appropriate working conditions for the performance of duties (Law of Ukraine No. 3321-IX, 2023).

The term freelance activity is not explicitly defined in Ukrainian legislation but is generally regulated through civil law contracts. Within the EU, the legal definition and regulation of freelance work vary across countries. In Germany, freelancers operate as independent professionals (Freiberufler), governed in part by the Law on the Organisation of the Trade of Germany (1869) and the Income Tax Law of Germany (1934). In France, freelancers work under the auto-entrepreneur (microenterprise) system, which is regulated by the Law of France No. 2008-776 "On the Modernisation of the Economy" (2008). Across the EU, freelance work typically falls under the domain of civil law and is not governed by labour law (Regulatory Scrutiny Board Opinion Fitness..., 2021).

Although European legal instruments, such as the Directive of the European Parliament and of the Council No. 2019/1152 (2019), establish fundamental rights for workers in the digital sphere, they do not extend to freelancers. This highlights the complexity of defining freelance work in legal terms and the diversity of national approaches. In all cases, the emphasis lies on adapting legislation to reflect emerging forms of employment.

In contemporary conditions, this form of employment is inextricably linked to the use of information and communication technologies. Unlike other types of economic activity, these technologies serve not only as a means of communication but also as a fully fledged environment for conducting business operations. This is reflected in freelancers' active engagement with virtual infrastructures (Geydor & Kurachenko, 2020). When identifying the virtual infrastructures commonly utilised by freelancers, it is important to highlight internet-based platforms for offering services and seeking employment. These include crowdfunding platforms, freelance marketplaces, professional social networks, online recruitment agency platforms, career counselling services, websites of professional associations and public

employment services, social media groups and pages, as well as various information systems and electronic payment systems.

This defining feature of freelance activity provides grounds to consider it as a form of economic activity within a digital environment. It involves the provision of services and the performance of tasks by an independent specialist who is not in an employment relationship with a specific client (Kozarezenko & Tochilina, 2019). Under Ukrainian legislation, the term “digital environment” is not explicitly defined in the Law of Ukraine No. 3321-IX (2023). However, its concept may be interpreted through the context of remote work. The law states that remote work involves carrying out job duties outside the traditional office setting using information and communication technologies. Thus, the digital environment can be understood as a space in which employers and workers interact using various digital platforms and communication tools (Law of Ukraine No. 3321-IX, 2023). In the EU context, the concept of a digital environment is also not clearly defined in specific directives, but its elements are regulated by such acts as the Digital Services Act (2022), the Digital Markets Act (2022), the General Data Protection Regulation (2016), and the Directive on Transparency and Predictability of Working Conditions (Directive of the European Parliament and of the Council No. 2019/1152, 2019). Within the framework of the digital economy and market, this issue is frequently considered in connection with A Digital Agenda for Europe (2010). This initiative emphasises the importance of developing digital technologies and platforms to foster economic growth, innovation, and competitiveness within the EU’s single digital market. A key aspect is that the digital environment in which freelance activity takes place requires specific mechanisms for protecting workers’ rights, as the relationships between freelancers and clients often lack clearly defined employment regulations. For

example, recent EU initiatives, such as the legislative package on platform work, aim to safeguard the rights of individuals working through digital platforms, including freelancers (Proposal for a Directive of the European Parliament..., 2021). To strengthen labour rights for freelancers at the EU level, it is essential to consider enforcement mechanisms that ensure compliance with provisions directly affecting member states – particularly regarding the social protection of individuals engaged in non-standard forms of employment (Cherevko, 2025).

Thus, in both Ukraine and the EU, there remains a need for further development and refinement of legal provisions that reflect the specific nature of work within the digital environment, while ensuring rights and protections for freelancers. This would represent a significant step towards creating favourable conditions for employment in the emerging digital economy. The link between freelancing and the information and communication environment gives this form of employment distinct characteristics that set it apart from other types of economic activity. In particular, the existence of a digital environment gives rise to another key feature, which may be described as a high entry threshold. On any freelance platform, this is reflected in the obligatory presence of rating systems, portfolios, reviews, and experience metrics, all of which shape a freelancer’s competitiveness and significantly influence their economic success. The same applies to freelancers operating through social media pages, online communities, or professional networks (Verenova, 2021). In the freelance economy, new social and economic relationships are emerging that reshape traditional models of interaction between workers and employers (Öberg, 2017). A specialist’s competitiveness depends largely on the platform they use, as well as the number of reviews, comments, and the overall popularity of the freelancer. Consequently, economic growth during the initial stages of a

freelance career tends to be slow, making it difficult for freelancers to integrate effectively as actors within economic relations. At this stage, their activities often demonstrate limited economic efficiency. Another defining feature of freelance work is the difficulty in formally documenting business transactions, largely due to the high level of anonymity within the digital space. It is common for platforms to prohibit direct contact between the client and the freelancer, a restriction particularly relevant in the Business-to-Consumer (B2C) segment. In this context, clients are often private individuals who are unwilling to enter into formal contracts with freelancers, which significantly complicates the legal formalisation of such relationships (Verenova, 2021).

The freelance market in Ukraine began to develop actively in 2006, with significant growth observed from 2011 onwards. The digital transformation of Ukraine's economy has been one of the key drivers of structural changes in employment, including the rise of freelancing as a form of work (Krylov, 2024). For instance, freelance income turnover between 2006 and 2011 amounted to 38 million USD, rising to 262 million USD between 2012 and 2017. The number of specialists also grew rapidly, reaching 190,000 per year between 2011 and 2016. As of 2021, the number of freelancers had increased to 776,000 (Freelancehunt, 2021). An analysis of freelancing in Ukraine from 2021 to 2024 indicates noticeable changes in earnings, as well as broader trends in the development of this segment of the labour market. In 2021, Kyiv held the leading position in terms of freelance payments, accounting for 23% of the total. Kharkiv ranked second with 13%, while Lviv and Dnipro each received 7%. The Odesa Region accounted for 5% of payments. Among freelancers working with foreign clients, a significant share of income growth was attributed to Lviv (33%), followed by Dnipro (24%) and Odesa (20%) (Freelancehunt, 2021). According to research

conducted between 2022 and 2024, the freelance market in Ukraine continued to grow despite challenges related to the war and economic conditions. Reports indicate that the number of freelancers in Ukraine increased by 15% in 2022, reaching approximately 892,000 individuals (Bondarenko, 2023), signalling a gradual recovery following the initial downturn. The average annual income of freelancers also rose by 25% in 2023 compared to the previous year, reaching around 15,000 USD (Bondarenko, 2023). In 2024, further growth was observed, with the number of freelancers increasing by an additional 10%, totalling approximately 981,200 individuals (Bondarenko, 2024), highlighting the resilience of Ukrainian freelancers in international markets. The main sources of income remained the markets of the USA, the United Kingdom, and Canada, which accounted for up to 70% of total freelance payments. In 2024, this amounted to approximately 700 million USD out of a total of 1 billion USD in freelance income in Ukraine (Upwork, 2024). One of the factors contributing to the growing popularity of freelance work in Ukraine has been the widespread adoption of outsourcing as an adaptive business response to changing economic conditions (Sakun *et al.*, 2020).

Compared to data from the European Union, the average income of freelancers in EU countries in 2023 was approximately 40% higher than in Ukraine. For instance, in Germany and France, the average freelance income reached 50,000 EUR – 60,000 EUR per year, whereas in Ukraine it ranged between 20,000 EUR and 30,000 EUR. Positive trends were also observed in Spain and Italy, where the average earnings of freelancers rose by 15% in 2023 compared to 2022, reaching approximately 40,250 EUR per year in Spain and 42,550 EUR in Italy (Freelancer Union, 2023).

In addition, Ukraine has witnessed significant growth in the number of freelancers working with international clients. As of 2024, this figure

had increased by 30% compared to 2022, reaching 1,159,600 freelancers (Bondarenko, 2024). This reflects the ability of Ukrainian professionals to adapt to new market conditions and to take advantage of the opportunities offered by international platforms. Despite ongoing challenges, freelance activity in Ukraine continues to demonstrate resilience and steady growth. This enables Ukrainian specialists to compete internationally and attract foreign clients, although current figures still lag behind those observed in EU countries (Hetmantseva, 2023).

As of 2024, Ukraine continues to hold a leading position in the IT freelance market in Eastern Europe. According to data from the freelance platform Upwork, the number of Ukrainian freelancer profiles on the platform exceeds 200,000 – an increase of 25% compared to 2022, when the figure stood at 160,000. The number of completed projects has reached approximately 2.5 million, reflecting a 30% rise from 2022 (1.9 million projects). This growth highlights not only the increasing number of freelancers but also the rising competitiveness of Ukrainian specialists in the international market (Upwork, 2024).

By comparison, the freelance market in European Union countries also shows dynamic growth. In 2023, more than 1.5 million freelancers from across the EU were registered on Upwork, indicating a growing interest in this form of employment. On average, freelancer earnings in EU countries exceed those of Ukrainian professionals by 20%-30%, due to both higher service rates and more developed markets (Upwork, 2024; Kovtun & Shynkarenko, 2024). In particular, freelancers in Germany, France and the Netherlands benefit from more generous remuneration, driven by stable economies and the expansion of start-up ecosystems. These conditions may encourage Ukrainian freelancers to enhance their skills and adapt to international standards in order to remain competitive.

Despite the overall growth of the gig economy, developing nations face considerable risks stemming from insufficient worker protection within the freelance sector, necessitating specific regulatory measures (Okunkova *et al.*, 2023). While Ukraine has seen positive developments, a persistent challenge remains: the lack of clear legal norms governing freelance activity. This regulatory void contributes to a high level of informal earnings, as many freelancers fail to pay taxes on their income. This negatively impacts the state's economy, leading to a shortfall in state budget revenue. It is crucial to highlight this issue of inadequate legislative regulation in Ukraine's freelance sector, which directly results in a substantial portion of informal earnings from this type of employment. According to research by the Visegrad Fund, over 40% of freelancer income remains in the shadows due to a lack of incentives for legalising their activities (Visegrad Fund, 2023). This situation significantly harms the state's economic segment, as professionals often do not pay income taxes or other mandatory payments stipulated by Ukrainian law. As of 2023, a significant proportion of Ukrainian freelancers – approximately 70% – are not paying taxes on income earned from foreign clients (Upwork, 2024). This situation stems from several factors, including insufficient legal regulation, a lack of clear mechanisms for monitoring freelancer income, and complexities associated with legalising their activities. Many freelancers believe that paying taxes would worsen their financial position, leading them to operate within the informal economy. By 2024, only 30% of freelancers in Ukraine were officially registered as individual entrepreneurs, which severely restricts the state's ability to collect tax revenue (CEDOS, 2024). While further legislative simplification and improved business conditions could alter this situation, freelance activity largely remains outside the formal legal framework, negatively impacting the country's economic

stability (European Business Association, 2024; NISS, 2024). The successful implementation of a strategy to legalise freelance work necessitates coordinated efforts between the government, businesses, and civil society, a conclusion supported by research into European integration cooperation (Stychynska *et al.*, 2024).

The Law of Ukraine No. 1724-VIII (2019) introduces provisions allowing Ukrainian contractors to forgo the requirement of signing paper-based contracts with clients based outside Ukraine. Instead, it enables the conclusion of electronic contracts through email correspondence, the acceptance of public offers, or the issuance of invoices. Furthermore, this law prohibits banks from demanding Ukrainian translations of contracts and elevates the status of an invoice to that of primary documentation, simplifying accounting procedures. While this legislation does not directly target freelance activity, it significantly aids in the de-shadowing of income and simplifies the organisational and legal framework for its conduct.

An analysis of Law of Ukraine No. 835-VIII (2015) and related legislative acts concerning the decentralisation of authority for the state registration of legal entities, sole proprietors, and civil associations highlights its positive impact on the formalisation of freelance work in Ukraine. This legislation introduced significant changes to the registration procedure for sole proprietors and legal entities. Notaries, local state administrations, local self-government bodies, and accredited entities were granted the authority to carry out state registration. Notably, this law also significantly reduced the number of procedural actions and required documents for the state registration process.

To address the issue of undeclared freelance activity and the legitimisation of income from this sector, it is crucial to analyse its underlying causes. One of the key factors is the high level of corruption in Ukraine and the widespread mistrust

among potential entrepreneurs towards the tax system and government institutions. This fosters a perception among freelancers that paying taxes is unjustified, leading many to operate in the informal sector. In addition, the instability of tax legislation plays a significant role in this context. Frequent changes in tax policy were recorded in 2023-2024, creating further difficulties for freelancers in planning their income and expenses. Ongoing reforms have contributed to a sense of uncertainty among entrepreneurs, often prompting tax avoidance (CEDOS, 2024).

Moreover, the long-standing culture of the informal economy in Ukraine has encouraged widespread tax evasion. This practice has become normalised in society, with many freelancers seeking ways to minimise their obligations, resulting in low levels of tax compliance. Therefore, tackling the issue of legitimising freelance activity in Ukraine requires a focus on rebuilding trust in public institutions, stabilising tax legislation, and introducing incentive mechanisms for those operating within the formal economy.

Problematic factors affecting the formalisation of freelance activity in Ukraine include the obligation for freelancers to maintain primary documentation. One of the key challenges in the freelance market remains the effective taxation of cross-border employment, particularly when facilitated through freelance platforms. This area requires in-depth analysis from both the perspective of corporate demand and regulatory impact (Rexhepi *et al.*, 2024). For tax purposes, taxpayers are required to maintain appropriate records, as stipulated in Clause 44 of the Tax Code of Ukraine (2011). This provision mandates the recording of income, expenses and other indicators that define taxable objects or tax liabilities, using primary documents, financial statements, accounting registers and other documents specified by current legislation for the calculation and payment of taxes and fees. Although accounting

procedures have been simplified through the introduction of electronic services and automation – as set out in the Law of Ukraine No. 996-XIV “On Accounting and Financial Reporting in Ukraine” (1999), as amended by the Law of Ukraine No. 2164-VIII (2017), which recognises invoices as primary documents – the obligation to maintain primary documentation remains burdensome for freelancers. This is largely due to the specific nature of freelance work, which does not always allow for the proper documentation of every transaction. As a result, the requirement to maintain primary documentation, as stated in the Tax Code of Ukraine (2011), does not contribute effectively to encouraging the legalisation of freelance activity.

The revision of legislation concerning freelance activity in Ukraine during 2023-2024 has highlighted several serious issues regarding the protection of freelancers’ labour rights. Despite certain positive legislative developments, some aspects remain inadequate. First, the absence of clear legal regulation continues to pose a significant challenge. The Labour Code of Ukraine (1996) contains provisions regulating remote and home-based work (Articles 60-1 and 60-2). However, these provisions leave several important matters unresolved. For instance, the legislation does not establish clear rules for evaluating work performance or monitoring task completion by remote workers. This results in legal ambiguity in employer-employee relations, potentially leading to disputes (Labour Code of Ukraine, 1971). Second, there are inconsistencies in how employers’ obligations are interpreted, particularly with regard to providing equipment and reimbursing expenses for internet, electricity, and other resources (Visegrad Fund, 2023). Finally, the current provisions lack mechanisms to protect workers from excessive workloads or violations of their right to rest – factors that are critically important in the modern labour environment.

Zero-hours contracts, which allow employees to carry out work based on the employer’s needs, remain inadequately regulated. The main issue is the absence of clear criteria regarding the minimum amount of work that must be offered to the employee. This can lead to situations where workers are not given sufficient hours to secure a basic income (Labour Code of Ukraine, 1971). In addition, the lack of clear provisions on remuneration creates opportunities for employer abuse, such as the implementation of non-transparent payment systems. Another significant concern is the limited access these workers have to social protections, particularly unemployment insurance (Sudakov & Lisogor, 2022). Contracts involving home-based workers also reveal shortcomings in current legislation. The primary issue is the lack of clear legal norms defining the status of such workers. As a result, a large share of employment relationships in this sector remains informal, which reduces the level of social protection available (Labour Code of Ukraine, 1996).

It is important to note that current legislation contains no provisions regarding occupational safety for home-based workers. While freelancing offers opportunities for creative freedom, such benefits require further examination in the context of limited labour protections (Öberg, 2024). Working conditions in private households remain outside the scope of state supervision, increasing the risk of rights violations (Home Work Convention No. 177, 1996). The lack of social insurance mechanisms for this category of workers further exacerbates their vulnerable legal status (Visegrad Fund, 2023). The existing issues in the regulation of remote, zero-hours, and domestic work under the Labour Code of Ukraine (1996) highlight the need for improving relevant legal provisions. To achieve this, it is advisable to refer to international standards, such as the Home Work Convention (1996), and consider the practical experience of other countries in regulating sim-

ilar employment relationships. Such measures would help reduce legal uncertainty and ensure adequate protection for workers (Sudakov & Lisogor, 2022)

The insufficient protection of freelancers' rights presents another major concern. At present, there are no legislative mechanisms to guarantee freelancers the same entitlements as traditional employees. In particular, freelancers are not entitled to social benefits such as paid leave or sick pay, as these matters are not regulated under the current legal framework (Labour Code of Ukraine, 1996).

Identifying gaps and shortcomings in legislation is a crucial step towards improving the current situation. For instance, the Labour Code of Ukraine (1996) does not address the specific nature of freelance work, resulting in legal uncertainty. As a consequence, many freelancers remain without adequate protection. According to international standards such as the Home Work Convention (1996), which concerns home-based work, participating states are required to ensure the protection of workers performing tasks outside the employer's premises. Ukraine should take these principles into account when developing legislation on remote and home-based work. This involves not only regulating freelance activity but also granting freelancers the same rights as traditional employees. Accordingly, labour law reform is necessary to accommodate the unique features of freelance work. This includes extending social protections and clearly defining the rights and responsibilities of freelancers in legislation, which would support the legalisation of their activities and help reduce the scale of undeclared income.

The primary cause of this issue lies in the ability to conduct transactions outside the banking system or to credit funds to accounts used exclusively for freelance activity. Freelancers often employ various methods to convert electronic money into cash through private individuals,

transfer funds in the name of private persons via international payment systems, or settle payments in cash or cryptocurrency for completed tasks and services rendered. These forms of payment enable freelancers to avoid income declarations and make it difficult for tax authorities to verify financial transactions. This creates significant obstacles to transparent income accounting and government oversight (Law of Ukraine No. 2346-III, 2001).

Another contributing factor is the difficulty, and often impossibility, for state bodies to effectively monitor and detect the use of hired labour by freelancers. It is important to note that freelancers usually operate from closed offices or home environments, making it extremely challenging, if not impossible, for state authorities to ascertain the number of such workers. This suggests that the current mechanisms for legalising freelance activity in general, and legitimising income derived from it, are largely ineffective. The core issue with these mechanisms is that freelance activity is not sufficiently differentiated from other types of work, and its unique characteristics are largely ignored.

The adoption of several laws reflecting current trends in labour relations and the digital economy demonstrates the legislator's effort to adapt the legal framework to contemporary conditions. The Law of Ukraine No. 3321-IX "About Digital Content and Digital Services" (2023) regulates the creation, exchange, sale, and use of digital content and services. A key aspect of this legislation is the protection of consumer rights in the context of digital services and the establishment of clear obligations for service providers. Although this law addresses the digital economy more broadly, its provisions may be particularly relevant for freelancers engaged in the provision of digital services. The Law of Ukraine No. 2421-IX (2022) introduces a framework for regulating labour relations involving non-fixed working

hours. This approach allows employers to engage workers in response to fluctuating workloads, while also ensuring minimum guarantees for employees. For instance, a worker is entitled to a minimum amount of work, as specified in the contract.

The Law of Ukraine No. 1213-IX (2021) establishes clear regulations for organising work outside the traditional office setting. It outlines mechanisms for reimbursing expenses incurred by remote workers and safeguards their right to rest. These legislative changes provide a foundation for improving the legal regulation of freelance work; however, certain gaps remain. In particular, Ukrainian legislation does not yet fully align with international standards, such as the Directive of the European Parliament and of the Council No. 2019/1152 (2019), which sets out specific protections for workers engaged via digital platforms. Incorporating these standards into national legislation would help to reduce legal uncertainty and facilitate the integration of Ukrainian freelancers into the global economic landscape.

In examining the experience of France, new taxation rules have been introduced for freelance professionals (Labour Code of France, 2008), aimed at facilitating the process of starting a business and registering as a freelancer. Individuals commencing freelance activity may opt to pay income tax either under the personal income tax regime or the corporate income tax regime. A significant innovation in French policy is the option for freelancers to work under the portage salarial system or to join a worker cooperative, thereby avoiding the need to register a separate business activity. It is also worth noting that freelancers in France may operate as sole traders under the *Entreprise Individuelle* model. This implies full personal liability for business-related obligations, which creates a requirement to obtain insurance that offers protection against creditors in the event of financial difficulties (Service-public.fr, 2023).

In France, it is legally permissible to work as an independent or freelance professional in certain sectors, particularly in consultancy roles, through the portage salarial system. Under this arrangement, the freelancer signs a contract with an umbrella company, which assumes the role of the employer and takes responsibility for administrative matters, including tax payments. The umbrella company effectively acts as an employment agency: it registers the freelancer as an employee, pays social security contributions, fulfils tax obligations, and handles other mandatory payments to the state. The cost of these services typically amounts to 7%-10% of the freelancer's monthly invoice. This system enables freelancers to access a range of social benefits, including insurance, healthcare, pension contributions, unemployment support, and other entitlements available to regular employees in France (Labour Code of France, 2008).

Legislative regulation of freelance activity in EU countries varies depending on the legal and economic context of each state. For example, in France, freelancers can operate under various legal forms, such as the status of an individual entrepreneur (*Entreprise Individuelle*) or through the portage salarial system, which enables access to social benefits including pension coverage and health insurance (Labour Code of France, 2016). In Germany, freelancers may also work as self-employed individuals and receive certain tax benefits, provided their work meets the legal criteria for self-employment (Federal Ministry of Finance, 2021). However, several serious issues are associated with freelance work in the EU. First, the lack of comprehensive regulation in the freelance service market can lead to exploitation by clients who may fail to provide fair compensation. Second, freelancers often face barriers in accessing social protection, as their self-employed status does not always afford them the same rights as employees (Eurofound, 2022).

Ukrainian legislation contains significant gaps in the regulation of freelance work. In particular, the Labour Code of Ukraine (1996) lacks clear provisions defining the legal status of freelancers. Labour law remains focused on traditional employment relationships, leaving freelancers – who primarily operate under civil law contracts – outside the established legal framework. The absence of a formal legal definition of freelance activity creates legal uncertainty, complicating the protection of rights for this category of workers.

The Law of Ukraine No. 5067-VI “On Employment of the Population” (2012) also fails to address the specific nature of freelance work. For instance, state employment support programmes do not include measures aimed at encouraging or regulating freelance activity. As a result, freelancers have limited access to public employment services and are unable to claim unemployment benefits. In Ukraine, freelancers primarily work under civil law contracts, which do not provide the same rights and guarantees as employment contracts. The absence of mandatory provisions regarding sick pay, paid leave, and social insurance leaves this category of workers particularly vulnerable (Labour Code of Ukraine, 1996). These shortcomings create additional risks for freelancers, especially in times of economic instability when access to public social support is critically important.

In addition to legislative gaps, Ukraine lacks state-run training and upskilling programmes specifically designed for freelancers. Employment centres do not offer services tailored to this category of workers, which limits their ability to remain competitive in the labour market. By contrast, EU countries such as Germany and France have dedicated support programmes for the self-employed, which include professional training and consultancy services (Labour Code of France, 2016; Federal Ministry of Finance, 2021).

To address these issues, it is necessary to develop regulatory acts that take into account the

specific nature of freelance work. In particular, special provisions should be introduced into the Labour Code of Ukraine (1996), or a separate law should be adopted to regulate freelance activity. Furthermore, it is essential to align national legislation with international standards, such as the Directive of the European Parliament and of the Council No. 2019/1152 (2019), and to establish social protection mechanisms for freelancers, including access to health insurance and pension contributions.

Conclusions

The study of freelance activity in Ukraine has confirmed its rapid growth, accompanied by an increase in both the number of professionals and the volume of work. Between 2023 and 2024, the number of freelancers in Ukraine rose by 30%, indicating a growing preference for this form of employment. The highest growth in income and project volume was recorded in the fields of IT, design, and consulting – areas that are among the most competitive both domestically and internationally. This trend reflects the high level of adaptability demonstrated by Ukrainian professionals to the demands of the digital economy and the international market.

An analysis of the legislative regulation of freelance activity revealed significant gaps in the legal framework. The Labour Code of Ukraine does not take into account the specific nature of freelance work, as it focuses exclusively on traditional employment relations. Most freelancers operate under civil law contracts, which do not provide access to social guarantees such as paid sick leave, holidays, or pension coverage. The lack of adequate legal regulation results in legal uncertainty, making it more difficult to protect freelancers’ rights and to legitimise their income.

A comparative analysis of the European Union’s experience has revealed several practices that could be adopted in Ukraine. In France, the

portage salarial system allows freelancers to access social guarantees equivalent to those of salaried employees, including pension and health insurance coverage. In Germany, freelancers may benefit from tax incentives, provided their work meets clear criteria for self-employment. These approaches help maintain a balance between labour flexibility and social protection. Freelancers in Ukraine remain one of the most vulnerable categories of workers due to the absence of effective social protection mechanisms. In addition, the lack of state-supported professional development programmes limits their competitiveness, particularly amid rapid technological change. This makes it more difficult to maintain high service quality and poses a risk to their long-term economic potential.

An analysis of the regulatory framework shows that certain laws – particularly Law of Ukraine No. 835-VIII and Law of Ukraine No. 2164-VIII – establish basic conditions for the legalisation of freelance activity. At the same time, the Labour Code of Ukraine requires substantial revision to reflect modern forms of employment, including remote work and variable working hours. The legalisation of freelance work in Ukraine holds considerable economic and social potential. Formalising freelance income would help reduce the informal economy, increase tax revenues, and create favourable conditions for the

sustainable development of the digital economy. It would also enhance the protection of freelancers' labour rights, including access to healthcare, pensions, and other social guarantees.

Based on these findings, it is recommended to develop dedicated legislation addressing the specific features of freelance work, including its economic, social, and legal dimensions. In addition, the Labour Code of Ukraine should be revised to include clear provisions for freelancers, remote employment, and non-fixed working hours. It would also be appropriate to design national programmes for the professional development of freelancers, drawing on international experience, and to introduce social insurance mechanisms for this category of workers. Implementing these measures would allow freelancers to be fully integrated into the legal system and ensure an adequate level of social protection, thereby contributing to the growth of Ukraine's economy.

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Conflict of Interest

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Забезпечення трудових прав фрілансерів: проблеми та перспективи легітимізації доходів

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Анотація

Актуальність дослідження забезпечення трудових прав фрілансерів та детінізації доходів, отриманих від фрілансу обумовлена високим рівнем тінізації доходів від даного виду діяльності і неможливістю законодавства України застосовувати правові інструменти державного регулювання дотримання прав цієї категорії робітників. Відповідно до цього, ключовими задачами та цілями стало визначення способів легітимізації доходів, отриманих від фрілансерської діяльності та виокремлення низки правових заходів, що будуть сприяти стимулюванню захисту прав фрілансерів. В ході проведення роботи було визначено особливості фрілансерської діяльності в Україні та Європі, проаналізовано чинну законодавчу базу, виокремлено основні прогалини, пов'язані з реалізацією фрілансерської діяльності в регіоні. Був здійснений правовий аналіз, що розкриває динаміку отримуваних доходів від фрілансу в розрізі міст України. Особливої уваги заслуговує проведений аналіз, в основу якого покладено визначення недоліків, переваг, загрози та можливості щодо подальшої тенденції розвитку даного виду трудової зайнятості. Завдяки порівняльно-правовому аналізу було виокремлено особливості міжнародного досвіду регулювання фрілансерської діяльності, що допомогло у визначенні рекомендацій щодо подолання правових прогалин українського законодавства у сфері трудового права. Практична значимість виокремлених рекомендацій надає можливість у визначенні нового господарсько-правового бачення фрілансерської діяльності, підвищити рівень ефективності державного регулювання фрілансерської діяльності, введення низки заходів, що допоможуть стимулювати процес детінізації доходів та, отриманих від фрілансу

Ключові слова: легалізація; дистанційна зайнятість; ринок праці; віртуальне середовище; віддалена праця; інформаційні технології