

EXPERIENCE OF LABOR PROTECTION IN GERMANY AND ITS IMPLEMENTATION IN UKRAINE

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Concept of labor protection should be considered as system of ensuring the security of everyday life and employees health in process of labor activity which include legislative, socio-economic, sanitary-hygienic, medical-preventive, rehabilitation and other measures. Rights for labor protection is one of the inherent person rights, that is established in the Universal Declaration of Human Rights of 1948, The International Covenant on Economic, Social and Cultural Rights of 1966, The European Social Charter of 1961 and 1996 years [1, 2].

In 1951, as stated in Paris Agreement for 50 years, was created the European Coal and Steel Community, that unite Belgium, Italy, West Germany, Luxembourg, the Netherlands, France and set in motion the European Union. The main aim of the union was a promotion of the economic growth of its members in way of creating common market for products. This is the reason why we can't consider Germany out of the borders of the European Union (further EU).

Every employee has rights on work in conditions, that provide health safety, security and dignity. Protection are established in the 31 Article of the Charter of Fundamental Rights of the EU [3].

Labor protection legislation in EU is based on four fundamental principles:

- more improved standards of labor protection should assist in strengthening of concurrence;
- only proper executive regulation of labor protection legislation can give the desired results;
- suddenly new risks emergence require elaboration of innovative legislative tools;
- social dialog remains the main instrument in development of labor protection policy, which success depend on the common efforts of social partners.

The European Union labor protection policy aim to achieve two main tasks, that are stated in the Treaty on the Functioning of the EU:

- social – employee's protection in the way of providing appropriate level of labor protection;
- economical – providing products that are manufactured in some area with standards of safety and hygiene.

Modern strategy of EU is focused on preventing different risks at workplaces.

If labor protection is guarantor of providing appropriate working environment at an enterprise, then social welfare protects employees outside of this institution. That's why we consider the last one as part of labor protection. One of the main tasks, stated in Treaties of Rome of 1957 [4], was an abolishment of barriers for free relocation of employees of member countries. One of the most important part of "relocation without borders" in EU is its regulation.

Regulation (EEC) No 1408/71 of the Council of 14 June 1971 determine main principles of social welfare in EU: don't discrimination on grounds of the nationality, make social welfare payments independently based on the place of residence, preventing double payments, summing up periods of social assistance, legislation principle of single EU country – country of employment.

Scope of document is applied to economically inactive EU citizens and protect them in social welfare. By applying of the regulation was extended the material sphere, increased time limits on the rights of assistance receiving, accepted several documents that forbidden gender discrimination, reinforced the general principle of non-discrimination, the principle of making payments regardless of person location principle and the principle of "good administration".

Till second part of 20th century, employers hadn't been limited in employees dismissal by existence of a good reason. Today, one of the most important socio-economical rights of employees, that is determined on national level and stated in the international documents, is employees labor protection from illegal dismissal. It means that none of employees can't be fired without existence of legal grounds.

Main peculiarity of labor protection in Germany is existence and spreading of the trade unions. Any business, that produce goods of any type on its territory have to become a member of trade union in area of manufacturing – Berufsgenossenschaft. German trade unions are independent organizations and don't obey any political or governmental institutions. Source of their money income is formed by yearly employer's fees. In addition, amount of fees is different among members and depend on the level of injuries on manufacturing. All acting trade unions are unified in the German Trade Union Confederation (Deutscher Gewerkschaftsbund; DGB), that implement apportion of trade unions finances and provide a single principle in the labor protection sphere.

In Germany main directions of trade unions activities are: supervision and control on labor conditions and hygiene, carrying out trainings that are focusing on increasing level of knowledge as for their legal rights, implementation of employees insurance and providing social and when needed medical recommendations to injured insured persons, creating methodical recommendations and providing to employers consultations on labor protection improvements, organization scientific and research works in area of labor protection etc.

Germany provide equality of employees and employers, thanks to the new form of labor protection. In most companies, labor protection is considered not only as requirement of society but as aim of company activity at the same level with commercial profits.

In every company, labor protection regulation implement by engineer of labor protection. The person should have appropriate certificate or diploma of expert. Main task of the engineer is learning a labor protection state in the company and develops ways of its improvements. Engineers has to pay special attention to risks estimation and implementation of preventing measurements, that help minimizing or preventing accidents. In order to achieve it, labor protection engineer initiate carrying out of practical seminars and educational briefing for new employees as well as for those

that work for a long period. When accident happened, engineer take care of all accompanying works: carry out investigation of accident reasons, give medical and organizational assistance injured employees, provide to business management team proposals as for elimination of consequences in result of the accident.

As stated in the Article 21 of the Ukrainian Law about Labor Protection, all sponsorship should be provided by company owner. In addition, employee bear any loss on events as for labor protection.

In modern understanding term “labor protection” mean for employer addition costs, that main aim is improvement of working conditions and labor protections, but not effective investments, that can increase monthly profit and give more results of manufacturing.

Labor protection funds are created at all industrial and governmental levels in according with the procedure established by the Cabinet of Ministers of Ukraine. At the enterprise funding of the Fund of Social Insurance from accidents is used only to let working conditions and safety get to regulatory requirements or increasing current level of labor protection at manufacturing. Investments in main funds are necessary in order to improving the employment conditions. All of these let to increasing cost of goods, works and services. In result of favor commercial profit, improving working conditions and labor protection are one of the most complicated and almost unsolvable issue.

According to the European Statistical Office, Great Britain has the lowest rate of fatal injuries across the EU-15 during last 20 years. So, United Kingdom set the standardized rate for all European countries. The figure below show falling down an amount of fatal incidents at work per 100,000 employees during 1993-2014.

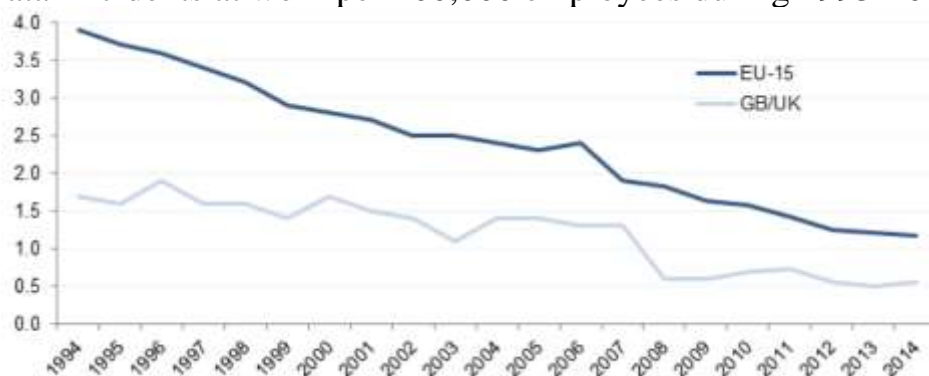


Figure 1 – Standardized incidence rates of fatal injuries in GB and EU [6]

Standardized rate in Germany is 0.81 per 100,000 employees. In the same time comparing with other European countries the number are a little bit higher. For instance, data per 100,000 employees show in France – 3.14, in GB – 0.55, in Italy – 1.15, in Spain – 1.47 fatal injuries. Mostly the same situation is with sick leave of workers, in Germany – 1.6%, in Spain and Italy – 1.8%, in France – 3.1%. Only in Poland the number is lower – 0.7%. All of these data show that the majority of workers in Germany have no kittens about safety on their workplace or any risk for their health. Germany businesses are more likely to have a health and safety policy, and to follow this up with formal risk assessment.

According to next researches of the State Fund of Social Insurance, 4965 incidents happened on workplace during 2017. 332 of overall incidents were fatal injuries. Only nearly 16 million of population of Ukraine work legally, so rate of fatal injuries for last year is 0.002% and rate of all injuries is 0.03% to all workers.

This tendency shows that majority of injuries at workplace and occupational sickness in Ukraine are hidden by local business or don't registered in right order. State agencies of supervision and CEO of businesses are firsthand interested in injuries reporting and fact of not getting worse situation with injuries in country.

As estimated by the Institute of Economics of Ukraine, annual expenses in result of injuries is nearly 8.5 billion of hryvnias, that is equal to 4% of Gross Domestic Product (GDP) of Ukraine [7].

Today, main task of the International Labor Organization is assistance to its members in the improving national labor law of employees trainings and employment conditions. The Ukrainian Law of Labor Protection [5] doesn't include all conventional requirements and recommendations of the International Labor Organization on working safety and hygiene as well as manufacturing environment. So, using international experiences for legislative regulation of the labor protection in Ukraine is required in regulatory, legislative policy as well as in everyday life. It is invited to use in details next recommendations:

- the International Labor Organization recommendations on improving working conditions in way of cooperating in international technical programs in sphere of labor protection;
- Finland experience as for mandatory legislative regulatory of enterprise head responsibility for all expenses for labor protection and its improving;
- German experience as for trade unions regulatory and activities that providing maximal labor protection of employees.

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