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ACTUAL PROBLEMS OF MODERN DEVELOPMENT OF THE STATE AND LAW

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**Mangora T.V., Lukiianova M.D., Durach O., Demianchuk Y.V.,
Tomliak T., Chernyschuk N.V., Pohuliaiev O.I., Dzeveliuk A.,
Kaidashov V., Pravdiuk A., Pravdiuk M., Skichko I.**

ACTUAL PROBLEMS OF MODERN DEVELOPMENT OF THE STATE AND LAW

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ANNOTATION

The collective monograph is devoted to the study of trends in the development of modern Ukrainian legal society. The research uses an interdisciplinary approach, which allows analyzing and characterizing various aspects, aspects and approaches to the development of socio-legal processes in Ukraine and obtaining socially significant scientific results.

Leading scientists Tamila Mangora and Maryna Lukiyanova emphasize that the Ukrainian legislation, which is aimed at settling the issue of resolving labor disputes in court, needs improvement. However, in order to solve urgent problems in the specified area, studies devoted to the consideration of foreign experience in resolving labor disputes in court are of particular relevance. This is explained primarily by the fact that in many countries of Europe and the world, specialized labor courts have been operating for a long time, which play a leading role in the resolution of individual and collective labor disputes, while at the same time ensuring maximum consideration of the interests of participants in labor relations.

In their research work, Olga Durach and Yuriy Damianchuk pay attention to the organization of the work of courts during martial law, emphasize the implementation of the definition of the basic principles of the organization of the judicial power of Ukraine. They reveal the peculiarities and problematic issues of the administration of justice during martial law, consider the administrative and legal principles of corruption prevention, offer ways to solve such issues and ensure the right to a fair trial during the administration of justice during martial law.

Taisa Tomlyak examines the legal positions of the European Court of Human Rights. Explores the broad understanding in the practice of the Court of "society's interests" in the application of measures of deprivation of the right to property and at the same time ensuring a proportional relationship between the goal set and the means used. The author analyzed the current civil legislation and judicial practice of the Civil Court of Cassation, the Commercial Court of Cassation of the Supreme Court and the Grand Chamber of the Supreme Court regarding certain categories of credit disputes

and land cases, including the resolution of jurisdictional problems in the consideration of land disputes.

In her chapter, Natalya Chernyshchuk states the fact that the growth of the role of a lawyer in modern society is objectively due to the complication of social infrastructure (democratization of social relations, liberalization of economic life, growth of private initiative), the development of the legal status of the individual, the expansion of individual rights and freedoms. The role of various forms of social and legal regulation is growing, which leads to the emergence of specific social mediators in relations between people and their groups, as well as the state.

In his chapter, Oleksandr Pogulyayev considered the legal approaches of the political forces of the Right Bank ethnic minorities in solving the issue of international relations during the years of struggle for Ukrainian statehood, the influence of foreign policy factors on the formation of national demands of political parties and public organizations.

Andrii Dzevelyuk, based on the study of the life path of M.Yu. Chizhov, considers his formation as a lawyer and a political scientist in an interconnected context. Analyzes his conclusions that a lawyer should study not only the forms in which law is made available to us, not only the forms in which it becomes mandatory, but also the awareness of law as one of the social phenomena, as a product of various social factors that act under the influence of certain laws.

The section prepared by Vitaly Kaidashov is dedicated to solving the problem of the legal basis of the safety of the quality of agricultural products. The author emphasizes that despite the high degree of importance of the problem under investigation, the current legislation of Ukraine on the safety and quality of agricultural products is imperfect, contains many gaps in the legal regulation of the specified issues.

Authors Andriy and Maryna Pravdyuk in the context of various aspects consider and give their practical characteristics to the constitutional obligations of citizens to pay taxes in Ukraine and the European Union.

In the research of Iryna Skichko, the legal prerequisites for the formation of modern vectors of French foreign policy are clearly observed. At the same time, the

approach of temporal differentiation and subject analysis was used, which was carried out in accordance with the periods of the reign of French presidents and in relation to the key geopolitical directions of foreign policy - European, Atlantic, Middle Eastern, African.

The content of the collective monograph corresponds to the research direction of the Department of Law of the Vinnytsia National Agrarian University "Legal protection of human rights and freedoms in the conditions of European integration". The monograph uses legal, social and legislative research methods.

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1. Labor disputes under the legislation of foreign countries

Abstract

Today, there is no doubt that the Ukrainian legislation, which is aimed at settling the issue of resolving labor disputes in court, needs improvement. However, in order to solve urgent problems in the specified area, studies devoted to the consideration of foreign experience in resolving labor disputes in court are of particular relevance. This is explained primarily by the fact that in many countries of Europe and the world, specialized labor courts have been operating for a long time, which play a leading role in the resolution of individual and collective labor disputes, while at the same time ensuring maximum consideration of the interests of participants in labor relations.

1.1 Distribution of labor disputes by subject composition and subject of dispute in the West

World experience convincingly proves that the problems of the economy and social life, including in the field of employment, are best solved if the focus is not on confrontation, but on achieving social harmony, coordinating the interests of different social groups. Each country has its own peculiarities regarding the resolution of labor conflicts [1, p. 92].

The works of domestic and foreign scientists, such as A. Ya. Antsupov, A.I. Shipilov, A. T. Ishmuratov, N. V. Grishina, S. F. Frolov et al.

The world experience of prevention and settlement of labor disputes is summarized and reflected in the Conventions and recommendations of the International Labor Organization [2]. Foreign experience in resolving labor conflicts indicates three ways of possible settlement of disputes:

- with the help of special courts for labor and social security issues (industry justice);

- through civil proceedings in general courts;

- with the help of conciliation and arbitration procedures [3]. In European countries, the USA and Japan, great importance is attached to the pre-trial procedure for the settlement of labor disputes and conflicts. In the USA, as early as 1947, the Federal Mediation and Conciliation Service (FSPP) was created under the Ministry of Labor, which 30 years later received the status of an independent organization. Currently, the director of FSPP is appointed by the President and approved by Congress. Initially, FSPP was engaged in regulating controversial issues during strikes. Today, the service carries out its activities in four main directions: consideration of disputed issues within 30 days, work in the pre-strike period and during strikes; training in the art of negotiation and constructive problem solving as one of the forms of "anticipatory" mediation; financial and technical assistance to local "labor-management" committees that solve problems of labor safety, health care, and pension provision; organization of rotation of arbitrators in the "Arbitration Service" office for parties preferring arbitration [4].

In the West, it is generally accepted to divide labor disputes into four main types according to the subject composition and the subject of the dispute:

- collective and individual,
- conflicts of interests (economic) and conflicts of law (legal).

Conflicts of interest arise in connection with requirements to establish new or existing working conditions; conflicts of law relate to the interpretation or application of norms established by laws, collective agreements or other legal acts. There are only two ways of resolving labor conflicts: consideration of the dispute in judicial or administrative bodies and conciliation and arbitration and each country has its own peculiarities. However, there is a single general rule: collective economic disputes are usually considered within the framework of the conciliation-arbitration procedure, since such disputes are usually associated with the creation of new legal norms. For example, in the USA, the conciliation and arbitration method is used to resolve collective economic conflicts and individual legal conflicts. and for collective legal conflicts – judicial and administrative proceedings; in Great Britain, the conciliation-arbitration method and court proceedings are used for all types of labor conflicts; in

France, collective economic and legal conflicts are resolved using the conciliation-arbitration method, and for the resolution of individual legal conflicts, judicial proceedings are provided [5, p. 23].

The conciliation and arbitration procedure includes three methods: negotiations of the parties, conciliation (mediation), labor arbitration. At the same time, the conciliation and mediation procedure does not provide for the creation of a commission on labor disputes. Mediation can be compulsory or voluntary.

Courts are used in all Western countries to consider and resolve legal (individual and collective) labor disputes, and sometimes, in the USA, administrative bodies. In most European countries, such disputes are considered in specialized labor courts. The competence of these courts lies in the resolution of individual and collective labor conflicts, while the norms of civil procedural law are applied, but there are significant procedural features of consideration of labor conflicts [6, p. 56].

1.2 Conciliation procedure and voluntary arbitration - as a type of collective labor dispute resolution

The Institute of Collective Labor Disputes received its legal form in the Law of Ukraine "On the Procedure for Resolving Collective Labor Disputes (Conflicts)" [7, p. 67] dated March 3, 1998. The legal forms of social partnership include, first of all, the conciliatory procedure enshrined in the Law, which is based on the peaceful methods of resolving labor disputes provided for by international labor standards. ILO Recommendation No. 92 on Voluntary Conciliation and Arbitration of 1951 established the basic principles of the conciliation and mediation procedure for resolving collective labor conflicts. Recommendation No. 130 of 1967 on handling complaints at the enterprise with a view to resolving them establishes the procedure for handling individual complaints.

Recommendation No. 92 provides for two types of resolution of collective labor conflicts. First, in order to promote the prevention and resolution of labor conflicts between entrepreneurs and workers, voluntary conciliation bodies should be

established, which meet national conditions, with an equal number of representatives of the parties. The conciliation procedure should be free of charge and prompt. The deadlines for resolving labor conflicts should be determined in advance and reduced to a minimum. The conciliation procedure can be initiated by one of the parties or ex officio by the voluntary conciliation body. If, by agreement between all interested parties, a conciliation procedure is applied to the conflict, the parties are advised to refrain from strikes and lockouts throughout the duration of the conciliation negotiations. All agreements reached by the parties during or as a result of conciliation negotiations shall be in writing and shall have the same force as contracts concluded in the usual manner. Second, it is voluntary arbitration. If, by agreement between all interested parties, the conflict is referred to the final decision of the arbitration body, then the parties are advised to refrain from strikes and lockouts during the consideration of the matter by the arbitration body and to accept the arbitration award. Recommendation No. 92 contains an important provision that the need to apply conciliation procedures should not be interpreted as a reason to limit the right to strike. International labor standards were taken into account when developing the Law of Ukraine "On the procedure for resolving collective labor disputes (conflicts)".

Analyzing the procedure for resolving collective labor disputes in Western countries, I. Ya. Kiselyov uses the terms "labor dispute" and "labor conflict" as synonyms [8, p. 245]. Both terms are used in ILO acts. Thus, the ILO Recommendation No. 158 on Labor Regulation: Role, Functions and Organization, 1978 stipulates that in the event of collective disputes, the competent bodies in the labor regulation system should be able to provide, in agreement with the interested organizations of entrepreneurs and workers, conciliation and intermediary services that meet national conditions (clause 10). In Recommendation No. 92 on voluntary conciliation and arbitration of 1951, the term "labor conflict" is used, it is assumed that, in order to promote the prevention and resolution of labor conflicts between entrepreneurs and workers, voluntary conciliation bodies should be established, which should meet national conditions.

Some domestic experts suggest considering conflicts of law as disputes, and conflicts of interests as actual conflicts [6, p. 24]. This approach is based on the results of the research of the consultant of the Central and Eastern European branch of the ILO in Budapest, J. Casale, who divides collective labor disputes into legal disputes and conflicts of interest [9, p. 34]. At the same time, J. Casale interprets legal, collective and labor disputes in a limited way and reduces them to cases of different interpretations of the norms of the collective agreement by employees and the administration. A conflict of interests, in his opinion, is a failure to reach an agreement between the employees and the employer regarding the change of the existing rule or the establishment of a new norm (for example, an increase in salaries). To collective labor disputes, in addition to those indicated by J. Casale, S. Ukrainets includes disputes regarding non-compliance or non-fulfillment of the norms of the contract (agreement).

Let us turn to special studies of social conflicts, which are conducted by representatives of eleven sciences: history, political science, psychology, law, sociology, philosophy, etc. The beginning of the 1990s is associated with the formation and development of an independent science - conflictology, that is, the science of the regularities of the occurrence, development, and termination of conflicts, as well as the principles, methods, and methods of their constructive regulation. Recently, in Ukraine and Russia, the first textbooks, teaching aids on conflict studies have appeared [10, p. 335]. Representatives of this science, studying conflicts in various spheres of interaction, also distinguish labor conflicts. Yes, A. Ya. Antsupov and A. I. Shipilov calls labor conflict a type of social conflict, distinguishing between labor conflict and labor dispute [9, p. 34]. Labor disputes include disputes between an employee (a group of employees) and an employer regarding working conditions. According to scientists, labor conflict is a broader concept that, in addition to conflicts in the field of labor relations, also includes conflicts of interests and therefore can be regulated both by the norms of labor legislation and by other legal and non-legal means. As we can see, the differences between dispute and conflict are distinguished primarily depending on their subject, and only then - on the degree of intensity and tension. Collective labor disputes

that arise, for example, regarding the conclusion or change of a collective agreement, agreement, and their implementation have as their subject a wider range of socio-economic issues than only the issue of establishing working conditions. Taking into account the conclusions of conflict experts that the concept of "conflict" is broader than "dispute", we propose to keep the term "conflict" in the title of the Law and exclude the double name of disagreements arising between employers and employees.

In the legislation of most of the former republics of the USSR, the concept of a collective labor dispute is revealed through two main features - the subject of possible disagreements and the parties to the dispute. The legislation of Ukraine, Belarus, Kazakhstan, and Tajikistan includes disagreements regarding the establishment of new or changes in existing socio-economic conditions of work and industrial life as a subject of collective labor disputes; concluding or changing a collective agreement, agreement; implementation of a collective agreement, agreement or individual provisions thereof. The law of Ukraine also provides for collective labor disputes regarding non-fulfillment of the requirements of the labor legislation, and the labor codes of Tajikistan and Uzbekistan - disagreements regarding the application of the provisions of the current legislation.

Compared to the legislative acts of other CIS states, the Law of Ukraine "On the Procedure for the Resolution of Collective Labor Disputes (Conflicts)" formulates the subject of collective labor disputes more broadly, and therefore more fully ensures the collective protection of the rights and interests of employees. Requirements for the implementation of a collective agreement, agreement or their separate provisions (clause c) of Art. 2 of the Law) and failure to comply with the requirements of labor legislation (item d) of Art. 2) may be the subject of an individual labor dispute. Unlike the Federal Law, which does not apply to the resolution of collective labor disputes arising in connection with the collective protection of individual rights of employees, the Law of Ukraine gives employees the right to apply for collective remedies, to resort to the resolution procedure provided for by the Law to satisfy their collective demands collective labor disputes. The latter, unlike individual labor disputes, are characterized by a collective nature, which is manifested in the fact that one of the parties to the

dispute - employees - is connected by organizational unity, that is, they are members of the labor team, a trade union, the collective nature of the demands and the specificity of the subject of disagreements. And although this procedure is quite difficult, and the path to a strike is long and difficult [11, p. 62], one cannot fail to recognize the fact that in some cases it is through this procedure that employees achieve satisfaction of their demands. In collective labor disputes regarding the implementation of a collective agreement, an agreement or their separate provisions, as well as non-fulfillment of the requirements of labor legislation, disagreements arise regarding the application of subjective rights provided for by legislation, collective agreements, agreements, and an employment contract (contract). Disagreements regarding the establishment of new or changes to existing socio-economic conditions of work and industrial life, the conclusion or changes of a collective agreement, agreements represent a conflict of labor and socio-economic interests (pay, working conditions, profits, social benefits and compensations, etc.) and each of the parties at the same time defends its interests. The parties have no right to insist on the satisfaction of their demands, since subjective rights and obligations are only established for the future.

The subject of collective labor disputes is defined quite broadly in the Law of March 6, 1990 "On Regulation of Collective Labor Disputes" [12, p. 77] of Bulgaria, promulgated by Decree No. 251 of March 7, 1990 p., according to which the collective dispute concerns issues of labor relations, social security and the standard of living of workers. In the Hungarian Labor Code, a collective labor dispute is defined as a conflict arising between an employer, on the one hand, and a works council or trade union, on the other, in connection with labor relations. The Law of Poland "On the Regulation of Collective Labor Disputes" of 1991 recognizes working conditions, wages or social benefits as the subject of a collective labor dispute. In some countries, collective labor disputes concern only the conclusion or fulfillment of obligations within the framework of a collective agreement (Czech Republic, Slovakia, Estonia, etc.). Disputes regarding individual claims from a collective agreement are not considered collective.

Disputes regarding the establishment of new or changes to existing working conditions are divided into two categories Disputes regarding the establishment of new

or changes to existing working conditions are divided into two categories - disputes not related to collective agreement regulation and disputes related to collective agreement regulation. The Law of Ukraine singles out a separate type of collective labor disputes - disputes regarding the establishment of new or changes to existing socio-economic conditions of work and industrial life (including wages). These disputes are not related to the conclusion of collective agreements, agreements. And although the establishment of new or changes to existing collective labor conditions mostly takes place precisely when concluding or changing a collective agreement and other local normative legal acts, collective agreements, the laws establish the possibility of collective protection of the interests of employees in the event of disagreements with the owner and when collective there is no contractual regulation. - disputes not related to collective contractual regulation and disputes related to collective contractual regulation. The Law of Ukraine singles out a separate type of collective labor disputes - disputes regarding the establishment of new or changes to existing socio-economic conditions of work and industrial life (including wages). These disputes are not related to the conclusion of collective agreements, agreements. And although the establishment of new or changes to existing collective labor conditions mostly takes place precisely when concluding or changing a collective agreement and other local normative legal acts, collective agreements, the laws establish the possibility of collective protection of the interests of employees in the event of disagreements with the owner and when collective there is no contractual regulation.

According to the Law of Ukraine, such disputes may arise not only regarding working conditions, but also regarding issues of industrial life. For example, the employees of one of the secondary schools in the city of Kherson put forward demands to speed up the construction of a new school, to allocate funds for the capital repair of the school building, for the purchase of multiplication equipment, sports equipment and equipment, and for the nutrition of students. According to the Federal law, these disputes do not belong to disputes regarding the establishment of working conditions, and therefore their resolution using the procedure established for collective labor

disputes is impossible. They can be the subject of a collective labor dispute only if the relevant obligations of the administration have been included in the content of the collective agreement by agreement of the parties, and disagreements have arisen regarding the implementation of the collective agreement. According to the Law of Ukraine, such requirements can be the subject of a dispute even when a collective agreement has not been concluded, since the Law foresees the emergence of disagreements regarding the establishment of new or changes in socio-economic conditions of work and industrial life.

In the literature, the procedural and material content of the concept of "collective labor dispute" is highlighted [13, p. 108] regarding the procedural content, the correctness of the definition of a collective labor dispute through the use of the terms "dispute" and "conflict", "disagreements" or "unresolved disagreements" is considered. In Art. 2 of the Law of Ukraine correctly defines a collective labor dispute (conflict) as "disagreements". At that time, the labor codes of the Republics of Belarus and Tajikistan use the term "unsettled differences", which, according to O. Abramova, implies preliminary negotiations between the parties to settle the conflict that has arisen [12, p. 75]. It is impossible to agree with this, because there are no settled differences. The last statement is not new. Questions about the concept of a labor dispute, its subject, moment of occurrence, etc. discussed in the literature regarding individual labor disputes. The material content of the concept of "collective labor dispute" is its subject.

In sociology, the term "social labor conflict" is used, which is considered by sociologists as a type of social conflict. The latter comes from the Latin conflictus - collision and is a clash of interests of different social groups, a special case of the manifestation of social contradictions, one of their forms, characterized by the presence of a pronounced opposition of social forces. The core of the conflict can be a problem, as well as awareness by the bearers of the conflict situation (conflicting groups) of their opposing interests and activity goals [14, p. 51].

In turn, social labor conflict is a type of social conflict, the stage of maximum development of contradictions between social subjects of social and labor relations

(social or socio-professional groups) directly in labor or related spheres of activity (in the spheres of distribution, exchange, consumption, etc.) at enterprises and institutions, in various branches of production, in society as a whole. In this definition, two main features can be distinguished - a high degree of intensity of contradictions; contradictions arise from labor and socio-economic issues, that is, in the social and labor sphere. At the same time, the concepts of "social-labor conflict" and "social antagonism" should be distinguished, although these concepts are sometimes equated in the literature [15, p. 24].

Social partnership acts as a phenomenon opposite to social and labor conflicts. The social partnership system is designed to regulate social and labor conflicts, to create the necessary conditions for their prevention and resolution through conciliation procedures. In the social and labor sphere, such conflicts are determined by the process of social stratification, the formation of different strata according to the degree of qualification, the level of material support, etc. Such conflicts are characterized by the coincidence of economic and social interests. The subject of a social-labor conflict can be a complex of issues related to the preservation of the existence of one or another social group. An example of such conflicts can be conflicts at enterprises that are converted, privatized, etc.

The subject of social and labor conflicts is broader than the subject of collective labor conflicts. In a broad sense, social and labor conflicts should be understood as any disagreements that arise between employees and employers in the social and labor sphere. In our opinion, social and labor conflicts can be defined as disagreements that have arisen between employees and employers on labor and socio-economic issues at the industrial, sectoral, territorial, and national levels. To resolve such conflicts, it is necessary to use the norms not only of labor law, but also of other fields - social security law, civil law, medical law, housing law, etc. We consider it expedient to extend the effect of the Law of Ukraine "On the procedure for resolving collective labor disputes (conflicts)" to the resolution of social and labor conflicts.

1.3 Parties to a collective labor dispute

An important issue is the determination of the parties to a collective labor dispute. From the content of Art. 2 of the Law of Ukraine "On the Procedure for Resolving Collective Labor Disputes (Conflicts)" states that the parties to a collective labor dispute are parties to social and labor relations. It is difficult to agree with such a definition. It is no accident that in practice, the party to the dispute and its representative are often confused. As already noted, the category "social and labor relations" remains undefined by the legislator. If the parties to a collective labor dispute are considered to be parties to social and labor relations, then the Law should clearly define the latter.

The law provides for four levels at which collective labor disputes arise - industrial, sectoral, territorial, national - and depending on the level, parties to the dispute (conflict) are established (Article Z of the Law). Enshrining various levels of collective labor disputes (conflicts) is one of the specific features of the Law of Ukraine. In the Federal Law, labor codes and laws of other states - the former republics of the USSR, disputes at the level above the production level (industry, regional, etc.) have not received official recognition, although in practice such disputes arise.

The parties to a collective labor dispute are more successfully defined in the Federal Law "On the Procedure for the Resolution of Collective Labor Disputes" - in accordance with Art. 2 employees and employers are recognized by them. Together with the parties to a collective labor dispute, this article defines the representatives of employees and employers. According to the Law, the representatives of employees are the bodies of trade unions and their associations, authorized for representation in accordance with their statutes, bodies of public self-activity, created at meetings (conferences) of employees of the organization, branch, representative office and authorized by them. The right to represent employers belongs to heads of organizations or other authorized persons in accordance with the organization's charter, other legal acts, authorized bodies of employers' associations, other bodies authorized by employers. According to the Belarusian Labor Code, the Kazakh Law "On Collective Labor Disputes and Strikes", the parties to a collective labor dispute are collectives of

employees, on whose behalf trade unions and other authorized bodies can act, and employers (employers), whose interests can be represented by employers' associations (employers). According to the Labor Code of Kyrgyzstan, employers and trade unions and other representative bodies of employees are considered parties to a collective labor dispute. According to the Law of the Republic of Moldova "On the Settlement of Collective Labor Disputes", the parties are considered to be the enterprise (management of the enterprise) and employees, including employees of one division or its part. As we can see, the legislation of the states - former republics of the USSR ambiguously defines the parties to a collective labor dispute, which indicates the prolongation of the search for optimal options.

The law of Ukraine establishes the procedure and deadlines for considering the demands of employees or trade unions (Article 5). The prescribed three-day period for consideration of claims by the owner or his authorized body (representative) from the day of receipt (the Labor Code of the Republic of Belarus limits this period to ten days). In contrast to the codes and laws of other states - the former republics of the USSR, the Law of Ukraine regulates the relationship between the owner and the body authorized by him in the event that the latter considers the demands of employees and the satisfaction of the demands goes beyond his competence (Part 2, Article 5). The procedure for consideration of employee claims by the employer is regulated in more detail by the Law of Moldova and the Law of the Republic of Kyrgyzstan. The Moldovan Law obliges the heads of enterprises to accept a statement with demands and register it, to state their point of view on each demand of employees in the answer. Article 3 of the Law of the Republic of Kyrgyzstan obliges the employer to try to reach an agreement on the substance of the dispute, and in the event of failure to reach an agreement within three days to bring his decision and proposals to the attention of the labor team, indicating the personal composition of his representatives for further consideration of the dispute.

In cases where joint or joint demands of two or more labor collectives are put forward, they are sent to the relevant bodies of employers (entrepreneurs), who are obliged to consider them and report their decision to the joint representative body of

labor within seven calendar days from the day of receipt collectives It seems that these norms may be of interest to the Ukrainian legislator.

1.4 The moment of occurrence of a collective labor dispute

The next issue that should be investigated is the moment of collective labor dispute (conflict). In accordance with Part 1 of Art. 6 of the Law of Ukraine, a collective labor dispute (conflict) arises from the moment when the authorized representative body of salaried employees, a category of salaried employees, a collective of employees or a trade union received a notification from the owner or a body authorized by him about a full or partial refusal to satisfy collective demands and made a decision on disagreement with the decision of the owner or a body (representative) authorized by him or when the terms for consideration of claims provided for by this Law have expired, and no response has been received from the owner.

A peculiarity of the Law of Ukraine is the possibility of a collective labor dispute regarding the conclusion or change of a collective agreement at the stage of collective negotiations. If during the negotiations the parties did not reach an agreement for reasons beyond their control, then a protocol of disagreements is drawn up, which indicates the occurrence of a collective labor dispute. Therefore, the absence of Art. 6 of the provision on recognition of the moment of occurrence of a collective labor dispute as the date of drawing up a protocol of disagreements during collective negotiations. Not fully defined is the provision on the adoption by an authorized representative body of employees, a category of employees, a collective of employees or a trade union of disagreement with the decision of the owner or the body (representative) authorized by him. Is such a decision made in the order provided for the formation of requirements? If so, then reference should be made to Art. 4 of the Law.

The beginning of the conciliation procedure and the formation of the conciliation commission are associated with the moment of the collective labor dispute (conflict) (Part 2, Article 8 of the Law of Ukraine). The legality of strikes depends on compliance

by employees, a trade union, an association of trade unions or their authorized bodies with the provisions of the Law on the Occurrence of a Collective Labor Dispute (Conflict) (clause b) of Art. 22 of the Law of Ukraine). One of the parties may initiate the formation of a conciliation commission. For disagreements regarding the implementation of a collective agreement, an agreement or their individual provisions, non-fulfillment of the requirements of the labor legislation, the occurrence of a collective labor dispute should be connected with the proposal of one of the parties or an independent mediator to form a labor arbitration.

The legislation of the states-former republics of the USSR is distinguished by a significant variety of conciliation procedures. The Labor Code of the Republic of Belarus provides for consideration of a collective labor dispute in a conciliation commission with the participation of a mediator and (or) in labor arbitration. The Moldovan Law establishes a one-tier procedure - in the model commission. Thus, the federal law and the Labor Code of the Republic of Belarus give the parties the opportunity to choose conciliation bodies, which indicates greater flexibility of the collective labor dispute review system provided for by these acts.

The procedure for resolving a collective labor dispute by a conciliation commission is provided for in Art. 9 of the Law of Ukraine. According to Art. Art. 7, 10, 13, 14 of the Law were developed and approved by the order of the National Conciliation and Mediation Service of May 4, 1999 No. 36 Regulation on the Conciliation Commission [16, p. 64], which determines the procedure for the formation of a conciliation commission; the procedure for considering a collective labor dispute (conflict) and making a decision; the status of a member of the conciliation commission, his rights. The regulation contains procedural norms regarding the formation and activity of the conciliation commission. The law of Ukraine, as well as the laws of Kazakhstan and Moldova, provides for reaching an agreement between the parties in the commission itself. The decision of the conciliation commission is drawn up in a protocol and is binding for the parties (Part 4, Article 9 of the Law of Ukraine).

Unfortunately, in Art. 9 of the Law of Ukraine does not specify the procedure for making a decision by the conciliation commission. This procedure is not provided for

in the Regulation "On the Conciliation Commission", in clause 3.5. which refers to the authority of the conciliation commission to consider a case on a collective labor dispute and make a decision (at least 2/3 of representatives from each of the parties and an independent mediator, if he is included in the commission, must be present at its meeting). Based on the principles of formation of the conciliation commission and the essence of its activity, it is clear that the decision is made by agreement of the parties, but this must be provided for in the Law.

The law of Ukraine establishes the responsibility of persons who represent the interests of the parties and who committed a violation of the provisions of part 4 of article 9 of the Law regarding the implementation of the decision of the conciliation commission.

An independent mediator is called upon to assist the parties in a collective labor dispute in its resolution. By order of the NSPP dated November 11, 1999 No. 106, the Regulation "On the Intermediary" was approved, which establishes the conditions and procedure for the selection of intermediaries, acquisition and termination of powers; the procedure for engaging a mediator to participate in conciliation procedures; his rights and duties, qualification requirements for the intermediary, responsibility. The list of intermediaries is formed by NSPP. The mediator is offered to participate in the conciliation procedure by the NSPP body upon the written application of the parties to the collective labor dispute. The mediator has the right to offer the parties for discussion and selection various options for resolving a collective labor dispute. Of interest are the provisions of Article 208 of the Labor Code of Tajikistan, according to which the mediator gives the parties recommendations on dispute settlement. The recommendations become binding for the parties if none of the parties has rejected the mediator's proposals within ten days or if the parties have previously concluded an agreement on their implementation. Please note that according to the Law of Ukraine, an independent mediator is determined by the parties' joint choice. By the provision "On mediator", the possibilities of the parties regarding the choice of mediator are actually limited to NSPP.

Labor arbitration, like the conciliation commission, is not a permanent body (the only exception is the Belarusian Republican Labor Arbitration). According to Art. 11 of the Law of Ukraine, labor arbitration is established at the initiative of one of the parties or an independent mediator. The quantitative and personal composition of the labor arbitration is determined by agreement of the parties. In addition to the Law, the procedural norms regarding its formation and operation are contained in the Regulation "On Labor Arbitration" approved by the Order of the NSPP dated 05/04/1999. No. 37. Conditions and procedure for selection of arbitrators, acquisition and termination of their powers; procedure for involvement of arbitrators in labor arbitration; rights and duties of the arbitrator; the qualification requirements for him, the responsibility of the arbitrator are determined by the provisions on the arbitrator, approved by the Order of the National Assembly of Ukraine dated 11.11.1999. No. 105. NSPP forms the List of arbitrators in Ukraine.

According to Part 5 of Article 12 of the Law of Ukraine, the decision of the labor arbitration on the resolution of a collective labor dispute (conflict) is binding if the parties have previously agreed on it. A similar rule is contained in the codes and laws of all states-former republics of the USSR. In addition, Russian and Kazakh laws, the Labor Code of the Republic of Belarus provide for the very fact of reaching an agreement between the parties on rendering the decision (recommendations) of the labor arbitration binding.

The Law of Ukraine provides guarantees for independent mediators, members of conciliation commissions and labor arbitrations (Article 14 of the Law). It is about preserving the place of work (position) and average earnings, as well as extending to them the guarantees provided for in Art. 252. KZpP for elected trade union workers, members of councils (boards) of enterprises and councils of labor collectives.

The legislation of the CIS states does not uniformly address the issue of the procedure for providing guarantees to members of conciliation commissions, labor arbitrators and mediators (where there is a mediation procedure) and financial support for these guarantees. Financial issues related to the provision of the specified guarantees are resolved in accordance with Part 2 of Art. 14 of the Law of Ukraine and

the Regulation on the procedure for reimbursement of expenses related to participation in the conciliation procedure for the resolution of a collective labor dispute (conflict) by an independent mediator, members of the conciliation commission and labor arbitration, approved by the order of the National Conciliation and Mediation Service (NSPP), the Ministry of Finance and Ministry of Labor and Social Policy of Ukraine dated December 1, 1999 No. 116/308/210. It is difficult to agree with the fact that the remuneration of these persons in the amount of at least the average monthly salary and the reimbursement of expenses related to participation in the conciliation procedure are carried out at the expense of the parties to the collective labor dispute (conflict) by agreement, and if the parties did not reach an agreement - in equal shares. Considering today's financial situation, it is unlikely that this norm can be implemented in practice. It seems that the National Conciliation and Mediation Service should organize the financing of conciliation procedures, and the financial support of the members of the conciliation commission and labor arbitration should be left to the employers.

In the Law of Ukraine, the norms on responsibility for violations of the legislation on collective labor disputes (conflicts), as well as in the legislation of most CIS countries, are mainly rescissory in nature. In more detail, issues of responsibility are regulated by the Labor Code of Tajikistan, which establishes the types of offenses in the resolution of collective labor disputes and specific sanctions for their commission. The law of Ukraine provides for several other classifications of entities guilty of violating the legislation on collective labor disputes (conflicts). Without establishing specific sanctions, the Law of Ukraine, unlike the Russian Law, establishes the responsibility of a wider range of persons (in addition to employees and employers, also persons representing the interests of the parties) and for a more complete list of offenses: employees for participating in a strike recognized by the court illegal (Article 30), persons guilty of collective labor disputes (conflicts) or who delay the implementation of decisions of conciliation bodies, as well as decisions of executive authorities, local self-government bodies (Article 31), persons for organizing a strike recognized by the court as illegal , non-execution of the decision to declare a strike

illegal (Article 32), persons for forcing them to participate in a strike or preventing them from participating in a strike (Article 33).

Compared to the Law of Ukraine, the Russian Law provides for a higher level of guarantees for employees when they are subject to disciplinary liability for participating in a strike, which is recognized by the court as illegal. In accordance with Part 1 of Art. 28 of the Law of Ukraine, the organization of a strike, recognized by the court as illegal, or participation in it is a violation of labor discipline. A similar norm is contained in Kazakh, Kyrgyz, and Tajik legislation. Therefore, the employees are subject to disciplinary liability regardless of the termination of the strike after being informed of the court's decision on its illegality. That is, the Law of Ukraine recognizes participation in an illegal strike as a violation of labor discipline both before the case is considered by the court and after it has made a decision.

The legislation of the CIS states provides for compensation for damages caused by a strike. Another approach can be traced in the laws of Ukraine and the Republic of Kazakhstan. In accordance with Part 2 of Art. 34 of the Law of Ukraine, damages caused to the owner or an authorized body (representative) by a strike, which was recognized by the court as illegal, shall be compensated by the body authorized by the employees to conduct the strike, in the amount determined by the court (within the funds and property belonging to it). The responsibility of the trade union organization does not depend on certain conditions.

As already noted, in Western countries, labor disputes are divided into four main types. There are only two ways of resolving labor conflicts: consideration of the dispute in judicial or administrative bodies and conciliation and arbitration. Moreover, each country has its own peculiarities. At the same time, there is a single general rule: collective economic disputes are usually considered within the framework of the conciliation-arbitration procedure, since such disputes are connected, as a rule, with the creation of new legal norms. For example, in the USA, the conciliation-arbitration method is used to resolve collective economic conflicts and individual legal conflicts, and for collective legal conflicts - judicial-administrative proceedings; In Great Britain, conciliation - arbitration method and court proceedings are used for all types of labor

disputes; in France, collective economic and legal conflicts are resolved using the conciliation-arbitration method, and for the resolution of individual legal conflicts, judicial proceedings are provided.

Amicable - the arbitration procedure includes three methods: negotiations between the parties, conciliation (mediation), labor arbitration. At the same time, conciliation - the mediation procedure does not provide for the creation of a commission for labor disputes. Mediation can be compulsory or voluntary. Courts are used in all Western countries to consider and resolve legal (individual and collective) labor disputes, and sometimes, in the USA, administrative bodies. In most European countries, such disputes are considered in specialized labor courts. The competence of these courts is to resolve individual and collective labor conflicts. When considering them, the norms of civil and procedural law are applied, but there are significant procedural features of the consideration of labor conflicts. As noted by I. Ya. Kiselyov, the creation of labor courts, the active development of labor justice is a logical consequence of the recognition of the autonomy of labor law, which contributes to the consolidation and further affirmation of this autonomy. In this regard, Western experts emphasize the need for the formation of labor procedural law.

In domestic literature, this problem has not yet become the subject of active discussion from a special study. Although some scientists emphasize the existence of procedural labor relations [10, p. 25] and associate them with the resolution of individual and collective labor disputes. Proposals regarding the formation of specialized labor courts are also expressed in the literature [10, p. 111].

Chanysheva G. I. notes in her work that in most European countries, labor disputes have been resolved by specialized labor courts for a long time, the functioning of which is of interest to Ukraine. Such courts have been established in Austria, Belgium, Great Britain, Norway, Finland, France, Germany, Switzerland, Sweden and some other countries. Labor courts are either part of a single court system, or, as in Germany, represent an autonomous system of courts endowed with broad jurisdiction [17].

World practice has shown that specialized labor courts play a leading role in resolving individual and collective labor disputes in countries with developed market

economies (Israel, Great Britain, Sweden, Norway, Germany, some other countries of Central and Eastern Europe) and at the same time act very effectively, ensuring maximum consideration of the interests of the participants in labor relations. Specialized courts for the consideration of labor disputes in different countries, despite having the same name, differ somewhat in terms of jurisdiction, procedure, composition and powers. Institutions of special labor justice have long existed in the West (in France, for example, since 1806) and have accumulated enormous experience in resolving labor disputes. Foreign experience shows that labor courts perform important tasks related to the application of labor law, its interpretation, satisfaction of legal claims of participants in labor relations to each other, promote their reconciliation on the basis of compromises, prevention of labor disputes, and thus act as a factor supporting social stability [2].

The activity of labor courts in most countries is based on the principles of tripartite cooperation (tripartism). Court cases are considered by a panel consisting of a professional judge and two non-professional judges nominated by trade unions and employers' organizations. Such a composition of the court is designed to ensure a comprehensive, impartial consideration of the dispute and the adoption of a fair decision. It is also of great importance that labor courts can provide qualified consideration of the case, since professional judges of such courts are lawyers specializing in the field of labor law, and non-professional judges are practitioners, well-versed in issues of labor and labor relations [2]. Labor courts are usually embedded in the general court system, and only two countries - Germany and Israel - have fully autonomous labor court systems with broad jurisdiction. As a rule, labor courts function on the basis of rules and procedures established in civil procedural legislation, that is, they consider cases on the basis of the adversarial principle. But certain amendments have been made to this principle: the procedure in labor courts is faster and less expensive than in ordinary courts; some formalities inherent in the civil process are missing; courts show more initiative in the conduct of the court process, the involvement of evidence. There are specifics regarding representation of the parties, distribution of the burden of proof, evaluation of evidence. Great importance

is attached to encouraging the parties to reconcile at all stages of the process. In a number of countries, a special pre-trial stage of proceedings is used for these purposes. In most industrialized countries, there are state mediating structures whose purpose is to settle labor conflicts. Moreover, the differences between them (in terms of available resources and scope of powers) are probably more than similarities [2]. Thus, in Finland, the tasks of the state mediator are: conflict prevention, reconciliation of the parties, analysis of the situation. Mediation can be carried out at the request of the parties or on their own initiative. If readiness for conflict is announced (strike readiness or lockout warning), then the mediator is obliged to intervene. The warning period is 14 days. The mediator is not entitled to postpone the intended measure, but can send a submission to the Ministry of Labor, which has the right to postpone it for another 14 days, and if it is a question of the state or municipal sector, then this period is extended by one more week [2].

The concept of judicial reform in Ukraine does not provide for the establishment of special courts for labor and social issues. The socio-economic crisis is associated with the emergence of conflicts, during which demands are made not only on labor, but also on economic and social issues. As for the latter, not all of them fall under the scope of the Law "On the procedure for resolving collective labor disputes (conflicts)". At the same time, these issues belong to the subject of social partnership. Therefore, in order to ensure the rights and interests of social partners at all levels, we consider it expedient to create special judges on labor and social issues (social and labor courts).

The current procedure for resolving collective labor disputes needs improvement. One cannot agree with the fact that the Law does not provide for the possibility of judicial resolution of collective labor disputes regarding the implementation of a collective agreement, agreement or their separate provisions, as well as regarding non-fulfillment of the requirements of labor legislation. Instead of going to court to protect their violated rights, employees are forced to go to the employer and reach a compromise with him. This is really necessary in case of disagreements during the introduction of collective negotiations on the conclusion of collective agreements, agreements, establishing new or changing existing working conditions, but it is hardly

advisable in case of non-compliance by the employer with the requirements of labor legislation, as well as non-fulfillment of the collective agreement, agreement.

In our opinion, it is worth considering the experience of Germany, because it is in this country that the legislator pays special attention to the issue of protecting the labor rights of employees. In addition, unlike most European countries, Germany has a completely autonomous system of labor courts. Note that since Germany is a member of the European Union (hereinafter referred to as the EU), German labor legislation is significantly influenced by EU law, because German legislation and judicial practice must be consistent with EU regulations and directives, as well as interpretations of these acts by the European Court of Justice. Protection of labor rights in Germany is carried out according to clearly regulated federal rules of judicial procedure, in particular the Act of the Labor Court (Arbeitsgerichtsgesetz – ArbGG) [18, p. 43]. The competence of the Court includes filling gaps in legislation, therefore the role of judicial decisions in the protection of labor rights in Germany is quite significant [18, p. 43]. In order to resolve labor disputes in the Federal Republic of Germany (hereinafter referred to as FRG), the vertical of labor and state labor courts and the Federal Labor Court were established, which consider disputes between employers and workers on issues of remuneration, vacations, dismissals, as well as conflicts between trade unions and associations of entrepreneurs. The Federal Labor Court operates in the composition of 5 senates, collegially considering cassation appeals in the composition of three specialists and two "honorary judges". Each of the states has one land court for labor matters, and in North Rhine-Westphalia, due to the saturation of this federal state with industrial enterprises, they have been created. In labor courts, collegiums consisting of one expert judge and two "honorary judges" are formed, which represent the interests of employees and employers. Land labor courts have the authority of an appellate authority that reviews the decisions of labor courts that resolve all labor conflicts [19, p. 14]. In 2016, approximately 60% of labor claims brought to the German labor courts of first instance were resolved in court. This indicator has become the largest since the country emphasized procedures for conciliation of participants in a labor dispute, because for almost thirteen years, state bodies and courts

were entrusted with the duty of amicable settlement of each case before starting a judicial resolution of a labor dispute. So, without a doubt, the experience of Germany is interesting not only for Ukraine, but also for many other countries of Europe and the world, because in this state an absolutely autonomous system of labor courts has been created, which have a wide jurisdiction during the resolution of labor disputes. These courts deal with both individual and collective labor disputes. In addition, it is worth noting an important feature of the judicial review of labor cases in the Federal Republic of Germany, which is its focus on finding a compromise between the participants in a labor dispute. The next country we will pay attention to is France. The experience of this country is of particular interest, because: firstly, it was in France that the first labor codes were adopted, which became a tool for the protection of employees, and this was their social purpose; secondly, the labor legislation of Ukraine and France is somewhat similar. It should be noted that in France, specialized courts for labor disputes have been operating since 1806, that is, for more than three hundred years, which is quite a respectable period. In France, such courts have a special name - "prudential councils", which comes from "prud'homme" - the old French name for a person of recognized wisdom and honesty [20]. The following conditions must be met for consideration of a case in a labor court: the existence of an employment contract; the reason for filing a lawsuit is non-fulfillment of an employment contract by one of the parties; a labor dispute must have an individual character. This means that the plaintiff personally considers himself the injured party. Other employees of the same enterprise cannot file a complaint with the local court of solidarity; a specific prudomal court has the right to consider a complaint if the condition of its territorial and professional competence is met. The Prudomalny court accepts cases from labor disputes of an individual nature (within the territorial and professional competence) and only if there is an employment contract [21]. The procedure for consideration of complaints by a civil court can be presented as follows: 1) conciliation procedure, which usually takes place behind closed doors. The conciliation bureau consists of two members (representatives of employers and employees). They are trying to reach an amicable settlement. The plaintiff and the defendant are obliged to be present in person during the conciliation procedure.

However, disputing parties can seek the help of a lawyer, trade union representatives, company personnel, and work colleagues. Thus, the case is usually transferred to the next stage - the stage of the court procedure [21]. It is worth noting that reconciliation procedures are successful in approximately 10% of cases; 2) judicial procedure, which, in turn, takes place in an open mode. The judicial bureau consists of at least four members (two representatives of employers and two representatives of employees). The parties can be represented by proxies and have the help of lawyers, trade union representatives, etc. The waiting time for the court procedure can be very long, as many complaints are received by the civil courts. If the fine that one or the other party must pay does not exceed the amount fixed annually by a special decree, then the court's decision is considered final and is not subject to appeal. The decision-making procedure is resorted to in urgent cases, if the complaint concerns a simple and urgent matter for which there is no need to convene a conciliation office or a court office (for example, reinstatement of a woman dismissed due to pregnancy) [20, 21]. Therefore, in France, specialized courts usually deal with individual labor disputes. The resolution of disputes in court takes place in two main stages: 1) reconciliation of the parties; 2) consideration of the case and sentencing. If the conflict between the employer and the employee or between the employees cannot be resolved through the reconciliation of the parties, the court issues a verdict. In addition, on the positive side, it is also worth noting that the procedure for consideration of labor disputes in court is quite fully and comprehensively defined by the legislation. The next European country, whose experience we will pay attention to, is Great Britain. Thus, since 1964, specialized courts in labor disputes - the so-called industrial courts - have been operating in Great Britain. Their jurisdiction includes individual labor disputes. Industrial courts have a tripartite basis, judges are represented by professional lawyers, representatives of trade unions and employers' organizations. Courts consider cases in the composition of three persons: the chairman is a professional lawyer and two non-professional judges. Lay judges are chosen by the regional head of the court for each specific case from a list drawn up by the Minister of Labor after consultation with trade unions and business organizations. The list includes persons with experience in the field of labor relations. A significant part of them are

representatives of trade unions and business organizations who have resigned. Decisions of industrial courts in connection with the violation of legal rules can be appealed to the Employment Appeal Court, which also has a tripartite basis. The decision of this court may be appealed to the Court of Appeal (England and Wales) and to the Court of Session (Scotland). Finally, the decisions of these courts can be challenged in the House of Lords - the highest court of Great Britain [20]. The Italian system of resolving labor courts is regulated by Art. Art. 409-447 of the Civil Procedure Code of Italy. Individual or collective disputes can be resolved in court. A labor dispute heard in court may relate to: labor relations (both private and public), agency relations, cooperation on a permanent basis, agricultural workers and social security issues. Self-employed workers are not subject to the jurisdiction of labor courts. The resolution of labor disputes is entrusted to the district court, depending on where the plaintiff lives or where the defendant is located. It is worth noting that the following guiding principles are the basis of the resolution of labor disputes: 1) the need for a written statement of the plaintiff; 2) the principle of contradiction; 3) legal burden of proof; 4) direct and personal approach of judges to the consideration of the case. The court's decision takes effect immediately. In order to challenge the decision and stop its 202 No. 6/2019 consequences, the parties can appeal it to the Court of Appeal. They can also go to a higher level of appeal, the so-called. As for Spain, out-of-court forms of resolving labor disputes are most often practiced in this country. Participants in labor disputes in most cases have the opportunity to resolve the dispute in an out-of-court session. Spanish labor law stipulates that the parties must attempt conciliation or mediation as a prerequisite to legal action. Both procedures involve finding an out-of-court way of resolving the dispute, therefore, the parties themselves agree to terms that can end the conflict. They may also agree to arbitration, although this is not a commonly used alternative. The high volume of labor litigation faced by the Spanish judiciary in the context of the economic crisis has led to the development of legislation that promotes the development of alternative methods of resolving labor disputes, which in turn lightens the workload of the courts and encourages consensus decisions. Consequently, the Spanish system offers several out-of-court alternatives for the resolution of labor disputes. Despite the fact that conciliation

plays an important role, it would be desirable to make additional efforts to expand mediation and arbitration, because out-of-court solutions facilitate the work of the judicial system, provide quick results, and contribute to reaching consensus.

Specialized labor courts have been established in Hungary and Poland. Courts can hold employers accountable for breaching a collective agreement. The court also hears individual labor disputes. The legislation of the Republic of Kazakhstan, Tajikistan, and Uzbekistan provides for a judicial procedure for resolving collective labor disputes ("legal disputes" in Western terminology). According to Art. 4 of the Law of the Republic of Kazakhstan, Part 1 of Art. 210 of the Labor Code of Tajikistan, collective labor disputes regarding the application of legislative and other normative acts on labor (non-implementation or violation of them) are subject to judicial review at the request of a representative of one of the parties. According to Part 2 of Art. 210 of the Labor Code of Tajikistan, when considering applications in courts and executing their decisions, the relevant rules and deadlines established for individual labor disputes are applied. In contrast to the Kazakh Law and the Labor Code of Tajikistan, the Labor Code of the Republic of Uzbekistan (Article 281) includes two categories of disputes under the competence of the courts - regarding the application of legislative and other normative acts on labor and regarding the non-fulfillment of collective agreements, agreements, in the consideration of which rules and terms are applied, provided for individual labor disputes. In this regard, the issue of criteria for distinguishing individual and collective labor disputes, peculiarities of judicial procedures for their resolution, etc., needs to be developed. Thus, in these countries, the formation of court procedures for consideration of collective labor disputes has already begun.

Concluding the review of the experience of European countries, it is worth noting that the activity of labor courts in most of these countries is based on the principles of tripartite cooperation (tripartism). Court cases are considered by a panel consisting of a professional judge and two non-professional judges nominated by trade unions and employers' organizations. Such a composition of the court is designed to ensure a comprehensive, impartial consideration of the dispute and the adoption of a fair decision. It is also of great importance that labor courts can provide qualified consideration of the

case, since professional judges of such courts are lawyers specializing in the field of labor law, and non-professional judges are practitioners, well-versed in issues of labor and labor relations. In addition, it is worth noting that labor courts are usually integrated into the general judicial system, with the exception of Germany (since, as we have already noted above, there is an autonomous system of labor courts). Usually, labor courts operate on the basis of rules and procedures laid down in civil procedural legislation, that is, they consider cases on the basis of the adversarial principle. But some amendments have been made to this principle: the procedure in labor courts is faster and less expensive than in ordinary courts; some formalities inherent in the civil process are missing; courts show greater initiative in the conduct of the court process, the collection of evidence [7].

1.5 The European Court of Human Rights, as the highest international authority for resolving labor disputes

On July 17, 1997, the Verkhovna Rada of Ukraine ratified the European Convention on Human Rights. It entered into force on September 11. Since then, our compatriots for the first time actually received the right provided for in Article 55 of the Constitution: to apply for the protection of their violated rights to international organizations, in particular to the European Court of Human Rights in Strasbourg. And our state has confirmed its desire to comply with the commitments made upon joining the Council of Europe.

As of September 3, 1999, the European Court received 1,257 complaints from citizens of Ukraine, but only 349 of them were registered, and only eight were deemed acceptable, that is, taken up by the court for consideration.

The reason for such a large "dropout" is the legal ignorance of our citizens. Many people are completely unaware of the procedure for applying to the European Court. Not knowing the rules and norms of the Convention, people often waste time, even when the case falls under the mandate of the European Court. The European Court did not take into consideration those cases in which either the application deadlines were violated, or

all national human rights protection mechanisms were not used, or the events took place before the European Convention on Human Rights entered into force.

Among the eight complaints from Ukraine, which the court in Strasbourg accepted for consideration, there are two cases regarding unpaid wages (from Chervonograd in Lviv Oblast and Veliki Dederkal in Ternopil Oblast). It should be emphasized that these cases were initiated not due to the fact of non-payment of wages, but due to non-execution of court decisions related to these non-payments.

Consideration by international courts of violations of labor and socio-economic rights, for example, such as non-payment of wages or pensions, is provided for by the European Social Charter. However, Ukraine has not yet ratified it.

The implementation of the decisions of the European Court is controlled by the structures of the Council of Europe. The control body is the Committee of Ministers of the Council of Europe. By the way, in more than 40 years of the existence of the European Court of Human Rights, there has not been a single case that its decision was not implemented by the offending country.

If the European Court makes a decision in favor of the plaintiff, the state that is the defendant must compensate for material and moral damages. After all, when turning to an international organization, a person is contesting the actions of the state. Although in Ukraine it is still not legally regulated who will pay compensation in these cases.

The consideration of two cases regarding non-execution of court decisions on non-payment of salaries is unique. If the European Court of Justice had made a decision in favor of the plaintiffs, it could have affected our government. The state would feel that there is a serious and influential control over compliance with its obligations to its citizens.

An individual (group of individuals) or non-governmental organization has the right to apply to the European Court in case of violation of personal political and civil rights. These are the right to life, freedom and personal integrity, the prohibition of torture, government interference in personal and family life, violation of freedom of conscience and religion, the right to property, education, and free elections. An appeal to the

European Court is possible only when all national human rights protection mechanisms have been exhausted.

Whether in a civil case or in a criminal case, it is necessary to obtain a decision of the cassation instance. That is, it is necessary to go through the procedure of the first court instance, then the higher cassation instance. The decision of the Supreme Court of Ukraine is not mandatory. Only when the Supreme Court considered the case at first instance, then the Plenum of the Supreme Court is the mandatory higher instance. If the case falls under the mandate of the European Court, it can be appealed to within six months from the date of the cassation ruling. Only according to court decisions issued in relation to events that took place no earlier than September 11, 1997. That is, since the European Convention on Human Rights entered into force.

The appeal can be written in the official language of the European Court of Justice (English, French) and in any of the official languages of the 41 countries that have ratified the European Convention on Human Rights. Including Ukrainian, Russian.

Appeal to the European Court is free. If the European Court accepts the application for consideration, the lawyer's services may be reimbursed by the European Court to the applicant if he proves that he does not have sufficient funds to pay for a lawyer.

The Human Rights Commissioner of the Verkhovna Rada is not one of the mandatory authorities for applying to the European Court of Justice. This instance does not represent citizens' cases in court (this can only be done in person or through a lawyer).

CONCLUSION

Thus, after completing and analyzing this course work, you can come to the following conclusions that the interests of the employer and the employee do not always coincide, and naturally, a clash of these interests is possible at any stage of the labor relationship, which in turn leads to disagreements. Therefore, in many enterprises. in most institutions there are such manifestations of incompatibility of interests as labor disputes. The implementation of relations, both individual and

collective, does not always go smoothly. Since it is said that there are two types of relations with the employment of workers at enterprises. Accordingly, two types of disagreements arise between the subjects of these relations: individual and collective.

The causes of labor disputes are divided into two types: organizational and industrial in nature and legal.

The reason for the emergence of labor disputes can be various actions or inaction of one of the subjects of labor relations.

According to the sign of sub-department, three types of consideration of these disputes can be distinguished: in a general procedure, in a judicial procedure, in a special procedure.

After the beginning of the reforms in our country, they also began to look for a more effective mechanism for resolving labor disputes, but, unfortunately, for many years, it was not possible to solve this problem. To date, even an approximate model of labor courts does not exist in Ukraine.

In England, a similar service is called the "Conciliation and Arbitration Service", it exists under the government, this service is, as it were, three-tiered. If a person has problems at work, he can first of all use the hotline, such a contact network is quite well-known in England. Qualified specialists will help with advice. After the consultation, the majority, without bringing the case to a conflict, find legal ways to influence the employer, but when, after all, a person fails to protect his rights on his own, reconciliation of the parties begins with the help of arbitrators. If these procedures also reach a dead end, the case is referred to labor arbitration. Experienced arbitrators carefully study the conflict and prepare a court decision that is binding on the conflicting parties.

Conflicts at work, as they were not considered, are not considered until now. The court is helpless and will remain so until the rights of the employee and the employer are equalized in labor disputes. There must be special rules for the protection of the rights and guarantees of citizens in the field of labor; only the Labor Procedural Code of Ukraine (TPK) can become a set of such rules.

In this code, it is necessary to reflect all existing issues related to the consideration of labor disputes and conflicts, and these issues can be resolved precisely with the help of the labor procedural code, without going beyond the boundaries of civil courts, these institutions should simply be supplemented by judicial bodies that are well-versed in modern labor right Conflicts over non-payment of wages, length of service, industrial labor insurance, collective agreements, agreements and many other issues related to labor law should be referred to these bodies.

It is possible to take the French model of labor courts as a basis, which are called prudomal. Representatives of employers and employees, who are elected in special elections, sit in them on a parity basis. similar to parliamentary ones. But it is necessary not just to automatically transfer the French scheme to our land, but to try to adapt it to our reality, to create an effective mechanism to protect the weak side - the employee.

To date, there are still many unresolved issues in Ukraine in the field of protection of violated labor rights of employees. Of course, all these problems carry a conflict. For a long time, most problems were solved by strikes and pickets, but the active work of the NSPP gives significant positive results in improving social and labor relations, legal resolution of disputes and conflicts, prevention of strikes and other social protest actions.

In our opinion, specialized labor courts are necessary in Ukraine. So, today, it can be noted that the NSPP is a prototype of the system of specialized labor courts and it is from the NSPP that this system of courts can grow. The system of pre-trial specialized labor courts, whose decisions do not have legal effect, is widespread in many countries with developed economies, for example: in Great Britain, Germany, Israel. And everywhere these courts have proven themselves to be one of the most successful ways of resolving conflicts without the unnecessary red tape and formalities required in a court of general jurisdiction.