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LABOUR COURTS AND THE EXPEDIENCY OF THEIR CREATION IN UKRAINE (ON THE EXAMPLE OF EU COUNTRIES)

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Introduction. The legal system of Ukraine is constantly undergoing changes, supplementing and developing in an attempt to comply with the legal systems of developed countries, namely the EU countries. This is an extremely important process that brings Ukraine closer not only to EU membership, but also to building a democratic society with the rule of law.

Innovations are being implemented in various areas of law: administrative, civil and, of course, labour. However this process surely has many nuances and difficulties which should be taken into account. Such factors as social context, the level of development of our legal system and expediency of some transformations are as important as ever.

Objectives. The main task is to consider adoption of such judicial body as labour court in Ukraine on the example of EU countries. Those changes are rather debatable and we must take a closer look at a quantity of details.

Methods. In my work I've used such methods as quantitative research and comparative analysis.

To begin with, it is worth paying attention to the question of how labour disputes are currently regulated in Ukraine.

In the course of work, controversial issues may arise between the employee and the employer regarding the conclusion, execution, amendment, termination of the employment contract and compliance with other norms of labour legislation. An employee can apply to the commission for labour disputes if he personally was unable to settle the dispute with the owner or the body authorized by him.

It should be noted that the commission on labour disputes is created at enterprises, institutions, organizations, if at least fifteen people work at the enterprise, institution, organization. If less than fifteen people work at enterprises, then the commission on labor disputes is not created, and the employee can apply directly to the court to resolve the disputed issue. At the same time, the

Constitution of Ukraine gives every citizen the right to directly apply to the court for the protection of the violated right.

Now I think it is worth going directly to the examination of the practice of the existence of labour courts on the example of the EU countries.

Labour courts on itself are judicial bodies responsible for passing and enforcing judgments on labour and social issues; they constitute a specialist branch of the judiciary. The labour court deals with disputes relating to labour law. They are usually disputes between employers and employees or between parties to collective agreements. The labour court is a civil court with special jurisdiction. Labour courts in EU countries were established for various reasons. For instance in Finland the establishment of a separate labour court was influenced by the following facts: 1) ordinary courts of law were regarded as too slow; 2) these courts did not have the necessary expertise to settle disputes arising out of collective agreements; and 3) a separate labour court of special composition would more easily gain the confidence of workers' organisations. The basic idea behind the dispute board (*conseil de prud'hommes*) in France is the desire to allow plaintiffs to have their case heard by judges who are particularly sensitive to labour problems by virtue of their own occupational activity or of the nature and subject matter of the disputes. The boards also reflect a desire to democratise legal proceedings both in the way the members are elected and by the requirements for election.

The composition of the courts varies from one country to another but in almost all countries the courts are composed of one or more professional judges and a varying number of lay assessors.

Three different general models of organising labour courts in comparative law, taking into account the matters in dispute and the courts dealing with them, have been identified:

- The integrated model is characterised by the fact that labour and social security disputes are resolved by the same courts. This is the case of Spain and Italy.
- In the dual model, there are different courts for labour litigation, on the one hand, and social security litigation, on the other hand. France and Germany are a clear example.
- In the diluted model, the same courts resolve civil, administrative, criminal and litigations on labour and social security issues. This happens in some cases in the UK (e.g. breach of contract), or the Nordic countries (e.g. at the lower instances in individual labour conflicts).

In all the countries concerned the labour courts are competent to hear only "legal" or "rights" disputes. In certain countries the labour courts are only competent for individual disputes. In a number of other countries, the labour courts only have jurisdiction in collective disputes. This is the case in Finland where the labour court has sole territorial jurisdiction with material competence over legal disputes arising out of collective agreements or the Collective Agreements Act. Finally, in still other countries, the labour courts have jurisdiction in a wide range

of matters, both individual and collective. In the Federal Republic of Germany the jurisdiction of the labour courts can be divided into two main areas: (a) civil proceedings, including disputes arising out of collective agreements or out of employment contracts and the employment relationship or disputes over trade union rights; (b) collective proceedings, including disputes in connection with the Works Constitution Act, the Co-Management Act of 1976, the election of employee representatives to supervisory boards and disputes concerning the ability to bargain collectively and the collective bargaining powers of associations.

Conclusion. To sum up, I want to express my personal position on the advisability of creating labour courts in Ukraine using the example of the EU countries. Taking into account many factors, including such social problems as the corruption and cumbersomeness of the existing system, the desire of Ukraine to comply with EU standards (considering that the issue of the accession of Ukraine to the European Union became especially acute over the past year), the heavy workload of the civil courts, which are currently considering labour disputes, it becomes clear that the idea of creating labour courts is more relevant than ever.

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