

# THE SYSTEM OF SUPERVISION AND CONTROL OVER LABOR PROTECTION IN THE EU

Maryna Dei,  
National Aviation University  
Kyiv, Ukraine  
<https://orcid.org/0000-0002-0626-8089>

**Abstract.** The European system of control and supervision in the field of labour protection is examined in the article. An analysis is also made of the main principles of the European policy in the field of labour protection and a detailed analysis of the state system of labour protection management, taking into account the consequences of Covid19. Within the framework of this scientific study, a detailed analysis of the main EU Directives and the ILO Convention, as a fundamental document regulating the activities of labour inspectorates, was made. The essence and definition of the state labour inspectorate as an executive body and as an intersectoral control body is revealed. Proposals and recommendations are formulated to improve the competence of the labour inspectorate based on the recommendations of the ILO.

**Keywords:** European labour law, labour protection system, European labour inspection, ILO.

## INTRODUCTION

Among the fundamental human rights defined and established in international legal acts of both universal and regional nature, labour rights, among which the right of everyone to proper, safe and healthy working conditions, have gained particular importance.

Over the past decades, within the European Union, more and more attention has been paid to the development of legislation in the field of labour protection. Today, the leading trend in the development of the legislative base of the countries of the European Union is the implementation of this legislation, as well as its mandatory observance. It should be noted that the development and implementation of labour standards requires a comprehensive employment policy, a strong and effective social dialogue, all processes of which include the labour inspection system (Progress report Accompanying..., 2013). In a broad sense, labour inspection is part of the labour administration system, which regulates compliance with labour legislation and labour policy principles in the workplace.

Effective and efficient labour inspection is a necessary component of any civilized government and any prosperous country. Social changes in the political and public life of states inevitably lead to the need to improve their legal systems, including the institution of supervision and control over compliance with labour legislation.

At the same time, the situation with Covid-19 has shown the whole world that the protection of labour rights, including control over compliance with working conditions, also affects a person's private life. As R. Horton pointed out, «COVID-19 has revealed, used and strengthen deep socioeconomic and racial

inequalities» (Horton, 2020). What exactly is this inequality? Because, working conditions are a direct contribution to the protection of human rights (this is health and safety), but there is also an indirect effect, which is the amount of salary. Because the amount of salary depends on the conditions under which the employee is outside the workplace. That is, where we live, what we eat and why we get sick — this is all indirectly related to the place where we work, how much we are paid and the nature of the conditions in which we work. Therefore, COVID-19 has revealed and highlighted major disadvantages in the essence and procedures of labour law and the protection of labour rights of employees (Health 2020. A European policy framework..., 2020).

It should be emphasized that all norms of international and European law in the field of labour safety were adopted by 2019. Thus they showed their imperfection. Most of the norms are international in nature and are generally recognized. Therefore, the study of the standards of the European Union in the field of legal regulation of labour has a special topical interest. Firstly, this is explained by the specifics of the European Union, which distinguishes it from international organizations of the classical type. Secondly, the relevant norms of the European Union are currently applicable in 27 states, each of which has a different level of economic development and legal system.

The specificity of EU labour law lies in the fact that its labour standards largely detail international labor standards. These standards are accepted by international organizations at both universal and regional levels as general rules of conduct regarding the activities of labour inspectorates.

The international dimension and relevance of the norms for the EU was clearly revealed during the Covid-19 crisis in connection with the provision of personal protective equipment (PPE) for the protection of workers. The shortage of such material was one of the many shortcomings of governments during the pandemic, as was the inability of legislation to solve this problem in emergency situations. Most governments of EU member states and Ukraine have been forced to rely heavily on global supply chains. And as it turned out later, the deliveries were made from Malaysia, where the production of rubber medical gloves is carried out by migrant workers, and even in slave labour conditions (Health 2020. A European policy framework..., 2020).

Thus, it can be emphasized that the international dimension of labour safety legislation is not perfect. Because all states did consistent actions prescribed and recommended by the UN, and as a result of this imperfect system, there is not always an adequate and qualified response to the challenges associated with Covid-19. For example, the Philadelphia Declaration (which is an integral part of the ILO statute) establishes the main principles of protection of labour rights of employees (The ILO Declaration on Fundamental Principles and Rights at Work, 1998). All 12 principles have been reflected in the legal norms of each of the countries that have ratified them, Ukraine is no exception. But, protecting the labour rights of citizens of one country, we should not violate the rights of citizens of another country. And Covid-19 showed us the need for fundamental changes, including changes in the labour safety system.

Special attention should be paid, in particular, to the fourth, fifth, sixth and seventh principles. They point to social justice and the role of labour law in ensuring a fair distribution of wealth (the «fruits of progress») outside of the direct relationships between employer and employee. It implicitly rejects the idea of remuneration for work or labour based on tradable principles of demand

and offer, and really goes beyond remuneration related to the economic value of provided labour. Instead, it forecast the need to develop principles for valuing labour provided outside of any old market mechanism. The fifth, sixth and seventh principles provide the means by which it can be done. For example, strong trade unions, who create opposition to the employer, participate in a collective discussion process that serves more than an economic purpose in setting wages, and stand ahead tradable considerations.

No doubt, other principles are also indispensable. The 11th considers the sphere of application of labour legislation, including «just share of the fruits of progress», which is intended to be applied «to all». It includes the minimum wage, paid holidays, equality, health and safety legislation and unfair dismissal. Of course, it does not mean that everyone should be paid the same; but it means that people should not be excluded from the right on the basis of a fictitious designation, or have their rights reduced through the application of discriminatory formulas: everyone who works has the right to all types of protection guaranteed by the state and international law (Weiss, 2006).

In the context of constant reform, supervision and control over labour protection and labour legislation is becoming more important than before. The role of authorities, exercising such supervision and control, is increasing, and the study of European theoretical and practical problems of supervision and control will contribute to strengthening the rule of law in the field of application of labour legislation and labour protection in Ukraine.

June 23, 2022 The EU granted Ukraine the candidate country status. Therefore, the approximation of national legislation to the law of the European Union in the process of European integration is an inevitable step for every country that wants full membership. One of the Copenhagen criteria forecast precisely the harmonization of national legislation with the *acquis communautaire*.

Therefore, Ukraine is obliged to harmonize its legal system with the EU legal system, including the sphere of labour safety supervision and control.

In addition, labour inspections are crucial in promoting compliance safety rules and health regulations. Profound changes in the workplace, brought about by new technologies and working conditions, have started a debate about the role of labour inspection in this changing world of work.

Without the scientific development of legal problems of supervision and control over labour protection and compliance with labour legislation and the generalization of the practice of its application, it is impossible to achieve a rational organization of supervision and control in all spheres of human activity; ensuring healthy and safe working conditions; improving the ways of legal influence on economic entities in the context of reforming labour relations; skillful application in the process of improving supervision and control of economic, legal, social and moral and psychological means. All this together determines the relevance of the research topic.

## **MATERIALS AND METHODS**

A number of methods are used in the research, which are generally accepted by legal science, as well as the science of labour law. It is based on the normative method used in clarifying the essence and forms of legal protection of labour safety within the EU. The comparative method was used to highlight

the features of the labour safety supervision and control system in the EU and Ukraine. System analysis is applied to find out the place of competence of the EU in the system of EU law and international public law, as well as to study the international legal personality of the EU. The historical method was used, which made it possible to show the policy of supervision and control in the field of labour safety in the EU as a special phenomenon in the process of its formation, to focus attention on the features of the integration regulation of labour safety policy and to define the concept of labour safety in the EU and the competence of the EU in this field of relations.

The empirical base of the research formed by Conventions and other international legal acts of the UN, ILO and Council of Europe; founding treaties of the European Union; regulations, directives, decisions of the European Council, including the Charter of Fundamental Rights of the EU, other legal acts of EU bodies in the field of labour safety; The Constitution of Ukraine and the constitutions of EU member states; national legislation of Ukraine. Considerable attention was paid to the practice of the EU Court regarding legal support and regulation of control and supervision of labour safety.

## RESULTS

Exploring the European system of supervision and control in the sphere of labour protection, first of all, it is necessary to study the development of legal regulation in the European Union.

The European Union has a large number of norms in the sphere of safety, but the main tool is the Directive. The meaning and role of the Directives in the sphere of the protection labour is established in article 153 of the Treaty on the Functioning of the European Union. A system of basic principles for the management of security and protection was created on the basis of this article, which must be implemented in national legislation by the Member States. As follows, the principles are used by all member states of the European Union. In 2017, security and health of employees were recognized as one of the key principles in the recommendation of the Commission according to the basis of social rights (Commission Recommendation (EU) 2017/761 on the European Pillar of Social Rights, 2017).

The most important legal act in the field of labour safety is the European Framework Directive (1989/391/EEC), which establishes general principles of safety and health management, such as the responsibility of the employer, the rights and obligations of employees, the use of risk assessment for continuous improvement of processes company, as well as presenting health care and safety in the workplace. All next Directives within the meaning of Article 16(1) of the Framework Directive follow these general principles.

European safety and occupational hygiene directives set minimum standards for employee protection. Member States can exceed these standards during the implementation of the Directives, but they cannot lower the existing norms.

In addition to the Constituent Treaties and Directives that regulate labour safety relations, we cannot not to mention the Charter of Fundamental Rights of the EU, as well as its importance for the system of protection of employees` rights. At the time of the proclamation of the Charter, it was not part of the EU Treaty of Nice, but it was only «proclaimed». However, it was provided for

in the Draft of the future Treaty on the creation of a Constitution for Europe (which was not adopted). At the same time, the EU Court declared that «... the main purpose of the Charter... is to confirm rights» (Case 540/03 of European Parliament v. Council of the European Union, 2006). Thus, the decision of the EU Court strengthened the role of the Charter and established the main provisions of labour law and labour relations, which covering such issues as freedom of assembly, collective bargaining, information and consultation within the enterprise, fair and equitable conditions and protection in case of unjustified dismissal.

In addition, the European Social Charter (1961, revised in 1996) is an important document, too. It is declared that the states — participants of the Charter undertake the following obligations: to issue rules on technical safety and labour hygiene; create a supervisory mechanism for the implementation of these rules; to consult as necessary with organizations of employers and employees on the subject of measures, aimed at improving safety and labour hygiene.

Special attention should be paid to EU Strategic Programs, which are adopted every 5 years. Currently, the European Union has a European strategy for labor safety and protection for the period 2021-2027, which provides for specific actions of EU institutions in this area (hereinafter ETUC). The Strategic Program uses a tripartite approach — involving EU institutions, Member States, social partners and other stakeholders — and focuses on three key priorities:

- prediction and management of changes in the context of green, digital and demographic transition;
- improving the prevention of work-related accidents and illnesses and striving for a Vision Zero regarding work-related fatalities;
- increasing readiness to react to current and future crises in health care.

The strategy emphasizes a multi-faceted approach to safety and labour protection, while proclaiming the goal of the Lisbon Strategy about achieving a high quality of work. It identifies key priorities and actions for improving the health and safety of employees, responding to changes in the economy, demography and models of work. The strategy also provides for specific actions sent to the challenges and problems of modern working life, including social and psychological risks, age and gender factors, as well as promoting a healthy lifestyle and well-being at work. The strategy provides the development of multi-faceted, preventive and protective services, as well as the improvement of safety, health and ability to work, as an important element of its implementation.

The main feature of the new strategy is that it took into account serious challenges associated with Covid-19. The EU Strategic Program recognized that the Covid-19 pandemic is not only a public health problem, but to a large extent a problem of labour hygiene. Evidence that some sectors of the economy have become the main vectors of the spread of Covid-19 is an additional reason for such an approach. Appropriate preventive measures (including risk assessment and risk management) for which employers are responsible, as it provided for the Framework Directive, should be equally applied in the context of the spread of the Covid-19 pandemic and the protection of workers' health.

The strategy regulates a new conceptual apparatus, such as «Vision Zero». The «Vision Zero» program is based on two ethical principles: intolerance to the death or serious injury of people and the inadmissibility of relationing such

accidents as an inevitable evil of motorization. Thanks to this, the program also received the name «the principle of zero tolerance».

The ETUC endorses «Vision Zero» on work-related accidents and makes a much-needed focus on labor safety and hygiene. The ETUC believes that «Vision Zero» should not be limited to work-related deaths, but should include all work-related accidents and illnesses. A «Vision Zero» approach should also aim to be more proactive in focusing on risk prevention and elimination, building on the principles of the EU Framework Directive.

The ETUC also fights with violence and harassment in the workplace, and applies regardless of the cause of the harassment. All workplace violence and harassment harms workers and their families. It is also correspond to ILO Convention N°190 — Violence and Harassment Convention, which covers all work-related violence and harassment.

It is quite progressive that the EU Strategic Framework exhorted Member States «to cope with the trend to decrease the number of labour inspections in some Member States by strengthening field inspections», but did not propose any additional concrete measures. Member States must provide adequate support to labour inspectorates and follow the ILO's recommendations of 1 labour inspector per 10,000 workers. Sanctioning mechanisms must also be strengthened. No doubt, it can be fulfilled by strengthening the role of trade union representatives in the field of labour protection. And, social partners should be properly involved in the development and implementation of reliable health and safety measures at all levels in accordance with the rules and principles of the EU Framework Directive.

Another of modern areas of regulation of labour safety supervision should be the simplification of EU rules in the context of the green and digital transition. Therefore, the main task of the European Commission is the adoption of new Directives on labour safety and health, taking into account digitalization and legal regulation of artificial intelligence. However, The Artificial Intelligence Act does not apply to the use of artificial intelligence as a means of control and monitoring employees (Proposal for a regulation..., 2021).

Urgent, in the conditions of modern development of society and as the practice of the war in Ukraine has shown, is the regulation of labor safety of self-employed workers and those who work remotely (Platform Work).

Platform work is a new form of employment that originated in Europe about a decade ago. This form is small in scale — according to estimates, less than 10% of workers from the total labour market, but their number is constantly growing (De Groen, Kilhoffer & Lenaerts, 2018).

Platform work basically involves paid work organized online between three parties – the online platform, the client and the worker – to do specific tasks (Google, Uber and others use this format). From a legal point of view, work on the platform is not a separate form of employment in most countries, but the settlement of many issues related to this type of work is becoming more and more important. It was the Covid-19 crisis and the situation in Ukraine (from February 24, 2022 till today) that revealed the vulnerability of this category of employees. Thus, these workers should fall under the protection of labour safety laws and policies. It is equally important to pay attention to the situation of employees with disabilities and chronic diseases.

Platform Work employees may be exposed to increased health and safety risks both while working on the platform (for example, traffic accidents

or injuries caused by machinery or chemicals) and while working on the online platform (for example, related with ergonomics of computer workplaces). These are not limited to physical health, a special factor is the impact on psychosocial health due to irregular working hours, work intensity, competitive environment (rating systems, work incentives, bonuses), information overload and isolation as a new risk factor.

The improvement of the working conditions of people working in Platform Work was also announced in the new EU Strategic Program presented by the Commission in July 2021. One of the key aims of the initiative will be to ensure good working conditions, including health and safety, for all people working in platform companies. Introducing a legal presumption should become the basis of the future Directive. This concept was first reflected in the California Assembly Bill (AB5), which was signed by Governor Gavin Newsom in September 2019 (Assembly Bill No. 2257, (2020)). The rule demands from companies which hire independent contractors to reclassify them as employees. There is a presumption that platform workers are employees if the employer (i.e. the online platform) can demonstrate that the three parts of the so-called ABC test do not apply to the employment relationship. For this presumption to be refuted, according to the test, online platforms must prove that workers: (a) are free from control and orders by the company that hires them; (b) do work outside the usual activities of the hiring entity; and (c) independently registered in that profession or business.

But the advantages and disadvantages of this presumption are described in detail in the work of Miriam Kullmann «'Platformisation' of work: An EU perspective on Introducing a legal presumption» (Kullmann, 2022).

In her work, Miriam Kullmann indicates that the legal basis for the establishment of changes in EU legislation and the development of the relevant directive is Article 153(2)(b) in combination with Article 153(1)(b) of the TFEU. It is Article 153 of the TFEU serves as the legal basis for Directive (EU) 2019/1152 on transparent and predictable working conditions in the European Union, which contains «the rebuttable presumption of the existence of an employment contract with a minimum number of paid hours», based on the average number of hours worked during a certain period» (Article 11(b)) (Kullmann, 2022).

Article 11(4) of Directive (EU) 2019/1152, which applies to employment contracts or similar contracts, determines that Member States have the possibility to introduce «a rebuttable presumption of the existence of an employment contract with a minimum amount of paid hours based on the average number of hours, worked out over a certain period to prevent abuse. An alternative to the legal presumption proposed by the Commission is to transfer the burden of proof or lower the standard of proof, required for people involved in the work of platform companies or their representatives in legal proceedings. Therefore, platform workers will not automatically be considered to be in an employment relationship, but will need to provide several facts from which it can be assumed that an employment relationship exists (ie prima facie evidence). In this case, the responsibility will be on the platform company to prove that the person is actually self-employed.

In addition, there is an urgent need in the EU to improve the regulatory and legal framework for labour safety, including supervision and control, in the event of the discovery of new strains of Covid-19 or future pandemics.

The primary measure is the recognition of COVID-19 as an professional disease. Currently, EU Member States classify the Covid-19 virus in the context of Directive 2000/54/EC — biological agents at work (Directive 2000/54/EC..., 2021). But this Directive does not classify the virus as an professional disease and does not guarantee protection for workers. The pandemic showed the whole world the need to improve legislation, which led to significant adjustments of Directive 2000/54/EC — biological agents at work. But even after the changes, Covid-19 does not apply to all workers who are exposed to infection without proper protection. The regulations apply only to a certain defined group of professions. Aside from that, there is an urgent need to monitor the measures applied, within the framework of the work of biological agents under the 3rd category.

The crisis has also revealed bad working and living conditions for migrant workers, including seasonal workers, who live in unsanitary conditions. They are an easy target for the virus. Therefore, ensuring decent working conditions for this category of workers should become one of the criteria for supervision and control of labour safety.

The Convention on Occupational Health Services No. 161 of June 7, 1985 is the main international document that regulates the issue of supervision and control. Although this convention has not been ratified by many countries, in June 2022 at the plenary meeting of the International Labor Organization of the United Nations in Geneva, states voted to promote the principle of labour safety as a fundamental of the ILO's principles, which currently include freedom of assembly and the abolition of child labour.

According to the ILO, the 20 countries with the highest number of workplace injuries include France, Austria, Switzerland and Germany (Statistics on safety and health at work. (n.d.)) Instead — Malta, Romania, Great Britain and Estonia are among the countries which have most reduced the number of labor inspections and labor inspectors over the last decade.

In April 2022, the European Trade Union Confederation published a manifesto for zero deaths at work, which was also signed by government ministers and members of the European Parliament. The document urges for more legislation and strengthening training about workplace health and safety, and stronger inspections and penalties, to end fatalities by 2030 (Zero death at work, 2022).

Occupational Health Services Convention No. 161 of June 7, 1985 justifies the possibility of preventing risk factors, the beginning and progression of the disease, as well as the possibility of avoiding disability or premature death. The Directive outlines a range of activities necessary to achieve the following two goals: integrated action on risk factors and strengthening the health system for the prevention and control of noncommunicable diseases.

Despite the large number of regulatory acts in the field of labour protection and safety adopted over the past 20 years, there are still risks associated with the implementation of labour activities.

It should also be noted that all current and planned EU directives and, accordingly, the legislative acts of the Member States must follow the three legal principles of occupational health and safety of workers established in the «framework» Council Directive 89/391/EEC dated June 12, 1989 on the introduction of measures facilitating to the improvement of the safety and health of employees:



- the obligation of the employer to guarantee health and safety during work, in particular, by properly and timely informing employees with the help of instructions, special courses for the correct handling of enterprise equipment;
- the obligation of each employee to contribute to the protection of their own health and safety, the safety of other employees by following safety instructions, the correct use of technical means;
- absence (or limitation) of the employer's liability for damage caused to the health of the employee due to force majeure (unforeseen or extraordinary circumstances) (Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, 1989).

Directive 89/391/EEC contains general principles concerning the prevention of occupational risks, safety and health protection, the avoidance of risk factors and accidents, information, consultation and balanced participation in accordance with national law and/or practice, training of workers and their representatives, and as well as instructions for the implementation of the said principles.

The framework nature of Directive 89/391 lies down in the fact that, on its basis the EU adopts relevant acts that ensure labour protection for various categories of workers. To date, 19 such directives have been adopted. The Directive 89/391/EEC was supplemented by Directive 2007/30 EC (Directive 2007/30/EC of the European Parliament and..., 2007). In particular, Article 17 was introduced into Directive 89/391/EEC, containing provisions detailing the rules on the provision by EU Member States reports to the European Commission on the practical implementation of the provisions of Directive 89/391 EEC in accordance with Article 16 of the Directive and taking into account the views of the social partners. The report, according to the new article 17 introduced by Directive 2007/30 EC, must also take into account the provisions of other directives in the field of health and safety of employees.

Directive 89/391/EEC served as the basis for the adoption of Council Directive 89/654/EEC of November 30, 1989 on establishing minimum requirements for workplace safety and hygiene (Council Directive 89/654/EEC, 1989). As special applications, the directive contains a detailed list of mandatory minimum requirements for technical characteristics presented to security systems at the enterprise.

It should be noted that in accordance with ILO Convention No. 81, state supervision for compliance of labour legislation and other regulatory legal acts containing labour law norms, as well as monitoring compliance with the established procedure for investigating and recording industrial accidents, should be carried out by the labour inspectorate and within the EU, as one of the parties of this Convention.

Despite the powers given to the labour inspectorate by the relevant international labor conventions and recommendations (and, to a lesser degree, other international and supranational norms and standards), these instruments generally need to be ratified by a special procedure, usually adoption of a law by parliament, before they can be effectively come into force at the national level — creating binding legal obligations, rights and obligations for labour inspection systems, inspectors, employers and employees.

By their nature, labour inspection services, as part of the public administration system, require an institutional framework that is based on laws and regulations. The organization of labour inspection in many countries

is based on more general laws destined to protect employees, regardless of the texts of these laws are general or specific to a number of issues and sectors of the economy.

Broadly speaking, these laws substantiate the labour inspection service in general terms and contain conditions relating to institutional enforcement. Some countries may have specific provisions for inspection services, i.e. labour inspection law or decree (often closely related to the text of the Labor Inspection Convention, 1947 (No. 81)).

The purpose of labour inspectorates is to assist in the development of policy or to directly perform this function, as stated in Article 3 of the Labour Inspection Convention in Industry and Commerce, 1947 (No. 81), which calls on inspection systems to inform the competent authorities of gaps in existing legislation.

Policy formulation has two main aspects: the development process and the content. Policy development is best done through tripartite consultations. Social dialogue on the issue of labor protection at different levels of any community is becoming increasingly important for laborr inspectorate leaders. An example is The Advisory Committee on Safety and Health at Work and, obviously, the mechanisms and institutions for the adoption of ILO conventions.

Within the framework of the national labour protection policy, the tasks of these bodies should be developed. Thus, most of the new legislative acts in the field of labour protection, which are in force in the Member States of the European Union, are prepared on the initiative of the bodies of the Commission of the European Union by the executive bodies of the EU. National experts take an active part in this work.

Examining the practice of the Member States of the European Union, it should be noted that at the national level control and supervision of labour protection consists of two sets of issues — workplace inspection and market control. The workplace inspection for compliance with working conditions with labour protection requirements and for compliance with labour laws that oblige the employer is called inspection control. Market control is called the control of compliance of goods released on the market with the requirements imposed on them.

The regional state administrative departments have bodies in charge of labour protection, which control compliance with labour legislation. Their inspectors have the right to visit workplaces to control and inspect the workplace. Inspectors also have the right to receive information and explanations necessary for inspection from the employer. The labour protection inspector shall notify the employer in advance of the inspection check if he does not consider that such a notification may bring damage the effectiveness of the control. The inspector draws up an inspection report. In his report, the labour safety inspector gives instructions on how to eliminate minor deficiencies. To eliminate significant deficiencies, the inspector gives employers binding instructions. The fulfillment of these instructions is controlled by the inspector himself. If necessary, the labour protection authority can make a decision which is binding on the employer, as well as to inflict a penalty as a sanction for non-compliance. If it is a situation that poses a hazard to life, the inspector may prohibit the work or impose a ban on the exploitation of a facility that creates a danger to life.

The decision of the inspector may be appealed to the administrative judicial body. For improper inspection procedure, a written reminder can be made to the labour protection authority.

If the labour protection authority suspects that an offense, qualified as a criminal offense, has been committed at the workplace inspected by, then it is obliged to report this to law enforcement agencies. The prosecutor examines the validity of the initiation of a claim. Representatives of the labour protection authority act as experts in the investigative process and even in proceedings on claims for violation of labour laws.

The EU Member States cooperate on monitoring compliance with labour protection conditions within The Senior Labor Inspectors' Committee (SLIC) and its subordinate groups. Cooperation includes all-European supervision projects, holding meetings and thematic days, the network of exchange of information on occupational health and safety control (SLIC-KSS), as well as the exchange of inspectors.

## **CONCLUSIONS**

In spite of strict control over compliance with labour protection legislation and the number of regulatory bodies, a number of problems is still remain in the EU.

The main overall strategic problem consists in the quality of labour market governance, which is the most important factor. Success in choosing a development trajectory, which leads to sustainable poverty reduction, depends on this factor. Optimization of the work of labour inspections, management, which ensures safety at work, reliable social protection of workers, this is what gives a better result, and leads to an increase in labour productivity, a reduction in the number of accidents at work and the creation of new incentives for the workforce. Therefore, the effective management of the labour market is the key to maintaining and increasing competitiveness and solving the problems associated with globalization. The key to competitiveness is quality goods (and services), which, in turn, depend on the quality of production methods (Larcher, 2006).

The next problem is that in many countries labour inspection services do not cope with their tasks and functions. They often lack of staff and equipment; workers are professional prepared, but paid low wages. It should be noted that Article 10 of Convention No. 81 specifies that the number of inspectors must be «sufficient» to carry out the necessary work. Whereas each country defines enforcement priorities for its inspectors differently, there is no official definition of a “sufficient” number of inspectors. Factors that should also be taken into account include the number and size of services and the total number of staff. None of these factors separately is sufficient for the assessment; moreover, in many countries the sources of provided data are inadequate. The ratio of “one inspector to a certain number of employees” is currently the only comparable available indicator. If we consider the practice of developed countries, these indicators are used in the ratio of 1:10.000; in countries carrying out industrialization 1:15.000; in countries with transition economies 1:20.000; in less developed countries 1:40.000 (Richthofen, 2002).

To solve global problems, it is necessary:

- a preparation of the political paper about the role of labour inspection

services in the context of work country programmes in the field of decent work. It would be a means by which the parties and officials represented on the EU Committee of Lead Occupational Safety Inspectors could integrate labour inspection into national development strategies. The draft of such a policy document should be considered at an expert meeting of labour inspectors, with the participation of representatives of the ILO (Unity beyond differences..., 2005);

- development of strategies concerning the future of labour inspection within the framework of labour administration;

- having determined the advantages and limitations of introducing a rebuttable legal presumption regarding the existence of employment relationships for platform workers within the framework of EU law, it is quite likely that the EU initiative about improving the working conditions of people working there will contain a presumption with one or more alternatives. This statement is based on the previous strategies of the European Commission in Directive (EU) 2014/67 about the protection of the rights of posted workers in relation to subcontracting liability and in Directive (EU) 2019/1152 on transparent and predictable working conditions in relation to the establishment of the duration of working hours, if it was not established by the employment contract. Furthermore, not all EU Member States have rebuttable legal presumptions regarding the existence of an employment relationship, making it highly likely that alternative instruments will be available. Since the rebuttable legal presumption is a tool for proving according to which an employment relationship, which meets all the relevant criteria, will be classified as an employment relationship, it can be seen as connected with the provisions relating to the concept of an employment contract;

- it is necessary to offer platform workers a tool which help them when it comes to establishing their rights under EU and national labour law.

## REFERENCES

- Assembly Bill No. 2257 (2020). Retrieved from: [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB2257](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB2257)
- Case 540/03 of European Parliament v. Council of the European Union (2006). Retrieved from: <https://www.asylumlawdatabase.eu/en/content/cjeu-c%E2%80%919154003-european-parliament-v-council-european-union>
- Commission Recommendation (EU) 2017/761 on the European Pillar of Social Rights (2017). Retrieved from: <https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX:32017H0761>
- Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work (1989). *Official Journal*, 183, 1–8.
- Council Directive 89/654/EEC (1989). *Official Journal*, 393 (1).
- De Groen, W. P., Kilhoffer, Z., & Lenaerts, K. (2018). Employment and working conditions of selected types of platform work. Luxembourg: Publications Office of the European Union, 88 p.
- Directive 2000/54/EC — biological agents at work (2021). Retrieved from <https://osha.europa.eu/en/legislation/directives/exposure-to-biological-agents/77>
- Directive 2007/30/EC of the European Parliament and of the Council of 20 June 2007 supplementing Council Directive 89/391/EEC and Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EU in order to simplify and streamline the report on practical steps for its implementation. (2007). *Official Journal*, 165.
- Health 2020. A European policy framework and strategy for the 21st century (2020). Retrieved from [http://www.euro.who.int/\\_data/assets/pdf\\_file/0011/199532/Health2020-Long.pdf](http://www.euro.who.int/_data/assets/pdf_file/0011/199532/Health2020-Long.pdf)
- Horton, R. (2020). Offline: Independent science advice for COVID-19—at last. *The Lancet*, 395, p. 1472. [https://doi.org/10.1016/S0140-6736\(20\)31098-9](https://doi.org/10.1016/S0140-6736(20)31098-9)

- Kullmann, M. (2022). «Platformisation» of work: An EU perspective on Introducing a legal presumption. *European Labour Law Journal*, 13(1), 66–80. <https://doi.org/10.1177/20319525211063112>
- Larcher, G. (2006). Plan de modernisation et de développement de l'inspection du travail. Retrieved from [https://travail-emploi.gouv.fr/IMG/pdf/DP\\_Plan\\_modernisation\\_inpection\\_travail\\_mars06.pdf](https://travail-emploi.gouv.fr/IMG/pdf/DP_Plan_modernisation_inpection_travail_mars06.pdf)
- Progress report Accompanying the document communication from the Commission to the European Parliament and the council Enlargement Strategy and Main Challenges (2013). Retrieved from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SWD:2013:0412:FIN:EN:HTML>
- Proposal for a regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (artificial intelligence act) and amending certain union legislative acts (2021). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52021PC0206>
- Richthofen, W. V. (2002). Labour inspection: A guide to the profession. Geneva: International Labour Office, 367 p.
- Statistics on safety and health at work. (n.d.) (2022). Retrieved from: <https://ilostat.ilo.org/topics/safety-and-health-at-work/>
- The ILO Declaration on Fundamental Principles and Rights at Work (1998). Retrieved from <https://www.ilo.org/declaration/lang--en/index.htm>
- Unity beyond differences: The need for an integrated labour inspection system (2005). Retrieved from [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---safework/documents/publication/wcms\\_110135.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_110135.pdf)
- Weiss, M. (2006). The Effectiveness of Labour Law: Reflections Based on the German Experience. *Managerial Law*, 48 ( 3), 275-287.
- Zero death at work (2022). Retrieved from [https://www.etuc.org/sites/default/files/press-release/file/2022-04/Zerodeathatwork\\_manifesto\\_ENG.pdf](https://www.etuc.org/sites/default/files/press-release/file/2022-04/Zerodeathatwork_manifesto_ENG.pdf)