

международных актов по правам человека, однако предусматривают ряд положений относительно условий и порядка заключения анализируемых договоров. Обосновывается, что наиболее универсальным является гражданско-правовой договор найма жилого помещения, как общая, наиболее доступная форма удовлетворения жилищных потребностей гражданина, который не может претендовать на специальную поддержку со стороны государства.

Ключевые слова: найм (аренда) жилья, жилое помещение, жилищный фонд, гражданско-правовой договор, социальный договор, наниматель, пользование жильем.

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Child Labor: Ukrainian Experience in the International Context

The article deals with the theoretical and legal aspects of the child labor concept and its prohibition under the national legislation of Ukraine and international standards in this area. The child labor concept has been defined; child labor regional peculiarities in Ukraine have been highlighted; conclusions and specific proposals as for amendments to the legislation under which child labor is provided have been formulated. Implementation of the prohibition of child labor is possible through establishing guarantees in employment of minors, as well as monitoring compliance with labor legislation on health and its health, safety, compliance with wage young workers and other factors that contribute to gaining child education, its spiritual and physical development.

Key words: child labor, forms of child labor, prohibition, operation, international standards, labor legislation.

Presentation of the scientific problem. Child labor and the ways to overcome its negative manifestations is an urgent not only in Ukraine but all over the world. Child desire to receive an independent income; difficult financial situation in the family; unemployment; to obtain professional and practical skills is among the most common reasons of child labor.

The purpose of the article is to study the theoretical and legal aspects of child labor concept and its prohibition under national laws and international standards in this area.

To achieve this goal it is necessary to solve the following tasks:

- identify the main approaches to the definition of child labor, to determine and analyze its essence;
- describe international standards for the child labor prohibition;
- identify regional characteristics of child labor in Ukraine;
- analyze labor laws norms that regulate child labor;
- formulate conclusions and specific proposals for the amendments and additions to the legislation providing child labor.

Analysis of research and publications. A significant contribution to the study of general issues of child labor and labor law prohibition including has been made by modern scientists, such as N. B. Bolotina, N. S. Diad'kova, V. Zhernakov, V. Ivaschenko, V. Kostyrsia, B. K. Levchenko, L. Parkhomenko, O. P. Petrashchuk, O. I. Protsevskiy, N. M. Khutorian and others.

However, comprehensive research devoted to theoretical and legal problems of child labor in Ukraine in an international context hasn't been done yet. This problem causes exceptional urgency and the need for a comprehensive research as it is fundamental for ensuring freedom of the prohibition of child labor and its negative manifestations.

Main content and justification of the study results. The concept and prohibition of child labor is defined by the international community and is fixed in international instruments: the Universal Declaration of Human Rights 1948 [1], the Convention on the Rights of the Child in 1989 [2], the European Social Charter (revised) in 1996 [3] Declaration ILO Fundamental Principles and Rights at Work 1998 [4], the ILO conventions and recommendations: № 138 «On the Minimum Age for Admission to Employment» in 1973 [5]; № 146 Recommendation on the minimum age for taking on work in 1973 [6]; № 182 «The Prohibition and Immediate the Elimination of the Worst Forms of Child Labor» in 1999 [7].

The Convention on the Rights of the Child in 1989 establishes the child's right to protect from economic exploitation and performing any work that may be hazardous to interfere with the child's education, or harmful to the child's health or physical, mental, spiritual, moral and social development [2].

In 1998 the 86th Session of International Labor Conference had adopted the ILO «Declaration on Fundamental Principles and Rights at Work» declares that all Members of the Organization to promote the fundamental principles and rights including prohibition child labor [4].

Child labor is defined in ILO Convention. It is work that children should not be doing because they are too young to work, or – if they are old enough to work – because it is dangerous or otherwise unsuitable for them. In Art. 1 Convention on Minimum Age for Admission to Employment №138 provides that each Member undertakes to implement a national policy to ensure the effective abolition of child labor and a gradual increase in the minimum age for admission to employment to a level that corresponds to their physical and mental development of adolescents [5].

According to Art. 1 of the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor number 182 provides that each Member which ratifies this Convention shall take immediate and effective measures to secure urgently prohibition and elimination of child labor; prevent the engagement of children in child labor; provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labor and for their rehabilitation and social integration; giving all children removed from the worst forms of child labor, access to free basic education and, where possible and appropriate, to vocational training; identify children who are at special risk, and help such children; take account of the special situation of girls [7].

Thus, the ratification by the Verkhovna Rada of Ukraine of ILO Conventions: № 138 «On the Minimum Age for Admission to Work» 1973 p., № 182 «On Prohibition and Negative Actions to Eliminate the Worst Forms of Child Labor» in 1999 is the first step to overcome exploitation child labor, consolidating their rules and clear steps in the fight against this phenomenon.

In order to implement international standards on the prohibition of child labor in 1992 the ILO launched the International Programme on the Elimination of Child Labor (ILO-IPEC) to eliminate by strengthening world's national potential addressing the problem of child labor.

Currently child labor is at work 16 out of every 100 children in the world according to the ILO (International Labor Organization). Moreover, some of the working children are under 5 years of age. Approximately 170 million children are engaged in hazardous work – in agriculture labor and in mining. For the last five years the international community managed to achieve some success in the elimination of child labor (according to Washington Profile). The number of working children in the world aged 5-17 had fallen to 11 % – from 246 million to 218 million. The worst situation involving child labor is in tropical Africa, employing approximately 50 million adolescents (according to «Newsru.com»).

ILO released Global Report «Overcoming child labor to achieve the goal» indicates that the level of child labor is reduced, and the global trend is observed for the first time, so preserving the current indicators steady decline in child labor to overcome this phenomenon is in 2016 [8].

UN Children's Fund UNICEF (Eng. United Nations International Children's Emergency Fund) established such factors of child labor exploitation:

- full-time working day at early age;
- unacceptable physical activity, social and psychological stress;
- work on the street in poor conditions;
- humiliating work (slave or bonded labor and sexual exploitation) [9, p. 29].

In Art. 3 of the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor number 182, was reflected in the national legislation of Ukraine, Art. 21 of the Law of Ukraine «On Protection of Childhood» provides the following forms of child labor as slavery (eg, sale and trafficking of children, debt bondage and serfdom); forced or compulsory labor and the recruitment of children for use in armed conflict; prostitution, production of pornography or for pornographic performances involving children; illegal activities of children for the production and trafficking of drugs; work which, by its nature or the circumstances is carried out, is likely to harm the health, safety or morals of children [7; 10].

In legal doctrine, the analysis of international standards and its implementation in national legislation V. Ivaschenko identifies forms of child labor as domestic servants; forced labor; commercial sexual exploitation; work in industry and agriculture; street work; work on the family and the girls work [11].

It is appropriate to point out that there are regional characteristics of child labor. B. K. Levchenko has analyzed the use of various forms of child labor in Ukraine, focuses on administrative and territorial characteristics of child labor. In particular, the author stresses that in Kherson region child labor is used in agriculture (weeding, supervision of animals, vegetables harvesting, grazing animals, working with fertilizers, chemicals, auxiliary staff during the repairing of agricultural machinery) in the household (supervision the animals, gardens, supervision of children, the sick), fisheries, trade, services, illegal activity, sex business. In

Donetsk region child labor is used in the collection of scrap metal in the mining industry (cistern – family or employment, grading of coal, utility workers), in the collection of secondary raw materials, trade (installation of tents and equipment, handling, «living mannequins» advertising, products sorting, cleaning, retail sales, newspapers in transport), services, work on the street, in the household (livestock, supervision of children and the sick) for involvement in illegal activities (theft, drug trafficking) in sex business [12].

According to the research conducted in 1999 by the State Statistics Committee, in Ukraine 350,000 children are employed in various jobs. The majority (46 %) are involved in agriculture, trade (26 %) in services (19 %). The average age when children begin working is 12 years old. 6 % of children aged 13-14 years the working day was longer than in adults, and 2 % of 15-17-year-old girls and boys worked over 56 hours a week.

It should be noted that the implementation of international standards on the prohibition of child labor in national legislation Ukraine originates from the Fundamental Law has been fixed the norm that the family, childhood, motherhood and fatherhood are protected by the state, parents are obliged to support children their full age (Art. 51) [13]. Since then, Ukraine has committed to implement immediate and effective measures to secure the prohibition and elimination of all forms of child labor.

Besides the labor legislation of Ukraine provides a set of special rules that establish a number of limitations of child labor.

According to Art. 187 [14], p. 291 of Labor Code Draft of Ukraine [15] adolescents in labor relations are equal in rights to adults. The legislation for such persons is established the features of legal regulation of labor protection, working time, rest periods and certain other conditions, aimed at protection of their health and create conditions for education, spiritual and physical development [14].

In addition it is established additional guarantees in case of dismissing of workers under eighteen. Thus, the dismissal of employees under eighteen at the initiative of the owner or authorized body is permitted except to the general order of dismissal with the consent of the district (city) commission on juvenile affairs (Art. 198). This exemption cases: firstly, changes in the organization of production and labor, including liquidation, reorganization, bankruptcy or conversion of enterprises, institutions, organizations, downsizing or staff (p. 1, Art. 40); secondly, revealed discrepancies employee position or work carried out due to lack of training and health that prevent the continuation of this work, as well as in case of cancellation of admission to state secret, if the performance of their duties require access to public secrecy (para. 2, Art. 40); thirdly, the reinstatement of the employee previously performing this work (p. 6. 40) it is conducted only in exceptional cases and is not allowed without employment.

Conclusions and prospects for further research. The prohibition of child labor is the realization of freedom of labor as a person must possess an inherent and exclusive right to dispose their abilities to work, not to engage in forced labor.

In order to eliminate all forms of child labor it is necessary to adapt national legislation to international and European standards in order to eradicate all forms of child labor by means of systematizing legislation on prohibition of child labor and inclusion of this issue to the national economic and social development of others.

Implementation of the prohibition of child labor is possible through establishing guarantees in employment of minors, as well as monitoring compliance with labor legislation on health and its health, safety, compliance with wage young workers and other factors that contribute to gaining child education, its spiritual and physical development.

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Старчук О., Яциняк О. Дитяча праця: український досвід в міжнародному контексті. У статті досліджено теоретико-правові аспекти поняття дитячої праці та її заборони відповідно до національного законодавства України та міжнародних стандартів у цій сфері. Окрім цього, проаналізовано основні підходи до визначення поняття дитячої праці та з'ясовано її сутність; охарактеризовано регіональні особливості дитячої праці в Україні; сформульовано висновки й конкретні пропозиції щодо внесення змін і доповнень до законодавства. Доцільно адаптувати національне законодавство до міжнародних стандартів з метою викоринення усіх форм праці дітей за допомогою систематизації законодавчої бази з питань заборони дитячої праці та включення цього питання до загальнодержавних програм економічного та соціального розвитку держави тощо.

Ключові слова: дитяча праця, форми дитячої праці, заборона, експлуатація, міжнародні стандарти, трудове законодавство.

Старчук О., Яциняк О. Детский труд: украинский опыт в международном контексте. В статье исследованы теоретико-правовые аспекты понятия детского труда и его запрета в национальном законодательстве Украины в соответствии с международными стандартами в этой сфере. Кроме этого, проанализированы основные подходы к определению понятия детского труда и выяснено его сущность; охарактеризованы региональные особенности детского труда в Украине; сформулированы выводы и конкретные предложения по внесению изменений и дополнений в законодательство. Целесообразно адаптировать национальное законодательство с международными стандартами с целью искоренения всех форм детского труда с помощью систематизации законодательной базы по вопросам запрета детского труда и включения этого вопроса в общегосударственные программы экономического и социального развития государства и т.д.

Ключевые слова: детский труд, формы детского труда, запрет, эксплуатация, международные стандарты, трудовое законодательство.