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# Protection of certain types of labour rights in decisions of the European Court of Human Rights

**Oksana B. Onyshko***

PhD in Law, Associate Professor. ORCID: https://orcid.org/0000-0002-5165-1810.
Lviv State University of Internal Affairs, 79007, 26 Horodotska Str., Lviv, Ukraine

**Abstract**. The topic of protecting certain types of labour rights of citizens in decisions of the European Court of Human Rights is relevant in connection with numerous cases of discrimination of employees by employers, which determines the need to resist offenses in the field of labour. The purpose of the study is to clarify the content and essence of labour rights in general and determine the place and role of certain types of rights that are subject to protection. The theoretical and methodological basis of the study is the formal legal method, which allowed analysing the current decisions of the European Court of Human Rights. The use of analysis and synthesis methods allowed comparing the main norms of the Convention for the Protection of Human Rights and Fundamental Freedoms and the mechanisms used to protect certain types of labour rights. Using the structural and functional method, the main types of labour rights protected by the Convention are determined. The use of formal and logical facilitated the study of the achievements of researchers in the field of human rights protection. It is noted that among the list of articles of the Convention there are no norms that directly provide for the protection of the labour rights of citizens, but there are a large number of violations resulting from the implementation of labour relations. Such violations are related to the protection of the rights defined by the Convention, namely: discrimination on many grounds, violation of the right to freedom of speech, the right to privacy, a fair trial, and other rights. Most of them relate to defining the boundaries of privacy in the performance of labour duties; how the employer takes into account the employee's initiative; compliance with the norms of the employment contract, and administrative policy of the enterprise. The main types of labour rights protected by the Convention on Human Rights and Fundamental Freedoms are highlighted. Theoretical developments, conclusions, and proposals can be used for further scientific research on problematic issues in the field of protection of certain types of labour rights in decisions of the European Court of Human Rights

**Keywords**: right to work, employer, employee, employment contract, discrimination, freedom of expression, freedom of religion

## Introduction

Labour accompanies a person for most of their life, it is the source of their existence. In addition to learning and entertainment, labour (work) is one of the main types of human activity, that is, an activity that is given a certain higher level of value and importance. Work can be considered as a vocation, an opportunity to generate income for self-realisation. Labour creates material goods, cultural values, and socially significant services. Nowadays, in the 21st century, work is an integral part of the life of every person, it determines the place and role of the person in society. Work brings aesthetic pleasure, joy, material support, and is the basis for the emergence of difficulties and worries, can lead to manifestations of anger, apathy, and frustration.

Success in the labour market is determined, first of all, by faith in own strength and abilities, the ability to plan activities, determine goals and consistency in their implementation. When planning a professional career, it is necessary to analyse the expectations of employers who, in addition to professional knowledge, require flexibility and ingenuity from candidates, value employees with a positive attitude to work, with a high level of motivation, stress tolerance, mobility, and self-discipline.

Since work is a special example of human activity, it has a significant impact on the development of their personality, is a system of life values and opportunities, it also falls under the influence of other factors: religion, traditions, philosophy, culture, and social progress. Thus, the protection of certain types of labour rights is associated with these factors. Since most employers try to unify the appearance of employees, working conditions, control the employee's personal space, and apply other measures that prohibit freedom of expression or self-realisation, there is a need to protect certain types of labour rights related to access to work, discrimination in labour relations based on gender, religion, social origin, citizenship, political and other preferences, etc.

Issues of protection of labour rights are not new for research in modern legal science, but they are becoming more relevant due to the development of international standards and mechanisms in the field of protection.

A large number of researchers have conducted studies in the field of labour and labour relations. O. Pleskun and V. Loktinova (2021) investigated the problems of protection of labour rights of citizens in Ukraine, among which they analysed the main issues that arise during the implementation

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*Corresponding author

of judicial protection of labour rights, special attention was paid to the consideration of individual labour disputes on applications of employees and employers in the field of reinstatement, on remuneration for forced absenteeism, the imposition of disciplinary penalties, transfer to another job, etc.

O.M. Kurulo *et al.* (2021) studied the international and national experience of the right to work and freedom of work, the right to choose a profession, the absence of discrimination in labour relations, the right to professional orientation, training, retraining of employees, advanced training, providing guarantees by states for the implementation of these categories of labour rights.

E.A. Tretyakov (2016) analysed the importance of labour rights in the system of basic human and civil rights, noted that human labour rights are a primary factor in the organisation of society and the state and the welfare of the nation, the level of social guarantees, and the authority of the state in the international arena depend on their development. I.V. Lagutina (2007) investigated the labour rights of citizens, analysed the legal forms of protection of labour rights of employees and the mechanism of their implementation and improvement. M. Panchenko (2019) studied the rights of civil servants to decent work and working conditions, the ability to challenge illegal actions of the employer by civil servants, make proposals to improve working conditions, the implementation of the ability of employees to demand an increase in wages, considering both the norms of national legislation and European standards.

Certain types of labour relations concerning: protection of labour rights of employees, part-time work, labour segments and entrepreneurship, labour rights of civil servants, social protection of labour rights, and international guarantees for the implementation of labour rights were considered by a number of researchers: A.V. Bohdanets (2020), Ye.S. Venediktov (2017), B.M. Hamaliuk (2015), H.I.Chanysheva & I.A. Rymar (2016) *et al.*

Polish legal scholar A. Ludera-Ruszel (2016) formulated the theoretical basis of the right to privacy in the context of implementation and labour relations, which means that it protects the individual and gives them the opportunity to "be left alone", including in the sphere of work. At the same time, she agrees with the opinion of American researchers S.D. Warren and D.D. Brenders in the context that since the right to privacy is not absolute, in some cases it may be restricted. Thus, certain types of restrictions can also be set by the employer (for example, wearing work clothes, using the specified behaviour model in the performance of work duties, etc.).

D. Dörre-Nowak (2005) considered the issue of protecting the dignity of the individual in the implementation of labour relations and described the limits of the right to privacy in the context of ensuring labour rights. Special attention was paid to the correlation of Polish and international law in the implementation of the protection of labour rights of citizens, considering professional risks, abuse by employers, equal treatment when applying for employment, and the right of an employee to compensation for moral and material damage.

A. Gonschior (2017), a researcher at the University of Wroclaw, studied the protection of employees' personal data in the implementation of labour relations. She analysed the relationship between the protection of personal data and the right to privacy, established common and distinctive features of these concepts, and remarked how the right to confidentiality in the field of personal data of employees and the limits of abuse of employers are preserved.

The purpose of the study is to determine the specifics of protection of certain types of labour rights in the practice of the European Court of Human Rights, in particular, the right to work and receive remuneration for work, the right to safe working conditions, the right to rest, paid leave, material support in connection with disability in the performance of labour duties, etc. These rights in the sphere of labour are not directly protected by the Convention on Human Rights and Fundamental Freedoms (1950) (hereinafter – ECHR), but among these articles of the Convention, there are norms that relate to labour rights and arise in connection with their implementation.

## Scope of Article 8 of the Convention on Human Rights and Fundamental Freedoms in the context of the protection of certain types of labour relations

The condition for active participation in the creative transformation and improvement of oneself and society is the proper professional development of a person. This development is aimed at changing a person's consciousness as a result of finding their own place in the implementation of social relations and the division of labour that occurs throughout life. This is a socially desirable and expected process, because everyone should strive to manage their life in such a way as to take their rightful place in the professional hierarchy.

ECHR of 1950 does not contain direct norms for the protection of citizens' labour rights, namely: the right to work, the right to rest, the right to a 40-hour working week, the right to receive decent remuneration for work and a number of other labour rights. However, Article 8 of the Convention "The right to privacy" has a broad meaning and certain types of labour rights, such as: the right to privacy in the workplace, the possibility of self-expression in clothing, jewellery, religious preferences during the implementation of labour relations, access to work, compensation payments for work performed have the right to protection by the ECHR. Along with this, when implementing labour relations, there is a violation of other articles of the Convention: Article 9 (freedom of thought, conscience, religion), Article 10 (freedom of expression), and Article 14 (Prohibition of discrimination) (European Convention on Human Rights, 1950).

In the sphere of labour relations and the implementation of labour rights, there is also a large number of abuses both on the part of the employer and the state, which are associated with: discrimination on various grounds (gender, age, skin colour, religion). Harassment on these grounds is opposed by Article 14 of the ECHR "On the prohibition of discrimination". Freedom of expression of views and beliefs is guaranteed by Article 10 of the ECHR, and Article 9 of the ECHR stands for the protection of freedom of thought, conscience, and religion. These articles of the Convention define the protection of violated rights not only in relation to citizens, but also to employees, that is, persons who are participants in labour relations.

There are a large number of factors that negatively affect the employee, and all over the world r regulations and other documents are being developed to reformat the main approaches to the management of the labour collective, encourage the initiative of employees to apply creative approaches to the performance of work, eliminate factors regarding the

monotony of work performed, apply innovative approaches to the self-realisation of employees and other measures that ensure the humanisation of labour relations. This approach was first promoted by the German sociologist and political economist Max Weber (Ward, 2021).

A significant challenge for the implementation of the employee's right to privacy in the context of protecting labour rights is the development of modern technologies, and therefore, new areas and forms of control over the employee by the employer. Such forms of control are: monitoring of work performed, using video surveillance of the employee's workplace, monitoring of e-mail, and a list of phone calls and websites that the employee visited during the working day (Krawchenko, 2021).

Respect for the employee's privacy rights occupies an important place in the jurisprudence of the ECHR. The content of Article 8 of the ECHR has broad limits of application. Therefore, in the sphere of implementing labour relations, it is extremely important for the employer not to cross the line, not to abuse the full exploitation of the employee during working hours, ignoring their personal needs, preferences and behavioural features (Ludera-Ruszel, 2016). Setting wide limits on the application of Article 8 of the ECHR allows an employee to limit the arbitrariness of the employer and receive effective judicial protection.

## Types of protection of citizens' labour rights

Protection of citizens' labour rights can have different types in accordance with labour legislation. This may apply to the protection or termination of an employment contract, the protection of life and health, that is, the obligation to guarantee employees safe and hygienic working conditions, or the protection of certain categories of employees. The employer also has special obligations for young employees, and must also provide disabled employees with an additional break for the period of their recovery in a rehabilitation centre. A separate category of protected employees are members of a trade union, or employees who are members of a trade union organisation of a given enterprise, authorised to represent this organisation before an employer or body or a person who carries out activities in the field of labour law as an employer.

Special protection of employees is excluded in the event of collective dismissal, liquidation, or bankruptcy of the employer. In addition, employees do not have the right to protection if there are reasons justifying the termination of the employment contract without warning due to the fault of the employee, and the trade union organisation representing the employee agrees to the termination of the contract with such employee.

Protection of employees is also expressed in the need to refer employees for periodic medical examinations and for a medical examination when the employee returns to work after an illness. In addition, if the doctor determines that the work performed is harmful to the employee's health, the employer is obliged to transfer them to another workplace that does not pose a health hazard. The protection of employees who are civil servants is also provided by separate regulatory legal acts that regulate the rights and obligations of individual professional groups. They can provide more protection for employees. In addition, employees of special services (military, police, etc.) enjoy protection during the performance of official duties. The protection that civil servants fall under is also enjoyed by inspectors who conduct inspections of the activities of employers and their enterprises (Dörre-Nowak, 2005; Yaroshenko *et al.*, 2022). The system of labour legislation of European countries, including Ukraine, contains norms on the protection of employees from the arbitrariness of employers (both private and public bodies). However, there are a large number of violations that occur in the implementation of labour relations between an employer and an employee, related to the peculiarities of the legal status of employees, working conditions, religious preferences, sexual orientation, etc. An important degree of protection after the exhaustion of all national means is the European Court of Human Rights, which does not explicitly contain rules protecting the rights of employees, however, if there is a violation of the norms of the Convention on Human Rights and Fundamental Freedoms, any employee can appeal against the decisions of the employer and the national courts regarding illegal dismissal, violation by the employer of the right to private and family life, freedom of expression and belief, and other rights provided for in the Convention.

## Protection of certain types of labour rights

***Access to work and confiscation of funds for work performed***

The current legislation of Ukraine and the norms of international law, in particular, the International Labour Administration Convention (No. 150) (1978): role, functions and organisation of 26.06.1978 contains a number of general conditions under which the legislation of most states of the world is built, which indicate the main provisions on the activities of public administration bodies in the field of labour policy at the national level. Thus, the Convention provides for the creation of common national standards for the functioning of employers and the activities of employees, tenants who do not use labour, employees of the informal sector, members of cooperatives, and employees of other categories.

In Europe, in addition to the ECHR, there are other labour regulations, in particular: the European Social Charter (revised) (1996), the Community Charter of the Fundamental Social Rights of Workers (1989), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), EU directives, in particular: the Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work (1989), Directive 2009/104/EC of the European Parliament and of the Council concerning the minimum safety and health requirements for the use of work equipment by workers at work (2009), Council Directive 89/656/EEC on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (1989), and a number of other documents. To ensure European standards of labour organisation, constant and maximally effective activity of structural subdivisions of the state involved in the system of labour organisation, coordinated cooperation of employees, employers, and the state are required. However, not all standards are fully implemented, there is a large number of abuses on the part of employers and gaps in legislation on the part of the state. Therefore, there is a large number of applications to the ECHR for the protection of certain types of labour rights (Sereda, 2015).

Many decisions of the ECHR concerned the right of access to work. For example, in Halford v. the United Kingdom of 25/06/1997, the applicant, a police officer who had held the high position of Deputy Chief Commissioner for 7 years,

claimed that her phone had been constantly tapped for the purpose of obtaining personal information in order to compromise her. The ECHR found that there was a violation of Article 8 (right to private and family life) when tapping the official phone from which the applicant called in personal matters (Judgment of the European Court…, 1997).

In the case of Naidin v. Romania dated 21.11.2014, the authorities prevented a former informant of the Romanian political police from taking up public office. The applicant complained about the refusal to reinstate him in public office, namely in the reserve of vice-prefects, on account of his cooperation with the political police for the rule of the communist regime. He argued that this had amounted to an interference with his private life and that he had been the victim of undue discrimination in respect of employment in the public sector. The ECHR found that there was no violation of Article 8 (right to respect for private and family life) in connection with Article 14 (prohibition of discrimination) of the Convention. Having regard to the decision of the Constitutional Court of Romania, according to which the prohibition of former political police officers to work in public positions was a justified normative legal act, which applies to all officials of a Democratic state. The ECHR also noted that states have a legitimate interest in determining the conditions of employment of citizens in public positions and noted that the legitimate interest of the state is to require officials to demonstrate loyalty to the constitutional principles on which the state is based (Arrêt de la Cour Européenne…, 2014).

***Dismissal from work on the basis of religion***

Many applications are submitted to the ECHR regarding the restriction by employers of the free expression of the will of religious views of employees. In the case of Eweida and others v. the United Kingdom of 15.01.2013, all four applicants were Christians. Eweida, a British Airways employee, and Chaplin, a geriatric nurse, complained that their employers had imposed restrictions on wearing a visible cross around their neck while working. Ladel, an employee of the state civil service, Macfarlane, a therapist, an employee of the confidential sexual therapy and relationship counselling service complained that their dismissal concerned a refusal to perform or promote acts of recognition and tolerance of homosexuality. The court found that there was a violation of Article 9 (freedom of religion) in the Eweida case. The court has not found that the lack of explicit protection in UK law that would regulate the wearing of clothing and religious symbols in the workplace means that the right to manifest their religion was violated, as these issues could and should have been resolved by the domestic courts in the context of discrimination claims lodged by the applicants. In the case of Eweida, the court noted that on one side of the scale was the applicant's desire to manifest his religious beliefs. On the other hand, it is the employer's desire to create a certain image of the company. As for Chaplin, the meaning of her religious symbols was not levelled, but the fundamental criterion was health protection (a chain with a cross could touch equipment or a patient) and safety in a hospital ward, which was inherently more important than religious beliefs. In the case of Ladel and Macfarlane, the employer followed a policy of non-discrimination between users of the service, and this right not to be discriminated against on the basis of sexual orientation was not violated under the Convention (Judgment of the European Court…, 2013).

In the case of Ebrahimian v. France of 26.11.2015, it was a decision not to renew the employment contract with a social worker of the hospital because of her refusal to stop wearing a Muslim headscarf. The applicant submitted that the failure to renew her contract as a social worker had violated her right to freedom of religion. The court found that there had been no violation of Article 8 (right to respect for private life) of the Convention, pointing out that the French authorities had not overstepped their power and that it had been possible to reconcile the applicant's religious beliefs with the obligation to refrain from them by identifying them and deciding to give priority to the requirement of neutrality and impartiality. The court noted, in particular, that the wearing of a headscarf was recognised by the authorities as an ostentatious manifestation of religion, contrary to the requirement of neutrality imposed on civil servants in the performance of their duties. The applicant must have adhered to the principle of secularism within the meaning of Article 1 of the French Constitution, since the requirement of neutrality follows from this principle. According to the domestic courts, this was necessary to preserve the secular nature of the state and thus protect hospital patients from any risk of influence or bias. This decision is based on the need to protect the rights and freedoms of others, that is, respect for the religion of all people (Judgment of the European Court…, 2015).

***Dismissal of employees of diplomatic missions and state authorities from their jobs***

The labour rights of employees of diplomatic missions are also poorly protected. As a rule, if an employment relationship is terminated due to the fault of the employer, the employee can defend their rights in court. The jurisdiction of the court in the host country of the applicant or in the country of their citizenship or origin remains questionable. This is how conflicts arise.

In the case of Cudak v. Lithuania, dated 23.03.2010, the applicant, a Lithuanian citizen, worked as a secretary and telephone operator at the Polish Embassy in Vilnius. In 1999, she filed a complaint with the Equal Opportunities Ombudsman of Lithuania regarding the sexual harassment of her work colleague. Despite the fact that her complaint was granted, the embassy dismissed her on the basis of her failure to show up for work. The Lithuanian courts found that they did not have the authority to examine an unfair dismissal claim lodged by the applicant after it had emerged that her employers were protected by the state's immunity from the jurisdiction provided for in the Vienna Convention on Diplomatic Relations (1961). Thus, Article 31 of this Convention stipulates that a diplomatic agent enjoys immunity from civil jurisdiction, that is, she cannot be a defendant in court in the host country. The Supreme Court of Lithuania found that the applicant had been a civil servant during her work at the embassy and that her duties contributed to Poland's exercise of its sovereign functions, which justified the application of the principle of state immunity. As regards the application of Article 6 (right of access to a court) of the Convention in the present case, the court noted that the applicant's status as a civil servant in the public administration had not afforded her special privileges and her claim to the Supreme Court of Lithuania for compensation for unjustified dismissal had found that there had been a violation of Article 6 §1 (right to a fair trial) of the Convention. It

established this by granting state immunity and declaring that there was no jurisdiction to examine the applicant's claim, the Lithuanian courts violated the essence of the applicant's right of access to a court (Judgment of the European Court…, 2010).

In the case of Sabeh El Leil v. France of 29.06.2011, a complaint by a former employee of the Kuwaiti Embassy in Paris, who claimed that he remained deprived of access to the court in order to file a claim against his employer for illegal dismissal in 2000. He complained that he had been deprived of his right of access to a court in breach of Article 6 §1 (right to a fair trial) of the Convention after the French courts had found that his employer had jurisdictional immunity. As regards the application of Article 6 (right of access to a court) of the convention in the present case, the court found that the applicant's obligations at the embassy could not justify restricting his access to a court on the basis of objective reasons in the interests of the state. Moreover, the applicant's claim was to pay compensation for dismissal without a real and valid reason. The court found that there had been a violation of Article 6 §1 of the Convention, and found that the French courts had failed to maintain a proper relationship of proportionality, thus violating the essence of the applicant's right of access to a court (Judgment of the European Court..., 2011). The principle of proportionality means that the public interest cannot exceed the interests of an individual. Compliance with this principle is aimed at protecting a person whose interests overlap with those of the state, but do not pose a threat to sovereignty, territorial integrity, and security. Compliance with the principle of independence implies, first of all, compliance with the requirements of both the legislator and judges, who in their decisions can limit the actions of the legislator on the legality of state interference in the implementation of certain human rights (Pogrebniak, 2012).

In Radunović and others v. Montenegro, the applicants, employees of the U.S. Embassy in Montenegro (secretary and security guards), complained about the proceedings they had lodged with the Labour and Social Welfare Court in Vienna against the United States, seeking compensation following their unlawful dismissal and reinstatement. The complaint also concerned the denial of access to the court, due to the fact that the judicial authorities of Montenegro cannot consider cases of US citizens, since the applicants entered into employment contracts with the US government, and therefore, the cases must be considered by the relevant court. However, the ECHR found that there was a violation of Article 6 §1 (right of access to a court) of the Convention. The court stated that in acknowledging the United States' refusal to examine the applicants' case, the courts of Montenegro had failed to maintain proper jurisdiction and to apply the principle of proportionality (applying a reasonable balance between the sphere of private and public interest), thereby violating the applicant's right of access to a court (Judgment of the European Court…, 2016).

The case D.M.T. and D.K.I. v. Bulgaria of 24.07.2012 referred to the prohibition of an official of the state administration in any way to work or carry out other paid work in the public and private sectors, except for teaching and research after the initiation of criminal proceedings against them. The applicant submitted that under Article 8 (right to respect for private life and family) of the Convention that, as a result of such restriction, he had been unable to receive wages and seek other work to support himself and his family. The court found that there had been a violation of Article 8 (right to respect for private life) of the Convention and determined that the prohibition was neither necessary in a democratic society nor proportionate to the legitimate aim of initiating criminal proceedings. Moreover, the court found that in the present case there had been a violation of Article 6 §1 (right to a fair trial; right to immediate information about the prosecution; right to an appropriate time and opportunity to prepare a defence, right to a fair trial within a reasonable time and an effective remedy) of the Convention (Arrêt de la Cour Européenne…, 2012).

***Dismissal from work based on sexual orientation and gender***

A significant number of claims to the ECHR are related to employment issues. This also applies to situations where discrimination on so-called protected grounds, such as sexual orientation and gender, conflicts with other rights, such as the right to freedom of expression. Often, applicants seek to protect themselves from discrimination on gender-critical grounds related to sexual orientation and gender, and defend the right to protect individuals or groups that cannot be discriminated against both in the sphere of their exercise of the right to work (work, service) and in other spheres of public life (Cowan & Morris, 2022). In general, homophonic attitudes are observed in many countries in Europe and around the world, and they affect both labour discriminatory legislation and labour relations between employer and employee. Strategic trials of LGBT communities attempt to change homophobic attitudes through various legal means, including the ECHR (Teklè, 2018).

In the case of Beck, Copp, and Bazeley v. the United Kingdom, dated 22.10.2012, the applicants were dismissed from service in the armed forces on account of homosexuality. The court found that the measures applied against the applicants had constituted a particularly serious interference with private and family life and had not been justified by "valid and compelling reasons". A violation of Article 8 (right to respect for private life) was found. There was also a violation of Articles 13, 14 (right to an effective remedy, prohibition of discrimination), and no violation of Article 3 (prohibition of inhuman or degrading treatment) (Judgment of the European Court…, 2012).

In the case of Emel Boyraz v. Turkey dated 02.12.2014, the subject of the application was dismissal from work in a state-owned energy company – due to gender. The applicant worked as a security officer for almost three years before being dismissed in March 2004 as she was not a man and had not served in the army. The domestic courts had justified the employers' actions and had not qualified the dismissal as gender discrimination. The applicant also complained about the length and unfairness of the administrative proceedings for her release. The ECHR found that there was a violation of Article 14 (prohibition of discrimination) in connection with Article 8 (right to respect for private and family life) of the Convention. In the court's view, the mere fact that a security worker had to work night shifts in rural areas and use firearms and physical force, which in certain circumstances did not justify any difference in the treatment of men and women. Moreover, the reason for the applicant's dismissal was not her inability to assume risk or responsibility, as there was no indication that she was failing to comply with her obligations, but a biased decision by the Turkish adminis-

trative courts. The court also found that the administrative courts had justified the requirement that only the men of the branch of the state-owned energy company could be used as security officers. In this case, the court also found that there was a violation of Article 6 §1 (right to a fair trial within a reasonable time) of the Convention (Judgment of the European Court…, 2012).

***The right to freedom of expression and belief in the context of the right to work***

The issue of expressing one's own opinions and views in the course of work has long been a cornerstone for employees and employers, since criticism of employees in relation to employers or disclosure of information that the employer wants to hide from the public encourages dismissal and violation of the legitimate functioning of labour relations. Only a court decision determines the limits and nature of interference that are necessary in a democratic society and are not contrary to public and national interests.

In the case of Guja v. Moldova dated 12.02.2008, the applicant, who served as head of the press Department of the Prosecutor General's office of Moldova, was dismissed for publishing two documents that exposed the leading politician's interference in the criminal proceedings. The court found that there had been a violation of Article 10 (freedom of expression) of the Convention. Given the importance of the right to freedom of expression on matters of public interest, the right of civil servants and other employees to report unlawful acts and offences in the workplace, the obligations and responsibilities of employees to employers, and the right of employers to manage their employees, and having weighed up other interests in the case, the court concluded that the interference with the applicant's right to freedom of expression in his right to impart information was not "necessary in a democratic society" (§97 of the judgment) (Press release issued…, 2008).

In the case of Palomo Sánczes and others v. Spain, dated 12.05.2011, the applicants alleged that they had been fired after an offensive and humiliating publication – an animated picture on the cover depicting employees of a company providing sexual services to the head of human resources. The statement stated that the employer company had disregarded their right to freedom of expression and that the real reason for their dismissal was trade union activities, where there had been a violation of their right to freedom of assembly and association. The court found that there had been only a violation of Article 10 (freedom of expression) of the Convention, and also noted that the applicants' release had been manifestly disproportionate or excessive sanction, which would have required the state to provide redress by lifting it or replacing it with a lighter measure (Judgment of the European Court…, 2011).

Notably, the protection of the analysed types of labour rights of citizens by the European Court of Human Rights influenced the decisions of national courts in this area. Unfortunately, there were no significant legislative changes in the national legislation of the states against which decisions were made, but national courts increasingly began to pay attention to the jurisprudence of the ECHR when deciding similar cases. The implementation of ECHR decisions is a complex process due to the nature of the decisions themselves. In addition to taking individual measures to implement a specific decision of the ECHR, actions are needed to eliminate the root cause of the violation. General measures for the enforcement of court decisions may include the need to amend the law, and the need to change the practice of its application. They can relate to different bodies and institutions operating at different levels (local or central), with different levels of public authority. Due to the lack of authority, this creates additional difficulties in coordination and decision-making.

The implementation of ECHR decisions can be difficult due to the large involvement of the political element in the decision-making process. In such a situation, much depends on the pressure of international authorities, national control institutions, non-governmental organisations and the media on the authorities of a particular country in order to implement a specific decision of the ECHR. The national and international perspective is important here. Without internal pressure and public interest, the level of social legitimacy of ECHR decisions decreases, and therefore, the pressure on the correct implementation of ECHR decisions decreases. For these reasons, it is important to create an appropriate institutional framework for the implementation of ECHR decisions. Their existence leaves much less room for the political process. At the same time, institutional mechanisms for balancing power are being created, which give a chance for greater political responsibility for non-compliance with the sentence.

## Conclusions

Analysing the above-mentioned cases of the ECHR in the field of labour relations, the Convention protects only those rights that are related to the articles of the Convention, namely: the right to free expression of views and beliefs in the performance of work, the right to privacy in the workplace, the right to protection from discrimination in the implementation of labour relations, the right to a fair trial from illegal dismissal. It is the relevance of the articles of the Convention that is the main criterion for ensuring that the labour rights of citizens are protected, and employers in general and the state in particular draw appropriate conclusions and make changes to national legislation and employment agreements, considering the subject matter of the complaint and legal precedents arising from the decisions of the European Court of Human Rights in this area.

The presence of a considerable number of complaints in the field of labour relations makes states parties think about the reasons for this. Many states parties to the Convention (Great Britain, the Netherlands, Spain, etc.) consider the decisions of the European Court of Human Rights consistent and necessary and take measures to pay fair satisfaction, but occasionally take effective steps to correct the situation to avoid further receipt of such complaints to the ECHR. However, if the impact on state employers is quite possible, since laws and regulations work better in state institutions, then it is extremely difficult to do this in relation to the private sphere of relations and private employers. That is why more abuses among private employers are observed, and it is also necessary to consider the existence of legal conflicts in the national legislation of the states parties to the Convention. These problems indicate that the current norms of the Convention, the national legislation of the states parties to the Convention, and the reformation transformations that states introduce into labour legislation on the basis of decisions of the ECHR are only in the process of development and

require constant improvement. There is a constant need for future studies of more cases of the ECHR concerning the violation of not only certain types of labour rights, but also information, copyright, etc., which would allow expanding the scope of legal relations between the state and citizens in the context of their interaction.

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# Захист окремих видів трудових прав у рішеннях Європейського суду з прав людини

**Оксана Богданівна Онишко**

Кандидат юридичних наук, доцент. ORCID: https://orcid.org/0000-0002-5165-1810.
Львівського державного університету внутрішніх справ
79007, вул. Городоцька, 26, м. Львів, Україна

**Анотація**. Тема захисту окремих видів трудових прав громадян у рішеннях Європейського суду з прав людини актуальна у зв'язку із численними випадками дискримінації працівників з боку роботодавців, що зумовлює потребу протистояти правопорушенням у сфері праці. Мета статті – з'ясування зміст та сутність трудових прав загалом і визначити місце та роль окремих видів прав, які підлягають захисту. Теоретико-методологічною основою дослідження є формально-юридичний метод, який дав змогу проаналізувати чинні рішення Європейського суду з прав людини. Застосування методів аналізу та синтезу дало змогу зіставити основні норми Конвенції про захист прав людини і основоположних свобод та механізми, які застосовуються для захисту окремих видів трудових прав. За допомогою структурно-функціонального методу визначено основні види трудових прав, які захищає Конвенція. Використання формально-логічного методу надало змогу дослідити здобутки науковців у сфері захисту прав людини. Зазначено, що серед переліку статей Конвенції відсутні норми, які прямо передбачають захист трудових прав громадян, однак виникає численна кількість порушень, які випливають з реалізації трудових відносин. Такі порушення пов'язані із захистом прав, визначених Конвенцією, а саме: дискримінація за багатьма ознаками, порушення права на свободу слова, права на приватність, на справедливий судовий розгляд та інші права. Більшість з них стосується визначення меж приватності під час виконання трудових обов'язків; як працедавець враховує прояв ініціативності працівника; дотримання норм трудового договору, адміністративної політики підприємства. Виокремлено основні види трудових прав, які захищає Конвенція з прав людини і основоположних свобод. Теоретичні напрацювання, висновки та пропозиції можуть бути використані в науковій діяльності для подальших наукових досліджень проблемних питань у сфері захисту окремих видів трудових прав у рішеннях Європейського суду з прав людини

**Ключові слова**: право на працю, роботодавець, працівник, трудовий договір, дискримінація, свобода вираження поглядів, свобода релігії