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LABOUR MIGRATION FROM UKRAINE: ECONOMIC AND LEGAL WAYS OF COUNTERING

Abstract. The main reasons of labour migration from Ukraine are analysed. It is emphasized that this process becomes a sign of danger for the socio and economic development of Ukraine. The refusal of citizens to work in Ukraine creates a threat to the formation of funds of the Pension Fund of Ukraine, and today the state doesn't receive the revenues to the budgets, which are formed by the payment of personal income tax. It is emphasized that Ukraine should use the foreign experience and international standards of creation of proper working conditions for workers on the way to counter the labour migration. Such conditions include not only working conditions where occupational safety and hygiene is important, but also remuneration conditions, where fair remuneration must be calculated in the context of purchasing power, which effectively determines the access of workers and their families to social benefits. It is emphasized separately that hired labour has at least 3 interrelated goals. The first one is intended to create gross domestic product in the state and money circulation through trade in goods, works and services. The second one is aimed at physically restoring the working capacity of the worker and ensuring the vital needs of non-working members of the employee's family. The third one is aimed at restoring, stabilizing and developing the mental and social well-being of the employee and his or her family. The research proposes: a) to review, at the national level, the minimum living wage; b) normatively determine the coefficients of wage differentiation not only by the inter-qualification ratio but also by sectoral activities to take into account the professional needs of workers of different professions. The sectoral wage differentiation coefficient is to be paid by the employer at the expense of its wages and salaries. The actual costs of remuneration for work, taking into account the sectoral coefficient of wage differentiation, should be fixed in collective agreements and collective contracts. The primary level of counteraction to labour migration from Ukraine should be enterprises, institutions, organizations.

Keywords: labour migration, worker, owner of production means, employer, working conditions, fair remuneration, social benefits.

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ТРУДОВА МІГРАЦІЯ З УКРАЇНИ: ЕКОНОМІКО-ПРАВОВІ ШЛЯХИ ПРОТИДІЇ

Анотація. Аналізуються основні причини трудової міграції з України. Наголошується на тому, що цей процес набуває ознак небезпеки для соціально-економічного розвитку України. Відмова громадян працювати в Україні породжує загрозу формування фондів та коштів Пенсійного фонду України, і вже сьогодні держава недоотримує надходження до бюджетів, які формуються за рахунок сплати податку на доходи фізичних осіб. Наголошується, що Україна на шляху протидії трудовій міграції має звернутися до зарубіжного досвіду і міжнародних стандартів створення належних умов праці працівників. До таких умов належать не лише умови праці, де безпека і гігієна на робочому місці займає центральне місце, а й умов оплати праці, де справедлива винагорода має розраховуватися в контексті купівельної спроможності, що фактично визначає можливості доступу працівників та членів їхніх сімей до соціальних благ. Окремо наголошується, що наймана праця має щонайменше три взаємопов'язані цілі. Перша призначена для створення валового внутрішнього продукту в державі та грошового обігу через торгівлю товарами, роботами та послугами. Друга спрямована на фізичне відновлення працездатності працюючого та забезпечення життєво необхідних потреб непрацюючих членів сім'ї працівника. Третя націлена на відновлення, стабілізацію та розвиток психічного та соціального благополуччя працівника і членів його сім'ї. Пропонується: а) на державному рівні переглянути норми щодо прожиткового мінімуму громадян; б) нормативно визначити коефіцієнти диференціації заробітної плати не лише за міжкваліфікаційним співвідношенням, а й за галузевими видами діяльності для врахування професійних потреб працівників різних професій. Галузевий коефіцієнт диференціації заробітної плати роботодавець має виплачувати за рахунок своїх доходів, отриманих від використання найманої праці. Фактичні витрати на оплату винагороди за працю з урахуванням галузевого коефіцієнта диференціації заробітної плати мають закріплюватися в колективних договорах і колективних угодах. Первинним рівнем протидії трудовій міграції з України мають бути підприємства, установи, організації.

Ключові слова: трудова міграція, працівник, власник засобів виробництва, роботодавець, умови праці, справедлива винагорода, соціальні блага.

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ТРУДОВАЯ МИГРАЦИЯ ИЗ УКРАИНЫ: ЭКОНОМИКО-ПРАВОВЫЕ ПУТИ ПРОТИВОДЕЙСТВИЯ

Аннотация. Анализируются основные причины трудовой миграции из Украины. Подчеркивается, что этот процесс приобретает признаки опасности для социально-экономического развития Украины. Отказ граждан работать в Украине порождает угрозу формирования фондов средств Пенсионного фонда Украины, и уже сегодня государство недополучает поступления в бюджеты, которые формируются за счет уплаты налога на доходы физических лиц. Предлагается: а) на государственном уровне пересмотреть нормы относительно прожиточного минимума граждан; б) нормативно определить коэффициенты дифференциации заработной платы не только за межквалификационным соотношением, но и по отраслевым видам деятельности с учетом профессиональных потребностей работников различных профессий. Первичным уровнем противодействия трудовой миграции из Украины должны быть предприятия, учреждения, организации.

Ключевые слова: трудовая миграция, работник, собственник средств производства, работодатель, условия труда, справедливое вознаграждение, социальные блага.

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Introduction. The number of working population of Ukraine, who have recently left the country for realizing their abilities to work, shows that this phenomenon is becoming a sign of danger for the socio and economic development of Ukraine. The refusal of young people to work in Ukraine creates, in the long run, a threat to the formation of funds of the Pension Fund of Ukraine. At the same time, even today, the state does not receive the budget revenues that formed by paying the personal income tax. In such circumstances, the issue of counteracting this negative state phenomenon becomes an urgent problem. In our view, the solution to this problem is cross-sectoral and, therefore, at least economic and legal sciences must offer the unique way to counter this threat, where the means and methods of counteraction will not conflict, but will act synergistically to achieve a single common result.

Research analysis and statement of the problem. The growing issues of labour migration are increasingly leading to a scientific search for ways of countering threats to the socio-economic development of Ukraine. The scientists analyze the identified multi-vector problem through the prism of problems of economic, legal, political nature, etc. At the same time, there is a lack of comprehensive cross-sectoral research in domestic science, which we believe is unjustified. Therefore, the presented research presents the economic and legal approach to counteract labour migration from Ukraine on the basis of the experience formulated by such scientists as A. L. Bikova, L. M. Ilich, O. Ye. Kostyuchenko, A. V. Lobza, O. V. Moskalenko, L. Yu. Semenova, V. L. Smolyuk, V. E. Shedyakov.

The purpose of the article is to substantiate and prove the need for a comprehensive economic and legal approach to counter labour migration from Ukraine.

Research results. Today, the key factors that force Ukrainians to leave the country in search of a better job abroad include:

- 1) income level, current work;
- 2) health and education systems;
- 3) social life and leisure;

- 4) security, follow the rights;
- 5) ecology and general experience of life in Ukraine.

Estimates of the health care system were divided by Ukrainians: 58 % of the respondents were not satisfied with the system condition, 42 % assess the domestic medicine satisfactory or positive. Almost 52 % were satisfied with the education system, with 48 % saying that they were completely or partially dissatisfied with it. 72 % of respondents are not satisfied with the security condition in the country and feel uncertain about their future, 62 % negatively assess the country's legal framework and regulation, including the absence of discrimination and the level of democratic freedoms. It is expected to raise the minimum wage by the government (together with the wage cut-off from all deductions), improve security (effective police and military), improve the legal environment and justice in Ukraine, and continue the health care reform, solution of environmental issues [1]. What does this indicate?

The first, the working conditions and the level of incomes from one's own labour in Ukraine do not create the proper conditions that can withstand the outflow of working people from Ukraine. And the clear job does not always meet the expectations of employees and meet their needs. One of the problems with the current job dissatisfaction with the Ukrainians is the lack of staff qualifications, which «leads to a shortage of skilled workers in the long run. At the individual level, it influences job satisfaction, productivity and pay. At the enterprise level, it has a negative impact on production efficiency, leads to job search and staff turnover, increases the cost of finding the right specialist, and impedes the introduction of new technologies. At the macro level, the mismatch of qualifications causes the spread of unemployment, shadow employment and economic inactivity, degradation of labour potential, increased social tension, which in the aggregate adversely affects the pace of national production» [2, p. 182].

Secondly, life expectancy in Ukraine is much lower in comparison with developed countries in the world [3, p. 22—23], and this is primarily the result of poor health care and public access to quality health services. Health care and education being in poor condition prove the absence of effective mechanisms to implement the provisions of Articles 48, 49, 50, 53 of the Constitution of Ukraine [4].

Thirdly, the social life, as a result of access to social goods and cultural heritage, requires a revision of the state's social policy. We agree with the statement that the priority for transformation of political institutions is to meet the requirements of ensuring equality in access to opportunities (above all, conditions of life and creativity), rights and responsibilities, as well as taking into account the different quality of talent in the personnel system [5, p. 72]. Access to social services and cultural and spiritual development should gain accessibility. It is also important that access to social benefits should take into account the financial capacities of ordinary citizens and their needs, taking into account the professional orientation and costs of accessing the profession, such as: acquiring specialized literature, tools and instruments; attending professional events and more.

Fourthly, security and respect for the rights of citizens is a multi-level problem in Ukraine. Thus, starting with physical threats to the lives of Ukrainians, they face social risks. The level of corruption in Ukraine in the segment of guaranteeing and respect for the rights of citizens indicates that the life of Ukrainians is riddled with risks and dangers because the state is not ready to provide security and protection of their rights. The level of danger of non-observance of citizens' rights has reached a critical level today, where even court decisions in favor of a person are not a guarantee of restoration of his / her violated right. It describes the level of danger of non-compliance with citizens' rights and the number of cases against Ukraine that are being considered and pending before the European Court of Human Rights.

Fifthly, in general, the life of Ukrainians in independent Ukraine is characterized by a lack of adaptation to market relations, which is caused by the lack of historical experience of citizens to live and develop in a market economy on a civilizational basis. In fact, Ukrainians, aged 40 and over, have formed their perceptions of public relations in a planned economy, and the younger generation of Ukrainians does not have a proper example of doing business on a partnership basis. As a result, economically stronger entities dictate their terms of cooperation, and the economically

weaker party agrees to bond terms, because it has virtually no other proposals. At the same time, young people who disagree with the conditions of cooperation offered in Ukraine, including in the process of exercising their right to work, find other offers, but unfortunately outside our country.

In fact, speaking about the socio-economic development of Ukraine, it should be borne in mind that capital and labour effectively increase gross domestic product in combination, and therefore, the owners of means of production are interested in attracting hired labour. At the same time, employees, as a rule, have only the ability to work and they are interested in obtaining stable work and fair remuneration. For effective cooperation between these entities, it is necessary to regulate the framework conditions of work. It is also important that the proclamation in Ukraine of European integration has imposed on the state certain obligations for the gradual rapprochement of Ukraine and the Member States of the European Union based on common values (Article 1) [6]. This indicates that the framework conditions of employment in Ukraine must take into account European standards in the field of work. In parallel with this requirement for the legal regulation of working conditions, Ukraine has obligations arising from the international instruments of labour ratified by Ukraine.

In view of the above, it can be argued that Ukraine in the path of combating labour migration should turn to foreign experience of creating working conditions and legal influence on relations between employers and employees. Such conditions include not only working conditions where occupational safety and health is in central place, but also remuneration conditions, where fair remuneration must be calculated in the context of the purchasing power of remuneration, which actually determines access to social benefits and depends on nominal wage and consumer price index (*Table 1*).

Table 1

Consumer price indices in 2019
(till previous month)

(percentage)

	January	February	March	April	Mai	June	July	August	September	October	November
Ukraine ¹	101,0	100,5	100,9	101,0	100,7	99,5	99,4	99,7	100,7	100,7	100,1

¹ Excluding the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and part of the temporarily occupied territories in Donetsk and Luhansk regions.

Source: [7].

Data show that in the period from January to May 2019 the consumer price index is increasing, in June, July compared to the previous month it has been decreasing, and since August it has started to increase. In fact, this proves that inflation in Ukraine is characterized by a general dynamic of rising prices for consumer goods and services.

At the same time, access to social goods in Ukraine is provided not only at the expense of citizens' remuneration as a reward for work. Access to certain types of such goods in accordance with Articles 46, 49, 53 of the Constitution of Ukraine is free of charge. In the context of access to social goods, such right of citizens as the right to social protection, is to some extent offset by the provisions of Article 46, paragraph 3 of the Constitution of Ukraine, which states that «pensions, other types of social benefits and benefits, which are the main source of livelihood, should ensure a standard of living, not lower than the subsistence minimum stipulated by law» [4]. That is, the definition of the limit of social security through social payments and assistance actually occurs in digital terms without taking into account the actual purchasing power of such payments. And as O.V. Moskalenko rightly points out, «in Ukraine today, the sets of goods and services that are in the subsistence level are detached from real consumer needs and do not meet the function of the social standard» [8, p. 50]. Paying attention to the size of the average wage in Ukraine (*Table 2*) [9] it can also be argued that it does not provide citizens with adequate access to social benefits.

Average monthly earnings for the quarter in 2019 (I—III quarter)^{1, 2}

(per employee)

	I quarter		II quarter		III quarter	
	UAH	in % to the corresponding period of the previous year	UAH	in % to the corresponding period of the previous year	UAH	in % to the corresponding period of the previous year
Ukraine	9629	120,8	10430	118,8	10732	118,4

¹ Excluding the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and part of the temporarily occupied territories in Donetsk and Luhansk regions.

² The data are based on the results of the state statistical survey «Survey of Enterprises on Labour Statistics», which covers legal entities and separate divisions of legal entities with the number of employees of 10 or more persons.

The data strongly suggest that the average monthly wage entitlement is increasing, but its monetary equivalent does not provide an understanding of the level of access to social benefits. If we take into account the Consumer Price Index (*Table 1*), characterizing by growth, then the increase in the average monthly wage (*Table 2*) by its purchasing power does not show an increase in the access of the working population to social benefits.

Scientists emphasize that «analysis of the norms and level of consumption of foodstuffs by the population of Ukraine, shows that the greatest lag is observed for meat and meat products — by 36,1 %, milk and dairy products — by 60,9 %, vegetable oils of all types — by 45,4 %, fish and fish products — by 35 %. Instead, bread products (bread, pasta, etc.) exceed the norm by 22,2 %. Such excess is indicative of an unbalanced diet of the population, which has to provide its own energy needs with products that are economically available. The above points to the urgent need to expand the list of costs that are taken into account when determining the value of a set of services and to include in it such items as the costs of: construction or purchase of housing or renting it; paid education services; sanitation; keeping children in pre-school institutions; medical services» [10, p. 111].

Thus, the socio-economic conditions of residence in Ukraine indicate that a significant part of the population of Ukraine has problems with meeting the vital needs, which include nutrition in particular. This, in turn, explains not only the increase in labour migration in recent years, but also proves that health and education systems cannot develop properly. This is because the population working in these fields of activity has no incentive to improve the quality of services provided. In fact, we end up in a vicious circle when the income from our own labour does not provide the necessary restoration of efficiency through the restoration of vitality and energy. The owners of the means of production, by increasing their capital using cheap labour, harm not only the health of the nation, but also the labour potential of the state. Assuming that the health is a state of complete physical, mental and social well-being, not just the absence of illness or infirmity [11], the desire to be healthy pushes Ukrainians to find better jobs outside the country. In turn, the outflow of able-bodied population from the country reduces not only the number of working population, but also the quality of labour potential. That is, labour potential, as «existing and potential opportunities for employees to realize their quantitative and qualitative characteristics in specific socio-economic and production and technical conditions» [12, p. 3] does not demonstrate effective development.

Based on the fact that the realization of labour potential of workers depends on such conditions as: socio-economic, wages, social package, social partnership, management style at the enterprise, production and technical, workplace equipment, labour protection and labour organization [12, p. 5], it becomes clear that in fact the key problem that creates the growth of labour migration from Ukraine is working conditions and its organization. Therefore, improvement of the organization of production and labour starting from the level of the enterprise, institution, organization should be the main direction of counteracting labour migration.

What do you need to do for it? First, be aware that the hired work has at least 3 interrelated goals. The first one is intended to create gross domestic product in the state and money circulation through trade in goods, works and services. The second one is aimed at physically restoring the working capacity of the worker and ensuring the vital needs of non-working members of the employee's family. The third one is aimed at restoring, stabilizing and developing the mental and social well-being of the employee and his or her family. «The right to work is not only a

legitimization of human labour activity, but a right that allows to realize the other human right; in particular, by exercising the right to work, an employee is entitled to fair and favourable conditions of work, equal pay for equal work, fair and satisfactory remuneration, which ensures the decent existence of a person and their family members» [13, p. 26]. In fact, a fair remuneration solves a number of other problems in the field of security and respect for citizens' rights. By improving the economic and legal conditions of access of the population to social goods, the key factors are neutralized that force Ukrainians to leave the country in search of a better job abroad.

Ensuring fair remuneration for work must be decided by legal and economic means, while the organization of production and labour also requires a number of organizational measures to put into effect economic and legal instruments. In order to achieve the efficiency from the economic and legal counteraction to labour migration from Ukraine, it is necessary to create conditions for creating equal opportunities for the population, and equality in this case is not identical to equal opportunities. Different categories of workers and the regional aspect of work also fundamentally affect equal opportunities. For example, for a lathe, the level of professional needs is predominantly focused on maintaining and developing professional skills, the doctor's professional needs are broader because he or she needs access to specialized literature, attending conferences, roundtables, etc., and as we know, these social benefits he/she mainly gets at his/her own expense. Regarding the regional aspect, it should be noted that the price of the same product in different regions of Ukraine varies, and the level of morbidity of the population, and therefore the amount of money spent on medicines varies by region. Therefore, meeting the needs of the population should take on an individual approach, which in fact should set equal opportunities for the population to access vital needs, including professional needs.

How to determine such individual approach? The answer is both simple and complex. An individual approach to meet the needs of the working population should be ensured at the macro level, ie. at the level of the primary element of the economic system — the enterprise. We are convinced that the state should review the norms for the subsistence minimum of citizens and normatively determine the coefficients of wage differentiation not only by inter-qualification ratio, but also by sectoral activities. Thereby, the employer at the expense of his wages and salaries must pay the sectoral wage differentiation coefficient. In this way the state will oblige the owners of the means of production to capitalize the profit in the labour potential. The actual costs of work remuneration, taking into account the sectoral coefficient of wage differentiation, should be fixed in collective agreements and collective contracts, which actualize the issue of social partnership development in Ukraine. The development of this partnership should be based on the understanding that the goods, works and services are created by the labour of workers, and carriers of «living labour» — workers have the right to influence the level of their provision for social goods on the partnership terms. The business needs to give up the thirst for lucrative profits by using the cheap labour force. Employees and employers, with the participation of the state, must learn to agree, in particular, on the distribution of profits of enterprises, institutions and organizations.

Conclusions. 1. The counteraction to labour migration from Ukraine should be provided with economic and legal tools, where the ending result should be an increase in the overall level of well-being of citizens by getting a fair remuneration for work, what will increase an access for workers and their families to the needed and necessary social benefits. The law through the legal requirements should fix the calculation of the real subsistence level of citizens, which provides the vital level of income of the population. 2. The work remuneration should be calculated not only by taking into account the inter-qualification ratio of salaries, but also by taking into account the sectoral wage differentiation coefficient, which aims to create the equal opportunities for development for different categories of workers. 3. The normative fixing of such industry coefficient should be a tool for the implementation of the concept of «fair remuneration», and the rules of actual wage costs taking into account the mentioned coefficient, should be fixed in the acts of social partnership. 4. The definition and calculation of the proposed sectoral wage differentiation coefficient requires the further scientific and economic justification. 5. The enterprises, institutions and organizations should be the primary level where the real counteraction to labour migration should begin.

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