

Institutional Capacity of Labor Supervision and Control Bodies: International Standards and Problems of Implementation into Ukrainian Legislation*

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Abstract

The article examines the institutional capacity of labor supervision and control bodies in the context of international standards and the features of their implementation in the legislation of Ukraine. The main approaches of the International Labor Organization and the European Union to the organization of the labor inspection system are analyzed, in particular, regarding ensuring the independence of control bodies, the adequacy of their powers, and human and financial support. The current state of legal regulation of the activities of labor supervision bodies in Ukraine is outlined and key problems related to the instability of legislation, the limitation of control powers, and the inconsistency of national mechanisms with the international obligations of the state are identified. The need for a comprehensive approach to the implementation of international standards, combining legislative, institutional, and organizational measures, is substantiated. It is concluded that increasing the institutional capacity of labor supervision and control bodies is an important prerequisite for the effective protection of labor rights of employees and the harmonization of Ukrainian legislation with European social and legal standards.

Keywords: Institutional Capacity; Authority; Supervision; Control; Labor; International Standards

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A. INTRODUCTION

Ensuring an adequate level of protection of workers' labor rights is one of the key features of a social and legal state. In this context, the institutional capacity of labor supervision and control bodies is of particular importance, since the effective implementation of labor legislation, labor protection, employment of the population, and social security depends on their effectiveness. In the context of Ukraine's European integration, as well as transformation processes caused by martial law and post-war reconstruction, the issue of compliance of the national labor supervision system with international standards is of particular relevance.

International organizations, primarily the International Labor Organization (ILO), as well as institutions of the European Union, have formed an extensive system of standards regarding the independence, powers, staffing, and financial support of labor inspection bodies. At the same time, the implementation of these standards into the national legislation of Ukraine remains fragmented and is accompanied by a number of legal, institutional, and practical problems.

The purpose of the article is a comprehensive analysis of the institutional capacity of labor supervision and control bodies through the prism of international standards, as well as identifying the main problems and prospects for their implementation in Ukrainian legislation (Zadyraka *et al.*, 2023).

B. METHODS

The methodological basis of the study is a set of general scientific and special legal methods of cognition, which provide a comprehensive and systematic analysis of the institutional capacity of labor inspection and control bodies. The study is based on the principles of objectivity, scientific validity, systematicity and interconnection of legal phenomena in the context of socio-economic transformations and European integration processes in Ukraine. The study used a dialectical method, which made it possible to reveal the development and change of approaches to the organization of state supervision and control in the labor sphere, identify contradictions between international standards and national law enforcement practice, and also trace the trends in overcoming them.

The formal legal method was used to analyze the norms of international and national legislation, in particular conventions and recommendations of the International Labor Organization, acts of the European Union, laws of Ukraine

and subordinate regulatory legal acts that regulate the activities of labor inspection bodies. With its help, legal norms were interpreted and the degree of their compliance with international standards was determined. The comparative legal method was used to compare models of labor inspection organization in Ukraine and the European Union member states, which made it possible to identify common and distinctive features, as well as to determine the possibilities of borrowing the best foreign practices into national legislation. The system-structural method made it possible to consider labor supervision and control bodies as an element of an integrated mechanism for ensuring labor rights, to determine their place and role in the system of public authorities, and to analyze the relationships between the regulatory, organizational and personnel components of institutional capacity.

In addition, the study used the method of legal modeling and forecasting to substantiate possible directions for improving Ukrainian legislation in the field of supervision and control over compliance with labor legislation, taking into account international standards and European experience. The use of these methods in combination ensured the completeness, logical consistency, and scientific validity of the results and conclusions obtained.

C. RESULTS AND DISCUSSION

Issues of legal regulation of state supervision and control in the sphere of labor have repeatedly become the subject of research by domestic scientists in the field of labor and administrative law. Scientific works analyze the powers of labor inspection bodies, the administrative and legal principles of their activities, as well as the problems of implementing the state's control functions in the sphere of social and labor relations. At the same time, the institutional capacity of supervisory bodies in the context of international standards and the European integration of Ukraine has not yet received comprehensive and systematic coverage, which necessitates the need for further scientific research.

1. International Standards of Institutional Capacity of Supervisory Bodies in the Sphere of Labor

The ILO plays a key role in the formation of international standards in the sphere of labor supervision. The fundamental ones in this area are ILO Convention No. 81 "On Labor Inspection in Industry and Commerce" (Convention of the International Labour Organization, 1947). and ILO Convention No. 129 "On Labor Inspection in Agriculture" (Convention of the International Labor Organization, 1969). ILO Convention No. 81 "On Labour Inspection in Industry and Commerce" as an international standard for the

institutional capacity of labour inspection bodies (Convention of the International Labour Organization, 1947).

The International Labour Organization Convention No. 81 “On Labour Inspection in Industry and Commerce” is a basic international legal act that defines universal standards for the organization and functioning of the labour inspection system. Its provisions are of fundamental importance for the formation of the institutional capacity of labour inspection bodies, as they are aimed at ensuring the effective implementation of labour legislation and the real protection of workers’ rights.

First of all, Convention No. 81 establishes the requirement to create in each member state a labour inspection system that operates under the leadership of a central authority and covers all industrial and commercial enterprises. This approach testifies to the institutional nature of labour inspection as a component of the public administration mechanism, and not a temporary or auxiliary tool of state control.

One of the key standards of the Convention is the principle of organizational and functional independence of labor inspection. Inspectors should be public servants, protected from any undue influence, in particular from employers or political interests. The independence of labor inspection is considered by the Convention as a necessary condition for its institutional capacity and impartiality in the exercise of its supervisory powers.

An important element of institutional capacity, according to Convention No. 81, is the adequate material, financial and human resources of labor inspection. The State undertakes to ensure a sufficient number of inspectors, appropriate professional training, stable conditions of service and a decent level of remuneration. Without fulfilling these requirements, the labor inspection system cannot be considered effective, even if there are formally established powers.

The Convention also defines a wide range of powers for labour inspectors, including the right to have unhindered access to enterprises at any time, to conduct inspections without prior notice, to request necessary documentation and to initiate the prosecution of guilty persons. Such powers constitute the functional basis of the institutional capacity of labour supervisory and control bodies.

In the context of the implementation of the provisions of Convention No. 81 into the legislation of Ukraine, it should be noted that Ukraine is a party to it and has formally undertaken obligations to comply with the relevant standards.

At the same time, the national model of labour inspection is characterized by a number of problems, in particular, the instability of legal regulation, the limitation of inspectors' powers due to changes in subordinate legislation and contradictory judicial practice. Such factors negatively affect the real institutional capacity of labour supervisory and control bodies.

In addition, national legislation does not always ensure the appropriate level of institutional independence of labor inspection, which contradicts the requirements of Convention No. 81. The functional dependence of control bodies on executive bodies, as well as insufficient funding and staff shortages, limit the possibilities of effective supervision of compliance with labor legislation. Thus, ILO Convention No. 81 serves as a key international standard for the institutional capacity of labor inspection and control bodies. Its provisions form clear guidelines for improving the national legislation of Ukraine, however, the full implementation of these standards requires systemic changes aimed at strengthening the independence, resource provision, and efficiency of labor inspection (Bobkova *et al.*, 2021).

2. Convention of the International Labor Organization No. 129 of 1969

The International Labor Organization Convention No. 129 “On Labor Inspection in Agriculture”, adopted in 1969, supplements and expands the provisions of ILO Convention No. 81, taking into account the specifics of the agricultural sector. It establishes international standards for the functioning of the labor inspection system in agriculture and is of great importance for the formation of the institutional capacity of labor inspection and control bodies, especially in countries with developed agricultural production, which includes Ukraine (Farynnyk *et al.*, 2025).

Convention No. 129 obliges member states to create or ensure the functioning of an effective labor inspection system that applies to all enterprises and categories of workers in agriculture, regardless of the form of ownership and organizational and legal status of the employer. This approach corresponds to the principle of universality of state supervision and is an important indicator of the institutional capacity of control bodies.

One of the key provisions of the Convention is the requirement for organizational unity and coordination of the labor inspection system in the agricultural sector with the general system of state supervision over compliance with labor legislation. Labor inspection in agriculture should operate either within a single inspection service or in close cooperation with it, which ensures

the integrity of the institutional model of supervision and increases the effectiveness of control measures (Vitvitskyi *et al.*, 2022).

ILO Convention No. 129 pays special attention to the staffing and resource provision of labor inspection. The state must ensure a sufficient number of inspectors who have specialized knowledge, taking into account the specifics of agricultural work, seasonality of employment, the use of family labor and informal labor relations. Proper professional training of inspectors is a prerequisite for the institutional capacity of supervisory bodies in this area (Vitvitskyi *et al.*, 2022).

The functional powers of labour inspectors, as defined by Convention No. 129, include the right to unhindered access to agricultural enterprises, living quarters related to work, to inspect working conditions, occupational safety and employment, and to take action in the event of violations. Such powers are critical to ensuring real, rather than formal, effectiveness of control in the agricultural sector.

In the context of the implementation of ILO Convention No. 129 into the legislation of Ukraine, it should be noted that, despite the formal recognition of international standards in the field of labour, the labour inspection system in the agricultural sector remains underdeveloped. Among the main problems, the limited control measures in small and family farms, the prevalence of informal employment, and the shortage of specialized inspectors with appropriate training should be highlighted.

In addition, the lack of clearly regulated mechanisms for interagency cooperation between labor inspectorates and other supervisory authorities exercising control in agriculture negatively affects the institutional capacity of state supervision in general. This contradicts the approaches laid down in Convention No. 129, which provide for coordination and systematic control activities (Zadyraka *et al.*, 2023). Thus, ILO Convention No. 129 (1969) is an important international standard for the institutional capacity of labor inspectorates in the agricultural sector. Its full implementation into the legislation of Ukraine requires the improvement of regulatory and legal regulation, strengthening of the human resources potential of labor inspectorates, and adaptation of control mechanisms to the specifics of modern agricultural labor relations (Leheza *et al.*, 2024).

The above-mentioned international instruments define the basic requirements for the institutional capacity of labor inspection bodies, in particular: organizational and functional independence of labor inspection from

political and economic influence; sufficient powers for unhindered access to workplaces; provision of adequate human, material, technical and financial resources; professional training and appropriate remuneration of inspectors.

At the level of the European Union, the issue of the effectiveness of labor inspections is considered in connection with the implementation of EU social policy, ensuring decent working conditions and compliance with the rule of law. Recommendations of the European Commission and the case law of the Court of Justice of the EU emphasize the need for interdepartmental coordination, digitalization of control procedures, and orientation towards a preventive, rather than exclusively punitive, model of supervision (Leheza *et al.*, 2025).

3. Status and Problems of Institutional Capacity of Labor Supervisory Bodies in Ukraine

In Ukraine, the functions of state supervision and control over compliance with labor legislation are assigned to the State Labor Service of Ukraine. The normative basis of its activities is the Labor Code of Ukraine, laws of Ukraine and subordinate normative legal acts. Despite the formal consolidation of the powers of control bodies, their real institutional capacity remains limited (Filatov *et al.*, 2025).

Among the key problems, one should highlight the instability of legislative regulation, frequent changes in inspection procedures, as well as restrictions on the powers of labor inspectors under the influence of judicial practice and political decisions. An additional factor is the chronic lack of human and financial resources, which negatively affects the effectiveness of control and the possibility of implementing preventive measures (Vitvitskyi *et al.*, 2020).

The issue of compliance of national legislation with the provisions of ILO Conventions ratified by Ukraine requires special attention. In practice, there is a gap between the state's international obligations and the mechanisms for their implementation, which leads to a decrease in the level of protection of workers' labor rights (Kulinich *et al.*, 2023).

Prospects for the implementation of international standards in the legislation of Ukraine (Chorna *et al.*, 2023). The implementation of international standards in the field of labor inspection requires a comprehensive approach that combines legislative, institutional and organizational measures. First of all, it is advisable to consolidate at the law level guarantees of institutional independence

of supervisory and control bodies in the field of labor, as well as a clear definition of their powers in accordance with ILO standards (Sinkevych *et al.*, 2024)..

An important direction of reform is to increase the professional level of labor inspectors, introduce modern methods of risk-based control, and digital monitoring tools. In the context of Ukraine's European integration, it is relevant to borrow the best practices of EU member states regarding interagency interaction and social dialogue (Leheza *et al.*, 2023).

D. CONCLUSIONS

The conducted research provides grounds to assert that the institutional capacity of labor supervision and control bodies is a determining factor in the effectiveness of the implementation of labor rights and Ukraine's fulfillment of international obligations in the social and labor sphere. International standards formed by the International Labor Organization and the institutions of the European Union establish clear requirements for the organization and functioning of labor inspection, in particular regarding its independence, sufficiency of powers, staffing and resource provision. It has been established that the current system of labor supervision and control in Ukraine is characterized by the presence of normatively established powers; however, their practical implementation remains limited due to the instability of legal regulation, the fragmentation of the implementation of international standards, and the influence of extralegal factors. The existing gap between declared international obligations and national mechanisms for their implementation negatively affects the level of protection of labor rights of employees.

It is substantiated that further improvement of the institutional capacity of labor supervision and control bodies requires a comprehensive approach, which should include legislative consolidation of guarantees of their institutional independence, unification and stabilization of control procedures, strengthening of personnel and financial support, as well as the implementation of modern risk-oriented and preventive supervision mechanisms. It is concluded that harmonization of Ukrainian legislation with international and European standards in the field of labor inspection is a necessary prerequisite for increasing the efficiency of state supervision, strengthening social dialogue and ensuring sustainable development of labor relations in the context of European integration and post-war reconstruction of Ukraine.

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