

relations. Besides, considering protection of informational relations as a significant component of informational safety, it is important to speak about protection of informational relations in particular, and not only about protection of informational rights, because both the objects and the subjects of these relations have to be protected and not only their rights. In its turn, protection of informational rights includes protection of rights to information as personal non-property rights of natural persons and legal entities, as well as protection of informational rights which consist of intellectual property rights, rights to public information, rights to classified information, rights in the field of informational systems use etc.

References:

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THE RIGHT TO A STRIKE AS A COLLECTIVE LABOR RIGHT

Key words: *Constitution of Ukraine, strike, Convention, European Court of Human Rights.*

According to the Article 44 of the Constitution of Ukraine, those who work are entitled to strike in order to protect their economic and social interests.

By the Constitution of Ukraine, international legal acts, ratified by Ukraine, the right to strike belongs to the basic labor rights of workers and their organizations and is recognized as one of the most important means by which they can protect their economic and social rights and interests and contribute to their realization.

The norms of national legislation, securing the right to strike, are contained in Section III of the Law of Ukraine «On the Resolution of Collective Labor Disputes (Conflicts)» of March 3, 1998. In accordance with part one of Art. 17 of the Law a strike is a temporary collective voluntary termination of work by employees (no-show at work (absence from work), non-fulfillment of their labor duties) of an enterprise, institution, organization (structural unit) with the aim of resolving a collective labor dispute (conflict).

Strike is used as a last resort (when all other possibilities have been exhausted) to resolve a collective labor dispute in connection with the refusal of the employer or his authorized person, employers' organizations,

association of employers' organizations to satisfy the requirements of hired workers (employees) or their authorized body, trade unions, associations of trade unions or a body, authorized by them.

A strike can be initiated if conciliation procedures did not lead to the resolution of a collective labor dispute (conflict) or the employer or a person authorized by him, the organization of employers, the association of employer organizations avoids conciliation procedures or does not fulfill the agreement, reached in course of solving a collective labor dispute (conflict).

Article 44 of the Constitution of Ukraine, part one of Art. 18 of the Law of Ukraine "On the Procedure for Resolving Collective Labor Disputes (Conflicts)" stipulates that a strike may be conducted by employees only for the protection of their economic and social interests. The legislation of Ukraine, as well as international legal acts, do not provide for the possibility of announcement of strikes for political motives. The so-called "mixed" strikes are also illegal. One of the reasons for the recognition of strikes illegal according to Art. 22 of the Law are their requirements for changing the constitutional order, state borders and the administrative-territorial structure of Ukraine, as well as requirements that violate human rights. The said provision aims to protect the state interests and the rights and interests of other persons.

The right to strike is a collective labor right, which involves collective actions, taken by those who participate in the strike. The latter are united by collective interests, the content of which is the improvement of working conditions or meeting of collective requirements of professional nature, as well as the finding of solutions to issues regarding the formation and implementation of state social and economic policies, regulation of labor, social, economic relations, other problems that arise at the national, sectoral, territorial, local levels, and are directly related to employees (the exceptions are the strikes of solidarity, which are legal under the condition of the legality of the initial strike, supported by the strikers).

Whether or not to take part in a strike is decided voluntarily by every employee. The relevant provision of Art. 44 of the Constitution of Ukraine was reproduced in part five of Art. 19 of the Law of Ukraine «On the Procedure for Resolving Collective Labor Disputes (Conflicts)», according to which no one can be compelled to participate or not to participate in a strike. The persons who force employees to participate in a strike or prevent participation in a strike through violence or threat of violence, or through other illegal actions, punishable by law, are prosecuted in accordance with the law.

The right to strike is not universal. The Committee on the Freedom of Association of the Administrative Council of the ILO considers that it may be limited, or even prohibited, in the field of civil service, as if civil servants are considered the persons exercising power on behalf of the State or with regard to employees of services of vital importance in the exact sense of the term, i.e. services, the termination of provision of which may endanger the life, personal safety or health of the whole or a part of the population. With regard to civil servants, the recognition of the principle of freedom of

association does not necessarily include the right to strike. Regarding the workers of services of vital importance, for determining the cases in which a strike may be prohibited, the criterion is the presence of an obvious or inevitable threat to the life of people, their personal safety or the health of the population as a whole or a part thereof.

According to part one of Art. 24 of the Law of Ukraine «On the Procedure for Resolving Collective Labor Disputes (Conflicts)» it is prohibited to strike in the event that the termination of work by employees creates a threat to the life and health of people, the environment or disrupts the prevention of natural disasters, accidents, catastrophes, epidemics and epizootics or the elimination of their consequences.

The said article also prohibits the strike of employees (other than technical and service personnel) of the prosecution service, courts, the Armed Forces of Ukraine, state authorities, security bodies and law enforcement authorities.

Provisions of Art. 24 of the Law are specified by other laws of Ukraine. For example, according to Art. 18 of the Law of Ukraine «On Transport» of November 10, 1994, the strike is prohibited in cases involving the carriage of passengers, service of continuously operating plants, and also when strike poses a threat to human life and health. According to part three of Art. 35 of the Law of Ukraine "On the Use of Nuclear Energy and Radiation Safety» of February 8, 1995, the personnel of nuclear facilities and facilities intended for the handling of radioactive waste have no right to strike. Article 13 of the Law of Ukraine "On the Electricity Market" of April 13, 2017 strikes at power plants are prohibited in cases where they can lead to the violation of the constancy of the United Energy System of Ukraine.

According to part five of Art. 10 of the Law of Ukraine «On Civil Service» of December 10, 2015, it is prohibited for a civil servant to organize and participate in a strike. According to part four of Art. 54 of the Law of Ukraine «On Judicial System and Status of Judges» of June 2, 2016 a judge cannot take part in political actions, rallies, strikes.

International legal acts oblige states to ensure the right to strike, provided that it is implemented in accordance with the laws of each country. This provision is directly enshrined in Art. 8 of the International Covenant on Economic, Social and Cultural Rights of December 16, 1966. Since the right to strike in the International Covenant has been considered as one of the elements of the right to freedom of association, then, like the latter, the use of this right is not subject to any restrictions, other than those provided for by law and necessary in a democratic society in the interests of state security or public order or for the protection of the rights and freedoms of others. Article 8 of the International Covenant on Economic, Social and Cultural Rights does not preclude the introduction of legal restrictions on the exercise of these rights for persons forming part of the armed forces, the police or the administration of the state.

In the first part of Art. 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950 it proclaimed the right of everyone to freedom of peaceful assembly and freedom of association

with others, including the right to form and join trade unions for the protection of their interests. At the same time, the second part of the said article states that the exercise of these rights is not subject to any restrictions, except those established by law and necessary in a democratic society for the sake of national or public security, for the prevention of disturbances or crimes, for the protection of health or morals or for the protection of the rights and freedoms of others. This article does not prevent the introduction of legal restrictions on the exercise of these rights by persons belonging to the armed forces, police or administrative authorities of the state.

The European Court of Human Rights stated in the decision in the case *Veniamin Tymoshenko and others v. Ukraine* (application no. 48408/12, dated 2 October 2014) stated that such an interference would constitute a violation of Art. 11 of the Convention, if it was not "established by the law", did not pursue one or more legitimate goals and was not "necessary in a democratic society" to achieve these goals. The Court reiterates that the expression «prescribed by the law» in Art. 11 of the Convention requires not only that the measure complained of has a foundation in national legislation; it also relates to the quality of the law in question. The law should be accessible to interested parties and formulated with sufficient precision in order to enable them – if necessary by providing appropriate assistance – to provide for the extent to which they are reasonable, in appropriate circumstances, the consequences that may result in the corresponding action (see, for example, the *Maestri v. Italy* judgment). The Court noted that national courts justified the prohibition of the strike, against which the complaint had been received in this case, with the reference to Art. 18 of the Law of Ukraine «On Transport», Art. 24 of the Law of Ukraine «On the Order of the Settlement of Collective Labor Disputes (Conflicts)» and Art. 44 of the Constitution of Ukraine. Consequently, it follows that the interference was based on national legislation. The court sees no reason to doubt that the aforementioned provisions were available. Therefore, it remains to be established whether they were also sufficiently precise and predictable. The Court noted that the Constitution of Ukraine, which entered into force in 1996, establishes the right to strike as a way of protecting the economic and social interests of employees. Regarding the procedure for exercising this right or the grounds for the prohibition of a strike, these issues should be regulated by the legislation. Two applicable laws are the abovementioned Law of Ukraine «On the Procedure for Resolving Collective Labor Disputes (Conflicts)» and the Law of Ukraine «On Transport». The court notes that Art. 24 of the Law of Ukraine «On the Procedure for Resolving Collective Labor Disputes (Conflicts)» of 1998, which deals with labor disputes in all sectors, prohibits strikes in the following cases: «If the termination of work by workers poses a threat to the life and health of the people, the environment or disrupts the prevention of natural disasters, accidents, catastrophes, epidemics and epizootics or the elimination of their consequences». In this wording nothing indicates that this list is inexhaustible. At the same time, Art. 18 of the Law of Ukraine «On Transport» of 1994, which since its adoption has not been amended, and concerns only the transport sector, also refers to cases of strike

prohibition. This provision is more restrictive – in addition to cases where a strike poses a threat to the life or health of people, its conduct is also prohibited in cases «related to the carriage of passengers, the maintenance of continuous operations». It is worth mentioning that although the Final Provisions of the Law of Ukraine «On the Procedure for the Resolution of Collective Labor Disputes (Conflicts)» stipulate that other laws and regulations shall apply only to the extent that they do not contradict this Law, and also that they must be brought into compliance with this Law, the Law of Ukraine «On Transport» nevertheless continues to be applied without changes (see, for comparison, the decision of April 11, 2013 in the case of *Vyerentsov v. Ukraine*). The situation remains unchanged even now, despite the fact that the aforementioned contradiction and the need to bring the Law of Ukraine «On Transport» in line with the Constitution of Ukraine and the Law of Ukraine «On the Procedure for the Resolution of Collective Labor Disputes (Conflicts)» has repeatedly been recognized. These considerations were sufficient in order to enable the Court to conclude that the interference with the applicants' rights under Art. 11 of the Convention was not based on sufficiently precise and foreseeable legislative acts and, accordingly, there was a violation of Art. 11 of the Convention.

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THE PRACTICE OF THE EUROPEAN COURT OF HUMAN RIGHTS AND THE CASE STUDY METHOD IN LEGAL EDUCATION

The paper analyzes the necessity of reforming legal education in the direction of not only theoretical but also practical preparation of a student for the professional activity, taking into account the needs of the modern state and society. The case study method is regarded as the best interactive practice of forming practical skills of a future lawyer. It is noted that the practice of the European Court of Human Rights is a useful source for the formation of case studies, as it encourages the development of the identity based on European values, theoretical knowledge about human rights standards and critical thinking skills and arguments.

Key words: *case study method, critical thinking, human rights, practice of the European Court of Human Rights.*

The issue of reforming legal education has been on the agenda for over a year in Ukraine. Its greatest pitfall is the incompatibility of a graduate of the institution of higher education with the challenges and requirements of the legal existence of the state, society and human. A significant problem for all graduates, regardless of the level of their theoretical training, is the gap