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## THE IMPORTANCE OF LABOR LAW PRINCIPLES IN MODERN CONDITIONS OF STATE DEVELOPMENT

It is noted that the role of legal principles significantly increases during reformation of a legal system, because since of this period the existing legislation can't quickly and effectively respond to changes in social relations. In this way, legal principles serve as instrument for social relations regulating. They are necessary to fill and overcome existing legislative gaps and serve as a guide for the new legislation formation and radical updating of the existing one. These processes mostly occur in social and labor field. It is emphasized that the importance of labor law principles cannot be reduced to one plane, their value is multileveled and complex. The ideas, underlying principles of this law field, not only summarize the experience of previous development of knowledge in the relevant field, but also they are the basis for synthesizing knowledge into a coherent system. Such ideas serve as the active heuristic principles that explain labor-legal phenomena and help to find the new ways of problem solving.

**Key words:** principles, labor law principles, social relations, social and labor field, legal rules

The necessity to formulate clear and understandable definitions is really obvious in labor law. Because most of law provisions in labor field, usually, do not give a clear idea of the range of law enforcement subjects and their jurisdiction, do not regulate law enforcement procedure and its execution. Of course, that leads to unjustified disagreement in law enforcement. S. Yu. Golovina notes that the lack of definition makes it possible to manipulate by the meanings, also it generates incorrect views and leads to wrong decisions coming from not only participants of labor relations, but also from professional law enforcers<sup>1</sup>. Here is an apt remark of S. P. Mavrin and E. B. Khokhlov "... we have no long-held conceptual framework and feel an attraction to create a legal structures with explicate meaning of their concepts"<sup>2</sup>. "In the hierarchy of challenges that have been set for the labor law science, one of the primary positions takes the formation of the conceptual framework of the field. This problem becomes more relevant in relation to the prospect of the new Labor Code of Ukraine adoption. The current Labor Code, unfortunately, lack of sufficient terminological developments. We can explain it by the discrepancy between the Code and modern doctrinal study" - I. O. Losytsya, S. M. Prylypko, D. V. Trubitsin and O. M. Yaroshenko rightly insist<sup>3</sup>.

The category of "principle" used in jurisprudence to characterize the various legal phenomena: legal principles, principles of lawmaking, principles of law and order, principles of legal liability and others.

Such scientists, as: M. Aleksandrov, N. Bolotina, V. Zhernakov, M. Inshyn, I. Kiselev, R. Livshits, L. Lazor, V. Lazor, A. Matsyuk, Y. Orlovsky, O. Pashkov, P. Pylypenko, S. Prylypko, V. Prokopenko O. Protsevskyy, R. Kondrat'yev O. Smirnov, N. Khutoryan, G. Chanysheva, V. Shcherbina, O. Yaroshenko and others have studied the principles of labor law in their scientific work. However modern theoretical researches in this field carry fragmentary character.

The numerous questions arise regarding the interpretation of the category of "principles of labor law", its content and relation to other legal categories of relevant legal field. T. Z. Harasymiv explained the existence of various scientific conceptions on the legal nature and content of legal principles by the multidimensional nature of this category and by the different scientists' methodological approaches to the

<sup>1</sup> Головина, С.Ю. (2006) *Проблемы формулирования дефиниций в трудовом законодательстве России: Законодательная дефиниция: логико-гносеологические, политико-юридические, морально-психологические и практические проблемы: матер. междунар. «круглого стола»*. Черновцы.

<sup>2</sup> Маврин, С.П., Хохлов, Е.Б. (1996). *О кодификации трудового законодательства России. Государство и право*.

<sup>3</sup> Лосиця, І.О., Прилипко, С.М., Ярошенко, О.М. та ін. (2011). *Проблеми правового регулювання відсторонення працівників від роботи за законодавством України: монографія*. Харків: ФІНН.

concept of law, namely to the primacy of law and its principles<sup>1</sup>.

The principle of labor law expresses the connective essence of some diverse provisions in the relevant field, it connects them into the institute, field. Disclosing the nature of general (field, institute) means discovering the principle in the labour law legal provisions, because the law principle always expresses the essential generic and specific features of provisions.

The ideas, underlying principles of this law field, not only summarize the experience of the previous development of knowledge in the relevant field, but also they are the basis for synthesizing of knowledge into a coherent system. Such ideas serve as the active heuristic principles that explain labor-legal phenomena and help to find the new ways of problem solving.

Principles are the complex social and legal phenomenon, its roots go back to antiquity. For the first time the word "principle" (from the Latin "principium" - foundation, origin) was mentioned in the famous Aristotle's treatise on ethics "Nicomachean Ethics"<sup>2</sup>. Under the "principles" thinker understood the basic principles of nature. Combining principles in pairs, he endowed the "primary matter" with them, such "matter" is the subject of all the changes, the beginning of all things. Additionally, the principles considered as theoretical concepts, basis of whole scientific knowledge structure. In this connection the extremely common and important laws are often called scientific principles that are reflected in the form of hypotheses, theories, concepts and so on.

Principle are the product and result of human activity, they satisfied its interests. The principles are social phenomena both in the context of the source of its origin, and of its content. Its appearance is conditioned by the needs of social development and so they reflect the patterns of social life.

At the heart of every legal principle is a certain idea. Originally the principle is the idea that arises sporadically like individuals' dreams or like a light shade or other forms of spirituality; slowly such an idea embodied in social practices, gradually assuming the recognition and demanding the reforms of the existing order. The general idea is the driving force that keeps society from one state to another. The principle becomes an important part of social culture, embodies in the system of the requirements (imperatives) and eventually (in combination with other ideas) changes the face of civilization.

As a rule, the legal principles become the subject of the research in legal science. The genesis of its origin can be traced through the prism of the starting ideas underlying the civilization of a certain cultural-historical type. With the development of society some ideas overgrow themselves and others just disappear. The fundamental ideas, expressing the common and fundamental laws of social life, producing by society consciously or spontaneously in the process of everyday, normal life and further provided for by the state (on the basis of the needs, state providing such ideas as the statutory and formal principles), give the opportunity to establish such a procedure for existing system of social relations that mostly contribute to its strengthening and development. Including different requirements, they determine the main directions of state and legal regulation and promote a stable and efficient functioning of the state and society.

L. S. Yavych considers the legal principles as the origins, the starting ideas of its beginning that reflect the most important regularities and foundations of the socio-economic structure. In the mentioned author's opinion, legal principles are synonymous with the essence of law and become its main contents, characterized by versatility, imperativeness and general importance<sup>3</sup>. I. Szabo expresses reasoning that the basic legal principles have seemed to be twofold: on the one hand, they actually reflect really existing features of positive law in the generalized form, on the other hand - they are the requirements inherent in this type of law, in its emergence and enforcement<sup>4</sup>. So, the legal principles are the so-called "connecting-link", "bridge" between the basic framework of development and functioning of society and the legal system, because, thanks to them, the system adapts to the interests and needs of people and society.

The legal principles express the most general regularities of the legal system development; they are its quality characteristics. They are always expressed in the form of general ideas, fundamental origin or requirements presented to the law or to its component. On the one hand, the legal principles reflect objective features of law conditioned by the laws of society and state development, by the entire set of inherent interests, needs, contradictions and compromises of various population groups. On the other hand,

<sup>1</sup> Гарасимів, Т.З. (2002). *Принципи права соціального забезпечення України*: навч. посіб. Дрогобич: Відродження.

<sup>2</sup> Аристотель (1984). *Сочинения*. В 4-х т. Т. 4. Москва: Мысль.

<sup>3</sup> Явич, Л.С. (1978). *Право развитого социалистического общества (сущность и принципы)*. Москва: Юрид. лит.

<sup>4</sup> Сабо, И. (1964). *Социалистическое право*: монография. Москва: Прогресс.

legal principles embodied the subjective perception of "law" by members of society, their moral and legal views.

The legal principles covering all legal matter consist from ideas, norms and relationships. They make such matter consistent and balanced. The evolution of law goes from the ideas to the provisions, then through the implementation of provision - to the social practice. The genesis of principles is possible only at a certain level of legal consciousness.

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With the appearance of scientific thinking it becomes possible to know what lies beyond the outer shell of law, to study the processes that enliven a certain law provisions. The ability to find among the variety of characteristic the main one is the attribute of such thinking. There is generalization of certain characteristics of legal provisions and abstraction from others, separation of significant characteristics from non-essential. Thus, the legal principles (as the products of scientific thinking) are abstractions of reality. They accumulate the features of certain type of law.

The role of legal principles significantly increases during the legal system reforming. Since this period the existing legislation can't respond to changes in social relations quickly and effectively. In this way, legal principles serve as instrument for social relations regulating. They are necessary to fill and overcome the existing legislation gaps and serve as a guide for the new legislation formation and radical updating of the existing one. These processes mostly occur in social and labor field. The changing processes carried out so rapidly and on such scale that it leads to the transformation of all labor field. Therefore, it's necessary to understand the nature of these processes much better and to create conditions for an effective response on them. The ILO's Director-General G. Ryder in the report "The future of work centenary initiative"<sup>1</sup>, declared at the 104th Session of the International Labor Conference in June 2015, insists on separating of several stages of the process. The first stage should begin immediately and will be consist of stimulating of the widest possible participation in the reflection on the future of labor field. The second stage should establish a high level commission on the issues of labor field future. It must be instructed to analyze the results of century's dialogues and deploy them through the series of public hearings and other activities aimed at filling in gaps on specific issues. 2019 - the year of centennial anniversary of the ILO - would be the time of the third stage. The Conference should be guided mainly by the need to ensure the main goal achieving, that is to develop specific recommendations on the future perspective activities of the ILO.

Legal principles characterized by features that inherent to the law as to the social relations regulator (normalization, objective conditionality, external forms of law fixation, security), and by its own signs of legal principles that reflect their specificity as a special legal category (its origin, concentration, a high degree of abstraction, internal unity, stability, primacy of them in respect to the law provisions, reverse action in time)<sup>2</sup>.

The legal principles operate as a system characterized by the following features:

- a) Its components are in unified holistic system state (internal subsystems - system of common, inter-branch and branch legal principles, legal principles of sub-branch and institutions of law);
- b) It forms a unity due to the structural regularity of its components (subsystems), that determines its functional relationship and interaction; presents a single, harmonious "ensemble", that provides a subordination, hierarchy and synchronization in the activity of such system;
- c) It has its own features that cannot be reduced to the sum of the properties of its components;
- d) It associated with the environment, feels its influence and react to it;
- d) It has a relative constancy, but the different changes are possible in the features of its components and its connections;
- e) Relative autonomy of functioning<sup>3</sup>.

<sup>1</sup> Доклад Генерального директора МОТ (104-я сессия, 2015 г.). *Инициатива столетия, касающаяся будущего сферы труда*. Женева: Международным бюро труда.

<sup>2</sup> Фулей, Т.І. (2003). *Сучасні загальнолюдські принципи права та проблеми їх впровадження в Україні*: дис. ... канд. юрид. наук: спец. 12.00.01. Львів: Львівський нац. ун-т ім. Івана Франка.

<sup>3</sup> Захаров, А.Л. (2003). *Межотраслевые принципы права*: автореф. дис. ... канд. юрид. наук: спец. 12.00.01. Казань: Казанский гос. ун-т.

The principles of labor law are generally accepted fundamental guidelines, starting ideas objectively caused by nature and content of social and labor relations, enshrined in relevant sources or expressed in a stable legal practice. They are an axiological basis of labor law, describes the content, nature and purpose of this law field in the society, reflects the general patterns of its emergence, development and operation, and serves for the creation of internally coherent and effective system of legal provisions in labor field.

In its nature, principles of labor law belong to the main ideas in the area of social and labor field. A. Whitehead said that originally the principle is the idea arises sporadically like individuals' dreams or like a light shade or other forms of spirituality; slowly such an idea embodied in social practices, gradually assuming the recognition and demanding the reforms of the existing order. The general idea is the driving force that keeps society from one state to another. The principle becomes an important part of social culture, embodies in the system of the requirements (imperatives) and eventually (in combination with other ideas) changes the face of civilization<sup>1</sup>. These ideas reflect common personal values (life, honor, dignity, individual freedom, social security, etc.) and public values (democracy, rule of law, law and order, etc.). These ideas are fundamental to the labor law, they express its essence and in concentrated form describing its contents. The principles of labor law are its heart. On the basis of such principles we can estimate not only the labor law in general, its essence, but also trends of its further development.

The role of labor law principles cannot be reduced to one, even very broad, plane, their value is multilevel, complex, because this legal construction is:

- a) The basis for uniting the diverse legal provision into single field of law regulating labor and related relations;
- b) The key to the unity and stability of this law field and its provisions;
- c) Determine common patterns and major trends in labor law and its components development;
- d) The basis for comparison of domestic labor law in different times of development and labor law of foreign countries;
- e) The basis for labor legislation;
- f) Contributes to the implementation of legal provisions by subjects of labor law;
- j) Serves to fill the gaps in labor legislation.

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