



# Labour Relations and the Information Security of the State during the Covid-19 Pandemics

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## ABSTRACT:

The technological changes directly influence human values, way of life, communication, education, new digital competencies, economic productivity, social rights, privacy, access to information, and more. Understanding and describing these effects is key for understanding the new digital social reality and determining possibilities, challenges, and threats of the fourth industrial revolution. The prerequisites of this study are the objective monitoring of the state of social and labour relations in Ukraine and other countries, the analysis of urgent issues of alternative employment, the global crisis and crisis of the human rights mechanism of social and labour relations, changes in the legal status and powers of trade union organizations. These institutions are intended to protect the interests of employees, to facilitate the 'individualization' of labour relations, and new forms to protect employees' rights and interests.

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## Introduction

Ukraine, like most countries in the world, has faced the problem of “resetting” social and labour relations. Transformations concern several questions: the emergence of new professions against the backdrop of the disappearance of others, the development of “atypical employment,” the total need for “work at home,” “additional” control while performing work functions, the formation of new boundaries of personal privacy, part-time work, increasing the retirement age, the constant need for retraining. And it is not the whole list of new challenges that arise in the field of social and labour relations.

According to the authors of this article, along with the window of new opportunities, there are also risks of forming and developing a scenario of total control. The use of modern technologies, from the power of quantum computers to the control of human emotions, the need to overcome the consequences of the global crisis, new forms of labour processes management can create the prerequisites for the formation of “impersonal,” “digitized,” “blurred” collective human mind. Also, this is one of the significant challenges of nowadays. Only a responsible citizen, who understands the value of the challenges, can give a proper assessment of the public relations and actions of authorities, and solve complex social problems with the help of social dialogue.

## Methods

The scientific project maintains the position of methodological pluralism in jurisprudence, that is, recognizes the possibility of using different methods that will help to find a common denominator, the presence of which can ensure the progress of scientific knowledge by absorbing their strengths. Based on the axiological and information approach proposed, the authors provide for the use of some of scientific methods.

Among the special legal methods, the historical and legal, formal legal (to identify gaps and conflicts of legal regulation) methods, the method of comparative law (to clarify the general and distinctive features of social and labour relations of Ukraine and other countries), amongst others, will be applied. The method of the overall interpretation of the law will enable to reveal structural, hierarchical, and functional relations in the system of relations of legal rules and to carry out the system interpretation of acts in the sphere of social and labour activity.

## Basic Material

The famous Israeli historian Yuval Noah Harari at the World Economic Forum in Davos noted that in the third millennium of the 21st century, humanity was confronted with many problems and issues that threaten the survival of the human species. It is nuclear war, environmental collapse, and technological breakthrough. According to Yuval Noah Harari, nuclear war and environmental collapse are the threats we are already informed about, but the technological breakthrough needs to be explained, as it is also capable of misbalancing human

society and changing the meaning of human life in various ways – from the creation of world-class consumption to the emergence of colonialism and the emergence of data colonialism. dictatorships. In any case, technological change has a direct impact on human values, habitual lifestyle, communication, education, new digital competencies, economic productivity, digital capitalism, social rights, privacy issues and access to information, etc. Understanding and characterizing these issues is the key to understand new digital social reality and identify the opportunities, challenges, and threats of the fourth industrial revolution.

Let us note that the term “The Fourth Industrial Revolution” denotes a concept that reflects the development and merger of automated production, data sharing, and production technology into a single self-regulating system, with little or no human intervention in the production process. The term was defined as a “collective concept for value chain technology and concepts” using cyber-physical systems, the Internet of things, the Internet of services, and smart factories. The phase of the industrial revolution is characterized by the fusion of technologies that blur the boundaries between the physical, digital, and biological spheres. Industry 4.0 will allow you to collect and analyse data from different machines, providing faster, more efficient, and more flexible processes for producing higher-quality goods at reduced prices. It has also led to the emergence of brand-new business models that will promote radically new ways of interacting in the value chain.<sup>1</sup>

The first industrial revolution led to the transition from manual to mechanized production through the use of a steam engine, the second industrial revolution led to the transition to mass production, through the use of electric motor and conveyor, the third industrial revolution led to the transition to automated production through the use of computers and information technology. The term “Industry 4.0” first became known in April 2011, when the “Industry 4.0” group at the Hanover Fair launched an initiative to improve the competitiveness of the German economy.<sup>2</sup> The Fourth Industrial Revolution involves the transformation of labour and social relations changes connected with using new technologies.

The consequences of the pandemic on the Covid-19 virus are no less of a challenge for the future social and labour relations in Ukraine and the world. Discussion is now underway as to the possible effective overcoming of the effects of coronavirus in the field of social and labour relations.

New predictions and expectations are emerging, which in most cases signal to society that irreversible changes are first and foremost, from extremely restrictive to optimistic and humanistic. According to trend expert Lee Edelcourt, “Breaking is inevitable ..., a global-scale coronavirus pandemic will force people to restore humanist values.”<sup>3</sup> A positive consequence of the catastrophe of a planetary scale (coronavirus), according to Edelcourt, will be the creation of a new system of labour relations and greater respect for everyone’s work, the emergence of more comfortable conditions of production. The introduction of

quarantine will encourage employers to find new formats of events, as well as innovative ways of transmitting information.<sup>3</sup>

In any case, an altered social reality already includes several factors and circumstances that affect social equilibrium and stability. The prerequisites of this study are the objective monitoring of the state of social and labour relations in Ukraine and other countries of the world, the analysis of urgent issues of alternative employment, the global crisis and crisis of the human rights mechanism of social and labour relations, changes in the legal status and powers of trade union organizations. These institutions are intended to protect the interests of employees, develop the “individualization” of labour relations and new forms, to protect employees’ rights and interests.

Ukraine, like most countries in the world, has faced the problem of “resetting” social and labour relations. Transformations concern some questions: the emergence of new professions against the backdrop of the disappearance of others, the development of “atypical employment,” the total need for “work at home,” “additional” control while performing work functions, the formation of new boundaries of personal privacy, part-time work, increasing the retirement age, the constant need for retraining. And it is not the whole list of new challenges that arise in the field of social and labour relations.

Conditionally, in our opinion, existing challenges can be divided into several groups, each of which needs attention and scientific analysis.

*The first group of problems, protection of labour rights in modern relations has a global character* and includes features of the development of technological progress, digitalization of society. It is believed that technological progress brings prosperity, freedom, and even immortality to humanity. But with the new world order, there are new challenges and threats. One should not forget the lessons of history, when in 1928 the Weimar government used the phrase “Arbeit macht frei” as a slogan for a major community service program aimed at overcoming unemployment, and was later placed at the entrance of many Nazi concentration camps. Without exaggeration, the development of social and labour relations, as well as many other spheres of human life, requires, above all, a valuable understanding of the prospects and possibilities of the consequences of the technological revolution.

According to many experts, over the next ten to twenty years, about 60 professions will disappear from the list of topical professions, including accountant, legal advisor, notary, journalist, librarian, pharmacist, translator, lending manager, waiter, trainer, courier, and more. Along with this, due to the technological revolution, about 170 new professions will emerge in the atlas of new professions,<sup>4</sup> such as virtual lawyer, IT physician, medical equipment architect, bioethicist, genetic consultant, smart home infrastructure designer, personal security designer, unmanned aviation interface designer, creative state trainer, game master, media, police, and more.

Many changes have already been made to these changes, from individual inventions (invented by waiters, automatic translation programs, etc.) to the “digitization” of society (from virtual money to entire systems of “digitization” of

data, real estate, etc.). For example, Alexander Kud notes that “blockchain” is a multifunctional and multilevel information technology designed to securely store, record, and transmit various information. The potential of using this technology covers all spheres of society and has many applications. Blockchain creates new opportunities for finding, evaluating, and transmitting any discrete units. In essence, it is a new organizational paradigm for coordinating any kind of activity.<sup>5, 12</sup>

There is no doubt that in the event of full implementation of technological changes, the organization of labour also undergoes significant changes. For example, job vacancies can become widespread, which can result in signs of labour collapse and unsupervised social protests. Challenge forecasting can be aimed at mitigating negative effects, creating lifelong learning institutions, retraining, psychological, social, and labour adaptation to changing labour markets.

The implementation of labour in many cases is associated with the need to use technology in production, high labour intensification, excessive demands on workers. The issue of privacy is often raised due to video surveillance. The impact and effects of this process on the human condition have not been fully explored. Modern science is not often limited to general conclusions, studies only some cases of the impact of technological progress on humans. In our opinion, not only the issue of the impact of technological change on the method and content of legal regulation of labour relations is important, but also question of the sufficiency of the mechanisms of protection of labour rights in the conditions of technological change.

Environmental disasters of man-made phenomena, pandemics, etc. are also a global challenge. The latest example that has shaken the world is the Covid-19 pandemic.

A letter<sup>6</sup> was recently published on behalf of the International Chamber of Commerce (ICC) representing more than 445 million companies, enterprises, and the International Trade Union Confederation (UPC), representing workers from around the world to Heads of State and Government of the Group of 20. The appeal to world leaders emphasizes the fight against the Covid-19 pandemic and the halt in the growing humanitarian and economic impact of the coming crisis, which by its very nature has no borders. The appeal emphasizes not only the need for integration and solidarity in terms of providing the goods of the required group (medicines, food, and other vital goods) but also the intensification of support for small and medium-sized businesses and employees. It is noted that the impact of Covid-19 will be grave on the micro, small, and medium-sized enterprises that are the backbone of the global economy. In many countries, this is more than 80 % of employed. There is a need to take urgent measures to protect and encourage micro, small and medium-sized enterprises, to support the income of injured workers, including in the informal sector, and to prevent the sharp rise of unemployment. There is a need to expand the social protection program for workers who have lost their jobs because of quarantine.

It becomes obvious, that mankind has met with one of the obstacles that can be repeated. That forces authorities to focus on preventative measures and / or respond promptly to the negative consequences of a particular problem. In the end, the positive effect depends on the coherence of the actions of public services and the public perception of necessary rules.

One of the successful examples of the fight against this pandemic is Singapore. That became possible because of the careful and prompt action of the authorities, through which it was possible to form a system of detection of the infection chain. It is about prompt tracking of cases of infection and rapid deployment of diagnostic systems. In particular, in February a decision was made to oblige anyone who enters government or corporate premises to leave their contact information. This greatly accelerated the work of medical “detectives.”<sup>7</sup>

The second component of Singapore’s success is the rapid development and deployment of diagnostic tests. This allowed checking every person who came to the country and identifying the patients promptly for three hours quarantine. The above examples demonstrate not only the quality of medicine but these issues are directly linked to three pressing issues: 1) institutional capacity, such as the quality of crisis management, government action, the ability to mobilize the necessary material and human resources promptly to solve pressing problems; 2) economic capacity. Considering the problem of the economic impact of a pandemic, *it is important to provide the necessary minimum for a certain period, which is enough for self-recovery* for workers, their families, and support for small and medium-sized businesses. The state should focus on helping workers get paid sick leave and keep jobs. In this context, social dialogue plays an important role without exaggeration, because of which a reasonable proportion of general and personal interest is formed. 3) *willingness to apply a system of restrictive measures*. The result of the fight against the Covid-19 coronavirus has shown a greater ability of the People’s Republic of China to deal with a pandemic. However, the effectiveness of the authorities’ prompt action is not infrequently linked to the imposition of additional restrictions on social rights and freedoms, which, in the face of danger, seem justified. But can restrictive actions be effective in the short term?

To stop the pandemic, the authorities use modern technologies that limit personal freedoms. “For today, for the first time in history, technology allows it, and some governments (the most notable example is China) have already taken the following measures: using ubiquitous sensors and powerful algorithms, they monitor the temperature and condition of potentially infected people, their moving and contacts. Mobile apps alert healthy people to the virus carrier approaching them. And this is not only the case in East Asian countries. Israeli Prime Minister Benjamin Netanyahu has recently allowed Israeli intelligence to track patients with coronavirus using surveillance technology commonly used in the fight against terrorism.”<sup>8</sup>

It is too early to conclude and summarize the effects of the global crisis and how individual countries respond to it. But today, new restrictions on the rights and freedoms of citizens are becoming apparent and real. Imagine that the case

of a pandemic outbreak, self-isolation, border closure, restriction of liberties is not alone and threatens humanity with recurrence. Does this mean that the ratio of major liberal values is changing?

*The second group of problems is related to the institutional crisis of labour rights protection.* Given the above, we need to talk about the general crisis of the development of social and labour relations, to look for new ideas of legal regulation of social and labour relations, among which the topic of protection of the latter occupies one of the key positions. If the situation does not change soon, the human rights mechanism will not be able, as before, to rely on the assumption that the trade union is the main (or only) body of workers who protects the social sphere and labour relations professionally. The relevance of the research topic was confirmed by the discussion platform of the Association of Labour and Employment Association (LERA) conference, held in June 2019,<sup>9</sup> and focused on issues of trust in trade union organizations, reducing the number of trade union members, developing forms of legal protection for social and labour relations. Against this background, much attention is paid to widespread scholarly discussions of leading scholars of the world, as outlined in such publications as *Comparative Labour Law*, edited by Matthew W. Finkin (University of Illinois, USA).<sup>10</sup>

The natural question arises as to the effectiveness of existing and alternative mechanisms for the protection of workers' rights. The curve of the diminishing role of trade unions in the previous period of development of social and labour relations may have a different perspective on new societal challenges. Trade unions have needed social experience and potential to form and develop social dialogue, which is crucial in a crisis. After all, the balance of public interests is of particular importance during the global crisis.

*The third group of problems related to national peculiarities of formation and development of social and labour relations.*

In Ukraine, the number of unemployed registered with the State Employment Service as of October 2020 amounted to 517.7 thousand people; as of May 25, 2020, there were 501 thousand people,<sup>11</sup> which is 64 % more than on the corresponding date last year. Every day, the State Employment Service registers 5,000-7,000 unemployed people across the country. However, the growth rate of post-quarantine unemployment has not yet been officially determined. Although this figure indicates an increase in the number of unemployed compared to 2019, it is not dramatic. However, the hidden unemployment, which according to the Centre for Economic Strategy<sup>12</sup> at quarantine peak was 17 % of the labour force, is worrying: is the employment of these people has been reduced, or have they been sent on unpaid leave. This is about 3.1 million people. According to the State Statistics Service, according to CES calculations, only about 368,000 Ukrainians (2 % of the labour force) lost their jobs. At the same time, these figures do not coincide with the data of the Centre for Economic Strategy. According to the research, about 2.8 million people lost their jobs due to quarantine.<sup>13</sup> Thus, if the second wave of coronavirus occurs it will cause irreparable damage to the labour market.

However, as the columnist of the online edition of “Business Capital” O. Kushch<sup>14</sup> emphasizes, “the current quarantine model has led to a state of crisis and the shadow economy, even stronger than the official one. At the same time, the instruments of state support are quite limited: it is almost impossible to subsidize “shadow” employers using budget funds to save their jobs.” Besides, he emphasizes that during previous economic shocks in Ukraine, “the shadow employment sector usually experienced a crisis on its own. Moreover, it was a kind of buffer to relieve excess fiscal and regulatory pressure in the economy, picking up waves of layoffs in the official sector.”<sup>15</sup>

Of course, against the background of the lack of a uniform standard of employment for all countries, each country chooses its path of evolution of labour relations. Guided only by a beacon of general rules - the European Social Charter (Updated), the Conventions, the ILO Recommendations, each country freely implements its platform for the development of social and labour relations.

One example that deserves attention is the proportionality of general and personal interest in regulating working time. Interesting in Sweden’s experience in reducing working hours to 6 hours a day, for the benefit of family interests. The question arises. How can the issue of working time (the need for its flexibility) be compared to the needs of family life? The right is intended to regulate social relations, to respond adequately to human needs. The last case of forced self-isolation demonstrated the public’s unwillingness to address the problems of family life and work. After switching quarantines to schools and kindergartens, workers who do not have the opportunity to work remotely are left alone with problems of family life, relationships with children, and more. In the face of global challenges, society must demonstrate readiness for social dialogue and consensus. Instead, opposite situations occur.

The Government of Ukraine has announced the reform of social and labour relations recently. The proposed changes have met with strong public resistance and for reason. For example, to reform social and labour relations, draft laws were drafted “On Labour,” “On Amendments to Certain Legislative Acts of Ukraine (Concerning Some Issues of Activity of Trade Unions),” “On Amendments to the Labour Code of Ukraine on Additional grounds for dismissal” which, according to many experts,<sup>16</sup> contradict the norms of the International Labour Organization, the Constitution of Ukraine, and the applicable legal acts.

We should add that repeated attempts in Ukraine to reform the legal regulation of labour relations have failed. Besides, there are new challenges related to the gradual dismantling of a system based on the obligation to conclude an employment contract. Atypical employment in Ukraine has already taken on a real shape but has not been regulated legally and sufficiently yet. Therefore, one of the urgent problems is the recognition and legalization in Ukraine of “flexible” forms of employment. It should be noted that the Ukrainian labour market, like the European labour markets, is primarily faced with the problem of combining greater flexibility with the need to maximize security for all. The desire for flexibility in the labour market has led to an increase in the variety of

contractual forms of employment that may differ significantly from the standard contractual model in terms of employment and income security and the relative stability of their associated working and living conditions.

Another attempt to reform social and labour relations in Ukraine ended with the defeat of the government. In our opinion, the reform of social and labour relations should be preceded by a broad discussion of the participants in these relations, followed by the adoption of the logic of proposed changes. Therefore, in reforming existing social relations, an important factor in stabilizing the latter is a social dialogue between the authorities, representatives of employers, trade unions, and other participants in social relations.

Social dialogue helps set problems of legal regulation on time<sup>16</sup> and, subsequently, to ensure information security in the country, work out ways to solve them. A similar example of social dialogue is the technical cooperation project “Inclusive market for job creation in Ukraine,” presented at the ILO Webinar “Labour Dispute Resolution System – the current state and opportunities for improvement,” which took place on 24 November 2020. At the webinar, an expert Nadiya Zarko presented the results of the study in her report “Assessment of the functioning of the system of out-of-court settlement of individual and collective disputes.” Thus, according to representatives of employees and employers, specialists of institutions authorized to assist in resolving labour disputes (100 % of respondents), the current legal and regulatory framework only partially meets the needs and interests of the parties to effectively resolve individual and collective labour disputes. In general, it is worth noting that the vast majority of respondents, both representatives of the parties to the dispute – trade unions (100 %) and employers (85.7 %) and NSPP specialists (81.3 %) consider the procedure for collective labour disputes defined by the law “On the procedure for resolving collective labour disputes (conflicts)” not entirely perfect, and such as needing change.

Another case is a discussion within the framework of the ILO Technical Cooperation Project “Inclusive Labour Market for Job Creation” held at the national round table “Towards Effective, Influential and Inclusive Social Dialogue in Ukraine,” organized by the ILO in conjunction with the Verkhovna Rada of Ukraine Committee on Social Policy and Veterans’ Rights. More than 70 people took part in this event: People’s Deputies of Ukraine, representatives of the government, organizations of employers and trade unions, civil society, scientific institutions, independent consultants, experts. Thus, during the discussion the participants of the round table noted the reasons for the inefficiency of the current national model of social dialogue:

- reduction of political support for the functioning of social dialogue bodies and other mechanisms aimed at achieving coordination of ways of overcoming problems in the sphere of economy and social policy, as well as the passivity of social partners in the desire to achieve the effectiveness of social dialogue;

- unawareness of newly appointed heads of central and local executive bodies in matters of organization and conducting of social dialogue, place, and role of authorities in interaction with social partners;
- social partners unilaterally interact with the authorities to defend their interests, but do not seek to reach an agreement by modifying their interests to identify and realize the common interests of the parties;
- inconsistency of structure of organizations of employees and employers with the structure of the economy and territorial structure: a significant percentage of small and micro enterprises not covered by membership in these organizations; the lowest statutory status of organizations is local, which does not include membership in United Territorial Communities (ATGs). At the same time, 68% of the survey respondents believe that the lowest territorial level of social dialogue is the CAG;
- lack of responsiveness to the challenges of time, insignificant impact of decisions taken in the framework of social dialogue at national level on employment policy on social, economic, and budgetary policies;
- ignoring the views of employees' and employers' representatives when making decisions on regulating social and labour relations (this was especially emphasized in the process of drafting a new labour code);
- limited access of "non-representative" trade unions and employers' organizations to participate in the formation and adoption of agreed decisions on issues that are the subject of social dialogue;
- inconsistency of coverage of enterprises of certain types of economic activity by sectoral organizations of social partners, which greatly limits the scope of sectoral agreements after their conclusion.

## Conclusions

Identification and analysis of acute problems of social and labour relations create preconditions for their development and positive dynamics. Instead, avoiding dialogue produces social conflict, exacerbates social confrontation, and threatens social stability.

Summarizing the above, it should be noted that the global economic crisis is bringing humanity both – obstacles and opportunities. The effect of the global crisis is exacerbated by the peculiarities, weaknesses of national economies, combined with unfavourable conditions for the development of social and labour relations. The above is compounded by the institutional crisis of protecting the interests of employees. According to many experts, the union protection institute associated with other institutions protecting the rights of participants in social and labour relations is also in crisis.

In any case, anthropological changes of a revolutionary nature, new possibilities of regulation of labour relations, expansion of remote possibilities of performance of work, the formation of new social bonds with the help of modern technologies await us.

Along with new opportunities, there are also risks of forming and developing a scenario of total control. After all, the use of modern technologies, from the possibilities of using quantum computers to controlling human emotions, the need to overcome the effects of global crisis, new forms of management of labour processes can create the preconditions for the formation of an impersonal, digitized blurred collective human mind. And this is one of the significant challenges of today. Only a responsible citizen, who understands the value of challenges and can adequately respond to modern problems, can give a proper assessment of the public relations and actions of authorities, and solve complex social problems due to social dialogue.

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