ни за кримінальним правом України : монографія. Харків : Право, 2018. 328 с.

11. Хавронюк М.І. Кримінальне законодавство України та інших держав континентальної Європи: порівняльний аналіз, проблеми гармонізації. Київ : Юрисконсульт, 2006. 1048 с.

12. Яценко С.С. Основні питання загальної частини кримінального права іноземних держав : навч. посіб. Київ : Дакор, 2013. 168 с.

13. Римський статут міжнародного кримінального суду. URL : http://zakon1.rada.gov.ua/laws/show/995_588.

14. Пенитенциарный кодекс Эстонии. *Правовые акты Эстонии*. 2005. № 17. С. 1107–1220.

15. Уголовный кодекс Латвийской Республики / науч. ред. и вступ. статья А.И. Лукашова и Э.А. Саркисовой ; пер. с латв. А.И. Лукашова. Санкт-Петербург : Юрид. центр Пресс, 2001. 313 с.

16. Уголовный кодекс Республики Таджикистан / предисл. А.В. Федорова. Санкт-Петербург : Юрид. центр Пресс, 2001. 410 с.

17. Уголовный кодекс Республики Молдова. URL : http://lex.justice.md/viewdoc.php?action=view&view=doc&id=331268&lang=2.

18. Уголовный кодекс Литовской республики / пер. с лит. Санкт-Петербург : Юрид. центр Пресс, 2003. 470 с.

19. Уголовный кодекс Китайской Народной Республики / науч. ред. А.И. Коробеева. Санкт-Петербург : Юрид. центр Пресс, 2001. 303 с.

20. Уголовный кодекс Швеции. Санкт-Петербург : Юрид. центр Пресс, 2001. 320 с.

ИНФОРМАЦИЯ ОБ АВТОРЕ

Бадюков Юрий Вячеславович – соискатель кафедры уголовного права и криминологии Харьковского национального университета внутренних дел

INFORMATION ABOUT THE AUTHOR

Badyukov Yuriy Vyacheslavovich – Applicant at the Department of Criminal Law and Criminology of Kharkiv National University of Internal Affairs

ubadukov@gmail.com

УДК 341.64:061.1ЄС]:[349.2+349.3]:[334.722:364.2]

EUROPEAN COURT DECISIONS AND ECSR DIRECTIVES IN ASPECTS OF DIFFERENT INDIVIDUAL SOCIAL RIGHTS AND COMMUNICATION WITH SOCIAL ENTREPRENEURS IN HUMAN RIGHTS SPHERE

Inna BERDNIK,
PhD in Law, Associate Professor, Professor of Criminal Law and Justice Departmen of Chernihiv National University of Technology

Yaroslav KONOPLYA,
Master student of Criminal Law and Justice Department of Law Faculty of Chernihiv National University of Technology, Research Fellow Fil. Dr. Jan-U. Sandal Institute

SUMMARY

The article describes some of the individual social rights enjoyed by residents of the countries of the European Union. In addition, certain regulatory documents that regulate the issues of support for individual social rights and their protection in the courts of the European Union are analysed, as well as communication with social entrepreneurs in human rights sphere.

Key words: individual social rights, European Union Court, the EU, European Committee of Social Rights, Freedom of movement of workers, Protection against dismissal, right of an employee to be informed and advised on the content of an employment contract and working conditions, right to equality, right to labour protection, social entrepreneurs, human rights.

РЕШЕНИЯ СУДА ЕС И ДИРЕКТИВЫ ЕКСП В СФЕРЕ ИНДИВИДУАЛЬНЫХ СОЦИАЛЬНЫХ ПРАВ, А ТАКЖЕ ИХ СВЯЗЬ С СОЦИАЛЬНЫМ ПРЕДПРИНИМАТЕЛЬСТВОМ В СФЕРЕ ПРАВ ЧЕЛОВЕКА

Инна БЕРДНИК,
кандидат юридических наук, доцент,
профессор кафедры уголовного права и правосудия
Черниговского национального технологического университета

Ярослав КОНОПЛЯ,
магистрант кафедры уголовного права и правосудия
юридического факультета
Черниговского национального технологического университета,
стипендиат научной программы
Института доктора философии Яна-Урбана Сандала

АННОТАЦИЯ

В статье описаны некоторые индивидуальные социальные права, которыми пользуются жители стран Европейского союза. Кроме этого, определенные нормативные документы, которыми регулируются проблемные вопросы поддержки индивидуальных социальных прав, их защиты в судах Европейского союза и связь с социальным предпринимательством в сфере прав человека.

Ключевые слова: индивидуальные социальные права, Суд Европейского союза, ЕС, Европейский комитет по социальным правам, Свобода передвижения работников, защита от увольнения, право работника на информирование и консультирование о содержании трудового договора и условиях работы, право на равенство, право на охрану труда, социальное предпринимательство, права человека.

Problem statement. The gradual development of integration processes, the achievement of goals and objectives proclaimed in the constituent treaties of the EU would be impossible without the creation and functioning of a common EU market. The basis of the common, and later the internal market of the EU, is four freedoms: the freedom of movement of goods; the freedom of movement of persons (including freedom of institution); the freedom of service; the freedom of capital movement.

The cooperation of the EU member states in building the space for the free movement of goods, persons, services and capital without internal borders is the result of a difficult process, initiated not only by socio-economic, but also by political reasons.

The urgency of the article. Every day, person use individual social rights and the problem of violation of these rights also arises every day. It is precisely the protection of violated individual human rights that is the pressing issue that, today, is increasingly being raised in the courts of the European Union.

Analysis of research and publications. Leon Dugi, in his work "Social Law, Individual Law, Transformation of the State" wrote that all individuals must comply with social norms. The social norm is based on the fact of social solidarity, which unites members of the family and, in particular, members of one social group.

German lawyer Girke divided the entire system of law into two parts: individual and social law. Human rights in general and social and humanitarian rights, in particular, are the subject of scientific research of many domestic and foreign scientists, devoted to the study of the theory of state and law, international law, the law of the European Union, legal regime as a criterion for dividing law into branches, principles of law etc.

Jan-Urban Sandal is a well established business and economic development researcher and an international expert on innovation and social entrepreneurship. Norwegian Professor collaborates with researchers and practitioners in Norway and across the world. He introduced social entrepreneurship as a scientific field to the Nordic countries in 2003. Jan-Urban Sandal is the founder and chair of Summit in Social Entrepreneurship. He described social entrepreneurship, defining the main goals and objectives [1].

The purpose of the article: to analyse the directives and regulations governing individual social rights in the countries of the European Union and to give examples from the judicial practice of the court of the European Union to resolve controversial issues in the field of individual social rights. Identify ways to protect human rights by social entrepreneurs.

Essential material. Article 3 of the Treaty of Rome, according to which the European Economic Community was formed in 1957. The Community's mission is to promote the harmonious development of the economy throughout its territory, constant and equilibrium growth, increased stability, rapid raising of the standard of living and establishment of closer relations between the states united in the Community, through the creation of a common market and the gradual convergence of economic policy of member states.

The EU Treaty states that the Union strives to ensure the sustainable development of Europe on the basis of balanced economic growth and price stability, a competitive social market economy, which seeks full employment and social progress [2].

The provisions on the free movement of workers are enshrined in Article 45 of the Treaty on the Functioning of the EU. In the development of the provisions of the Treaty, the EU institutions have developed and adopted a number of acts of secondary law. The main legal documents regulating the freedom of movement of workers in the EU currently are [3]:

Regulation of the European Parliament and the European Council № 1612/68 on the freedom of workers in the EU [4].

Directive of the European Parliament and the European Council № 2004/38 on the right of EU citizens and members of their families to freely move and reside in the territory of the Member States [5].

Directive of the European Parliament and the European Council № 2005/36 on the recognition of professional qualifications [6].

A special role in the development of the right for the free movement of workers is played by the decisions of the EU Court, the analysis of which will be presented below.

The key role in the development and addition of the notion of "employee" was played by the decisions of the EU Court of Justice, which significantly expanded the provisions of the Regulations.

Thus, the EU Court in its decision in the case of Unger clearly established that the concept of "employee" is defined in accordance with the EU law, and not with the national legislation of the Member States. The interpretation of the concept of "employee" on the basis of national norms and the application of national restrictions is unacceptable. Otherwise, the appearance of various interpretations of this concept in the states of the Union is inevitable, which will impede the full exercise of freedom of movement and the rights arising from it [7].

In the Lori Blum case by the EU Court, it is stated that one of the basic characteristics of labour relations is that a person performs services for another person and under his/her leadership for a certain period of time, in exchange for which he/she receives a reward [8].

In the Steimann case, the EU Court came to the conclusion that labour activity can be carried out without an employment contract and free of charge [9].

In the subsequent decision on the case of Levin, the EU Court added to the content of the right to free movement referring to the fact that when performing work, a person must perform real and effective work, regardless of its duration, full or part-time employment [10].

In the Krzistof Pesla case, the plaintiff was a Polish citizen who, when applying for a job in Germany as an associate lawyer, was required to undergo additional testing under German law. The applicant received a law degree in Poland, as well as a bachelor's and master's degree in German-Polish legal studies at the University of Frankfurt. The plaintiff insisted that, first of all, the knowledge gained in Poland should be taken into account. In the opinion of the EU Court, despite the fact that such qualification is comparable to the level of qualification required in Germany, still, when it comes to the duration and level of training, during the recognition of qualification, priority should not be given to studying the right of the state of origin, because such an approach may lead to the situation when legal positions will be taken by people who are not aware of the law of the host state [11].

In the Eren Vlassopulu case, the EU Court noted the importance of gaining practical experience in recognizing professional qualifications. The plaintiff in the case was a Greek citizen registered with the bar association in Athens, who was rejected the admission to lawyers in Germany, despite the fact that she worked for five years as a consultant in a German law firm and received a doctoral degree in law in Germany. The EU court ruled that the competent authorities of the receiving state are obliged to establish whether the knowledge gained in the receiving state is sufficient to fill in the missing knowledge, and also to determine whether the experience gained both in the state of origin and in the receiving state is sufficient [12].

Summing up the consideration of legal regulation of the freedom of movement of workers, it was the desire of the member states of the integration process to ensure the freedom of movement of workers within the EU internal market that triggered the development of specific legal acts aimed at regulating labour relations and subsequently forming the EU labour law.

The protection of the rights of workers in the event of **unreasonable dismissal** is the subject of the European Council Directive № 98/59 of 1998 on the approximation of the laws of the Member States concerning collective dismissals. This Directive replaces the European Council Directive № 75/129 on collective dismissal [13; 14].

According to the Directive, collective dismissals are dismissals carried out by the employer on one or several grounds and not individually related to specific employees if, in accordance with the choice of the Member State, the number of workplaces established by the Directive is observed within 30 days:

– in organizations with a staff of 20 to 100 employees – 10 workplaces;

– in organizations with a staff of 100 to 300 employees – 10% of the total number of employees;

– in organizations with a staff of more than 300 employees – 30 workplaces.

Within 90 days 20 workplaces can be reduced in the organization, regardless of the number of staff.

The Directive does not apply to cases of collective layoffs held under fixed-term employment contracts or contracts for performing work on solving specific tasks, except in cases of early termination of such contracts by the employer. The directive does not apply to employees of the public sector, members of the crews of ships.

This Directive also establishes the obligation of the employer, in the event of a planned large-scale dismissal, to consult with representatives of labour collectives and notify, no later than a month before their implementation, the national authorities in writing of the proposed collective dismissal measures in order to reduce the possible social consequences of such actions. The EU court in the decision on the case of Irmtraud noted that the employer is obliged to have a special plan of the alleged dismissals and to carry them out after the end of the relevant consultations with the employees and their associations [15].

The economic crisis in Western Europe in the 70's provoked an increase in cases of bankruptcy of enterprises. In addition to reducing production and disrupting economic relations, the bankruptcy of an employer entails unemployment. In order to establish guarantees for workers in 1980, the Council of the European Union adopted Directive № 80/987 on the approximation of the laws of the Member States concerning the protection of workers in the event of employer's bankruptcy. Currently, there is the improved and amended Directive № 2002/74 [16–18].

Wage regulation is not within the competence of the EU. The exceptions are issues of ensuring equal wages for the same work, as well as the protection of the employee's right in the event of the employer's insolvency. In case of bankruptcy, or when the employer does not fulfil the obligation to pay wages to employees due to lack of financial resources, debt repayment is paid from guarantee funds. Guarantee funds must have funds that are independent of employers' funds, which transfer funds there. Member States are taking the necessary measures to establish a wage insurance system at the expense of the guarantee fund [19].

Protecting the interests of employees in the event of a change of ownership of an enterprise is governed by the European Council Directive № 2001/23 of 2001 on the approximation of the laws of the Member States regarding the protection of workers' rights in the event of transfer of an enterprise, business or part of an enterprise or business, replacing Directive № 77/187 [20; 21].

The directive established that the transfer of an enterprise, business or part of an enterprise or business is not a basis for the dismissal of employees by the right holder or assignee. This provision does not affect layoffs that may occur for economic, technical or organizational reasons, caused by a change in labour requirements.

From the decisions of the EU Court of Justice on the Berg and Stihing cases it follows that a contract can serve as the basis for the reorganization of enterprises. According to the provisions of the Directive, the reorganization of the enterprise does not entail the termination of the employment relationship or changes in its content, which was confirmed in the Watson decision. The place of the former employer is occupied by a new person who, after the division or merger of the enterprise, receives the funds necessary for the activity. The above mentioned means that the reorganization itself cannot be the basis for the termination of the employment contract by either the previous or the new employer. If, as a result of the reorganization, the employment contract is terminated due to a change in its conditions to the worse for the employee, it is considered that the employment contract is terminated at the initiative of the employer [22–24].

The right of the employee to be informed and advised about content of the employment contract and working conditions. The European Council Directive № 91/533 of 1991 on the obligation of the employer to inform the employee about the conditions provided for in the employment contract, in accordance with which the employer is obliged to inform the employee in writing about the content and terms of the employment contract, namely: place of work, job title and the duties of the employee, the duration of the leave, the period of notice and the reasons for the termination of the employment contract, the salary [25].

The directive sets the maximum working time per week to 48 hours. The employee must be provided with at least 11 hours of rest per day, once

a week in a row a 24 hours break in work. The minimum duration of annual paid leave should be four weeks. Payment of monetary compensation for unused vacation is carried out in case of termination of the employment contract.

The duration of work at night should not exceed an average of 8 hours per 24 hours. Night time is understood as a period of at least seven hours, as defined by national law, which includes a period of time from midnight until five o'clock in the morning.

The EU institutions have adopted a set of directives regulating the situation of atypical or temporary employed workers:

– The European Council Directive № 91/383 of June 25, 1991 on improving occupational safety and health of workers employed on the basis of fixed-term labour contracts or temporary labour agreements [26].

– The European Council Directive № 97/81 of 15 December 1997 on a framework agreement on part-time work, concluded between the Union of Industrialists and the Confederation of Entrepreneurs, the European Center for Public Participation and the European Trade Union Confederation [27].

– The European Council Directive № 99/70 of 28 June 1999 on a framework agreement for work under fixed-term labour contracts concluded between the Union of Industrialists and the Confederation of Entrepreneurs, the European Center for Public Association and the European Trade Union Confederation [28].

– Directive of the European Parliament and of the European Council № 96/71 of December 16, 1996 on the conditions of secondment of workers for the provision of services [29].

– Directive of the European Parliament and of the European Council № 2008/104 on the temporary labour agencies [30].

A very significant block of regulations is devoted to issues of the **right to equality** in the labour field.

Article 119 of the Rome Treaty of 1957 obligated the EU states to guarantee and respect the principle that men and women should receive equal pay for the same work [31].

The inclusion of this principle in the Treaty establishing the European Economic Community pursued two objectives.

First, it was necessary to put all states in equal conditions in this matter. In the labour legislation of France in the 1960s, for example, issues of equal pay for women and men for equal work were already regulated, and this principle was not yet enshrined in the laws of other member states.

Secondly, the inclusion of the principle under consideration in the memorandum of association was aimed at promoting the improvement of the living and working conditions of citizens living in the territory of the European Community.

The transformation of ensuring equal pay for men and women for the same work into national legislation was carried forward with difficulty. In 1972, the European Council adopted the Social Action Program, which emphasized the need for the early application in the practice of the EU states of the principle of equal rights of men and women in labour rights, including the right to equal pay [32].

A significant decision on the application of Article 119 of the EEC Treaty was made by the EU Court in the case of Defrenn. In this case, the stated article was interpreted by the Court as having two opposite objectives, economic and social. The court ruled that, in view of the different levels of development of social legislation in member states, the task of Article 119 of the Treaty and other acts governing the social and labour sphere is to prevent the spread of social dumping – a situation in which organizations and enterprises established in the EU states, applying the principle of equal pay and other measures, that are aimed at protecting the rights of workers, have certain competitive costs (within the EU) compared to those organizations and enterprises that are also establish in member states, but where there is no well-developed legislation in the field of protecting the rights of workers in terms of equal pay [33].

Currently, the following acts of secondary EU law regulate the equal treatment of men and women:

– Directive of the European Parliament and of the European Council № 2006/54 on the application of the principle of equal opportunities and equal treatment in the labour sphere [34].

– The European Council Directive № 2000/43 on the application of the principle of equal treatment regardless of racial or ethnic origin [35].

– The European Council Directive № 2000/78, establishing a general framework for equal treatment in the field of occupation and employment [36].

– Directive of the European Parliament and of the European Council № 2010/41 on the application of the principle of equal treatment between men and women who are representatives of free professions [37].

These directives are aimed at combating direct and indirect discrimination in the labour sphere. Direct discrimination occurs when a person is put in a worse situation than another person in a similar position. Indirect discrimination refers to a norm, criterion or practice, the use of which later may lead to an unfavourable situation for persons in the labour sphere. For example, in the Jenkins case, the EU Court recognized that lowering the hourly rate for part-time cashiers constitutes indirect discrimination, because this is at the expense of women's interests. This state of affairs can be justified only under the condition that the differentiation of wages is the result of objectively justified reasons and not related to the gender identity [38].

Article 157 of the Treaty on the Functioning of the EU constitutes the legal basis for the **EU's work on labour protection and ensuring a safe working environment**. The Union supports and complements the actions of member states in improving the working environment in the interests of the safety and security of workers. To this end, the European Parliament and the European Council may adopt directives establishing minimum requirements.

The basic principles for the protection of the health and safety of workers are defined in the European Council Directive № 89/391 on the introduction of measures to improve the safety and health of workers in the workplace. The framework character consists in the fact that on the basis of this Directive, 19 acts were adopted that ensure the protection of workers' labour in various circumstances [39]:

– The European Council Directive № 89/654 on the establishment of minimum requirements for the safety and hygiene of workplaces [40].

– The European Council Directive № 86/188 on the protection of workers from excessive noise [41].

– The European Council Directive № 89/655 on minimum requirements for safety and health when an employee uses equipment at work [42].

– The European Council Directive № 89/656 on minimum safety and health requirements related to the use of personal protective equipment by workers [43].

– The European Council Directive № 90/269 on minimum requirements for occupational safety and health near monitors [44].

– The European Council Directive № 92/85 on measures to improve the safety and health of pregnant, newly born and nursing women.

– Directive of the European Parliament and the European Council № 2006/25 on minimum health and safety requirements for workers under the risk of physical factors (artificial optical radiation) [45; 46].

A very important part of the protection of labour rights of people is the solution of the actual problems in this area. To do this, it is necessary to use not only laws, directives and other normative legal acts, but also to use the practice of courts, to focus on the challenges and contradictions arising from the involvement of businesses and governments, often guilty of injustice to people and their rights.

So, social entrepreneurs shared their diverse approaches to solving human rights issues. The discussion was centred on the challenges and contradictions that arise from engaging with business and governments – often the culprits of injustice – to drive change.

Innovator Jim Fruchterman from Benetech applies technological solutions to human rights issues.

Nina Smith from Rugmark Foundation works to bring to an end child labour in the making of handmade rugs through a market certification program.

Jeroo Billimoria founded International Child Helpline – a global helpline for vulnerable children. It is built on a model that she developed in India, which has responded to over 10 million calls. She is now launching Alflatoun, which provides children with financed education while teaching them about their rights as citizens. She faced resistance from NGO's, seemingly "natural allies", that couldn't see why finance should be part of children's education. She approached private sector banks who got it – children that learn about budgeting, planning, and economic rights will build a sense of identity and self-reliance.

Karen Tse from International Bridges to Justice works in China, Cambodia, and Vietnam to build fairer and more effective criminal justice systems. Karen's believes that it is possible to end state sanctioned torture in the 21st century. To make this happen, engagement with multiple players is needed – from prisoners themselves to police and governments. Despite frequent criticisms for working alongside entities such as the Chinese Government, she believes the driver of change will be through reconnecting people to the deeper values that shift their consciousness.

Gillian Caldwell from Witness was asked how they correlate the Witness brand with those of the human rights organizations they assist. Witness captures abuses through video and online technologies – the U-tube of human rights. She spoke to the tensions in the social enterprise field between the single innovator with an idea versus and an organization like Witness that plays a catalytic role by providing a platform to raise the visibility and ability of other human rights organizations to be better advocates [47].

An important aspect in this article is also European experience in the field of social entrepreneurship. To do this, we need to give examples from several European countries and show how the social entrepreneurs work in the European Union.

In the EU, social enterprises are known as "social solidarity cooperatives" (Portugal), "cooperatives of social initiatives" (Spain), "social purpose companies" (Belgium), "Social cooperative societies of collective ownership" (France). The British Parliament legitimized the work of social enterprises in 2004. The work of social enterprises is also legalized in the Czech Republic, Hungary, the Slovak Republic and Poland. That is why legal forms of a social enterprise can be quite different, but cooperatives are the most common form.

Social entrepreneurs in the countries of the European Union should, for the sake of human rights, use the practice of the EU courts and the decision of the Committee on Social Rights. Since important normative legal acts are also directives in the field of individual social rights, social entrepreneurs must also take into account directives, which in turn regulate the issues of freedom of movement of workers, illegal dismissal from work, informing and consulting on the content of the employment contract and working conditions, equality and secure working environment.

Conclusions. Analysing the directives and regulations governing individual social rights in the countries of the European Union, summing up the research, it should be noted that over the past year the European Union has come a long way of forming its own system of protecting human rights from completely rejecting the idea that protecting human rights can advantage over the provisions of the EU law, to the development of its own catalogue of human rights. In spite of this, there have been a lot of court cases and practices of the court of the European Union to resolve controversial issues in the field of individual social rights over the past year.

Social entrepreneurs must play an important role in protecting human rights, together with the European court and committees. It is social entrepreneurs, in our opinion, who can offer perfect methods of protecting human rights. To do this, they have all the components - the constant contact with people, work with people in different areas, which uses certain rights and laws that govern the process of working with people.

In addition, the entry into force of the Treaty of Lisbon introduced the legal basis for the EU to join the European Convention on Human Rights. In accordance with the criteria for joining the EU, only a state with an appropriate level of compliance with the directives of the European Committee on Social Rights in the field of various individual social rights, as well as human rights and fundamental freedoms, can become a full member of the European Union.

References:

1. Sandal, Jan-Urban. Sosialtentreprenørskap. Lund : Lund University, 2004.

2. Article 3 of the EU Treaty as amended by the Lisbon Treaty. URL : http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-european-union-and comments/title-1-common-provisions/4-article-3.html.

3. The decision of the Court of the European Union on the cases

C-36/74 B.N.O. Walrave and LJ.N. Koch v. Association Union cycliste Internationale, Koninklijke Nederlandsche Wielren Unie and Federation Espanola Ciclismo ([1974] ECR 01405) и C-13/76 Gaetano Dona v. Mario Mantero ([1976] ECR 01333).

4. Regulation № 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community. *Source of information – Official Journal EU* - OJ L 257, 19.10.1968. P. 2–12.

5. Directive № 2004/38 of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation № 1612/68 and repealing Directives 64/221, 68/360, 72/194, 73/148, 75/34, 75/35, 90/364/, 90/365 and 93/96. *Source of information – Official Journal EU* - OJ L 158, 30.04.2004. P. 77–123.

6. Directive № 2005/36 of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications. Source of information. *Official Journal EU* - OJ L 255, 30.09.2005. P. 22–142.

7. The decision of the Court of the European Union on the case C-75/63 Ungerv. Bestuur [1964] ECR 1977.

8. The decision of the Court of the European Union on the case C-66/85 Deborah Lawrie-Blum v. Land Baden-Württemberg [1986] ECR 02121.

9. The decision of the Court of the European Union on the case C-196/87 Udo Steymarm v. Staatssecretaris van Justitie [1988] ECR 06159.

10. The decision of the Court of the European Union on the case C-53/88 Commission of the European Communities v. Hellenic Republic [1990] ECR 03917.

11. The decision of the Court of the European Union on the case C-345/08 Krzysztof Pesla v. Justizministerium Mecklenburg-Vorpommern [2009] ECR 11677.

12. The decision of the Court of the European Union on the case C-340/89 Irène Vlassopoulou v. Ministerium für Justiz, Bundes-und Europaangelegenheiten Baden-Württemberg [1991] ECR 02357.

13. Council Directive № 98/59 of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies. *Source of information – Official Journal EU* – OJ L 225, 12.08.1998, P. 16–21.

Council Directive № 75/129 of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies. *Source of information – Official Journal EU* – OJ L 48, 22.02.1975. P. 29–30.

14. Council Directive № 75/129 of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies. *Source of information – Official Journal EU* - OJ L 48, 22.02.1975. P. 29–30.

15. The decision of the Court of the European Union on the case C-188/03 Irmtraud Junk v. Wolfgang Kühnel [2005] ECR 145.

16. Carreau D. Droit International économique. L.G.D.J. 1997. P. 67–70.

17. Council Directive № 80/987 of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer. *Source of information – Official Journal EU* - OJ L 283, 28.10.1980. P. 23–27.

18. Directive № 2002/74 of the European Parliament and of the Council of 23 September 2002 amending Council Directive № 80/987 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer. *Source of information – Official Journal EU* – OJ L 270, 08.10.2002. P. 10–13.

19. Council regulation № 1346/2000 of 29 May 2000 on insolvency proceedings. *Source of information - Official Journal EU* – OJ L 197, 26.07.2002. P. 0001–0013.

20. Council Directive № 2001/23 of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses. *Source of information – Official Journal EU* - OJ L 82, 22.03.2001. P. 16–20.

21. Council Directive № 77/187 of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses. *Source of information – Official Journal EU* – OJ L 61, 05.03.1977. P. 26–28.

22. The decision of the Court of the European Union on the case C-145/87 и C-144/87 Harry Berg and Johannes Theodorus Maria Busschers v. Ivo Martin Besselsen [1988] ECR 02559.

23. The decision of the Court of the European Union on the case C-29/91 Dr. Sophie Redmond Stichting v. Hendrikus Bartol and others [1992] ECR 03189.

24. The decision of the Court of the European Union on the case C-209/91 Anne Watson Rask and Kirsten Christensen v. Iss Kantineservice A/S [1992] ECR 05755.

25. Council Directive JV° 91/533 of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship. *Source of information – Official Journal EU* – OJ L 288, 18.10.1991. P. 32–35.

26. Council Directive № 91/383 of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship. *Source of information – Official Journal EU* – OJ L 206. 29.07.1991. P. 19–21.

27. Council Directive № 97/81 of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC. *Source of information – Official Journal EU* - OJ L 14, 20.01.1998. P. 9–14.

28. Council Directive № 1999/70 of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP. *Source of information – Official Journal EU* - OJL 175, 10.07.1999. P. 43–48.

29. Directive № 96/71 of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services. *Source of information – Official Journal EU* - OJ L 18, 21.01.1997. P. 1–6.

30. Directive № 2008/104 of the European Parliament and of the Council of 19 November 2008 on temporary agency work. *Source of information – Offi-*

cial Journal EU - OJ L 327, 5.12.2008. P. 9–14.

31. Article 157 of the Treaty on the functioning of the EU.

32. The source of information is the EU official website. URL : ttp://aei.pitt.edU/1919/2/paris_1972_communique.pdf.

33. The decision of the Court of the European Union on the case C-43/75 Defrenne v. Stc Sabena [1976] ECR 455.

34. Directive № 2006/54 of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. *Source of information – Official Journal EU* - OJ L 204, 26.07.2006. P. 0023–0036.

35. Council Directive № 2000/43 of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. *Source of information – Official Journal EU* - OJ L 180, 19.07.2000. P. 22–26.

36. Council Directive № 2000/78 of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. *Source of information – Official Journal EU* - OJ L303, 02.12.2000. P. 16–22.

37. Directive № 2010/41 of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive № 86/613. *Source of information – Official Journal EU* - OJ LI 80, 15.07.2010. P. 1–6.

38. Decision of the European Union Court of Justice C-96/80 J.P. Jenkins v. Kingsgate (Clothing Productions) Ltd. [1981] ECR 00911.

39. Council Directive № 89/391 of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work. *Source of information – Official Journal EU* - OJ L 183, 29.06.1989. P. 1–8.

40. Council Directive № 89/654 of 30 November 1989 concerning the minimum safety and health requirements for the workplace. *Source of information – Official Journal EU* - OJ L 393, 30.12.1989. P. 1–12.

41. Council Directive № 86/188 of 12 May 1986 on the protection of workers from the risks related to exposure to noise at work. *Source of information – Official Journal EU* - OJ L 137, 24.05.1986. P. 28–34.

42. Council Directive № 89/655 of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16 (1) of Directive № 89/391). *Source of information – Official Journal EU*-OJ L393, 30.12.1989. P. 13–17.

43. Council Directive № 89/656 of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16 (1) of Directive № 89/391). *Source of information – Official Journal EU* - OJ L 393, 30.12.1989. P. 18–28.

44. Council Directive № 90/269 of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual Directive within the meaning of Article 16 (1) of Directive № 89/391). *Source of information – Official Journal EU*-OJ L 156, 21.06.1990. P. 9–13.

45. Council Directive № 92/85 of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive № 89/391). *Source of information – Official Journal EU* - OJ L 348, 28.11.1992. P. 1–7.

46. Directive № 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) (19th individual Directive within the meaning of Article 16(1) of Directive № 89/391). *Source of information – Official Journal EU* - OJ L 114, 27.04.2006. P. 38–59.

47. Social entrepreneurs in human rights – 2007. URL : http://archive.skoll.org/2007/03/29/social-entrepreneurs-in-human-rights.

48. Mair J. Social entrepreneurship research: A source of explanation, prediction, and delight. *Journal of World Business*. 2006. № 41. P. 36–44.

49. Social Enterprise Social Innovation and Social Entrepreneurship in Poland: A National Report. URL : http://fp7-efeseiis.eu/national-report-poland.

50. Social Enterprise Solutions for 21st Century Challenges. The UK Model of Social Enterprise and Experience. *Publications of the Ministry of Employment and the Economy.* 2010. URL : http://tem.fi/files/26789/TEM_25_2010_netti.pdf.

51. The Development of Social Entrepreneurs in Germany. URL : http://uni-muenster.de/imperia/md/content/ifpol/mitarbeiter/zimmer/developement_of_ social_entrepreneurs.pdf.

52. Kikal J. Social entrepreneurship: the mission is to make the world better / Jill Kikal, Thomas Lyons; tr. from English-M. : alpina publisher, 2014.

INFORMATION ABOUT THE AUTHOR

Berdnik Inna Vladimirovna – PhD in Law, Associate Professor, Professor of Criminal Law and Justice Departmen of Chernihiv National University of Technology;

Konoplya Yaroslav Yuryevich – Master student of Criminal Law and Justice Department of Law Faculty of Chernihiv National University of Technology, Research Fellow Fil. Dr. Jan-U. Sandal Institute

ИНФОРМАЦИЯ ОБ АВТОРАХ

Бердник Инна Владимировна – кандидат юридических наук, доцент, профессор кафедры уголовного права и правосудия Черниговского национального технологического университета;

Конопля Ярослав Юрьевич – магистрант кафедры уголовного права и правосудия юридического факультета Черниговского национального технологического университета, стипендиат научной программы Института доктора философии Яна-Урбана Сандала

inna_berdnik1983@ukr.net
yarik27kon@ukr.net