

EUROPEAN COMMON MARKET AND SPORTS EMPLOYMENT CONTRACT

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(Accepted 8 April 2021)

<https://doi.org/10.33598/V8I120214>

Abstract

This paper makes a detailed and thorough analysis at the doctrine of free movement of labor in the EU. Within this development are analysed all legal acts, which regulate the free movement of workers in the EU, their employment in all Member States, mutual recognition of qualifications and the removal of any barriers based on discrimination because of nationality. The importance of the philosophy of freedom of movement in the process of realization of the EU common market is essential. So, one of the most important projects of the European Union, such as the EU Common Market in no way would have been realized, without removing national barriers between member states, creating opportunities for the workforce to be employed in each Member State, to be established freely anywhere within the territory of the EU, to launch a economic venture (start up), to be educated anywhere with the same costs as nationals of the host country, and all other privileges of being an European citizen. Also, the analysis of legal acts is complemented by the elaboration of the cases by the jurisprudence of the Court of Justice of the EU, to understand how are protected in practice. It takes a special significance this days when Albania is a candidate country for EU membership and when the membership along with meeting other conditions, requires greater cooperation at the regional level and a kind of "imitation" of the European area, to countries of the region that are not yet part of the EU. In this paper we have treated also the sports contract of labor as a novelty in Albanian legislation. With the economic development the world of sport has and the extraordinary social impact of it, regulation of legal relations in the world of sports and in particular working relationships between clubs and athletes, takes a great importance. The first step in this direction is the consolidation of practice and rigorous implementation of the rules dealing with the conclusion of sports contracts of labor. In Albania this is a less elaborated area, in need for a more serious adjustment and the consolidation of practice.

Key Words: *freedom of movement, employee, European Union, jurisprudence of CJEU, Sports Contract of Labour.*

Introduction

Economic and social security is an important aspect of human security. In this regard the right to work and rights at work play an important role for the achievement of human security. People without an access to work are either dependent on social aid or have no

prospects. The right to work as a standard of human rights protection goes beyond survival, because the satisfaction of basic needs will not suffice to enhance human security. Respecting workers rights ensures decent working conditions, but also protect against discrimination and exploitation in the

workplace. Work shall not only provide welfare, but has to do with the relationships and participation in society.¹¹ It is closely related to self-determination, self-esteem, self-realization, and from these results that is associated with human dignity. In addition, it can lead to personal insecurity, dangerous, unhealthy conditions and unfair. Unemployment and denial of trade unions are prone to produce unrest and thus create insecurity and instability in society, lack of rule of law. For these reasons, promotion and encouragement of standards for decent working conditions without exploit is a condition for improving human security. The role of social justice and better working conditions in promoting peace and social development should not be underestimated. Injustices, hardships and privation related to work are liable to produce unrest. The recognition that decent work is a prerequisite for human dignity is predominantly the result of worker's struggles for their rights denied (think here of the Industrial Revolution in the UK and US, and Europe). As a result, workers' rights are merged into the legislation of the ILO since 1919 and setting standards in the UN after World War II.

International Labour Standards.

To set goals and objectives in practice, ILO formulates and adopts different standards (international agreements such as the Conventions), resulting from a process of consensus among the members on a particular issue. The main format used by the

ILO Conventions and Recommendations have been, but they can also include informal agreements, such as Declaration and Resolution.¹² Since its creation, the ILO has been active in the adoption, implementation and monitoring of international standards relating to fundamental rights and fundamental freedoms, encompassing: freedom of association (association), safety, working conditions, elimination of black, juvenile and forced labor, the shift III for women, pregnant women etc. Their influence is considerable. All Member States of the ILO are (or should be) committed to achieving the goals and objectives of the ILO and international labor standards are used as guidelines for national authorities to implement social policy and employment at the national level. There are two categories of international labor standards:

- Conventions - These are international treaties, which bind member states to implement them - after they are ratified.
- Recommendations - These are non-binding and are intended to orient law, policy and action. They are often adopted with a convention, and expand on its provisions. They provide the guidelines for the application of a Convention, and often also contain explanatory provisions, which may be useful in the implementation of the Convention. They can be adopted regardless of a Convention. Recommendations cannot be ratified.¹³

¹ Çela, Kudret, Haxhi Paskal, Comparative Labor Law, Publisher: ILAR, Tirana 2002, fq.14.

² See Valticos N., *Droit international de travail*, Dalloz, Paris.

³ Malcolm Sargeant, "Employment law" London, 2003.

Ratification

The following is a brief explanation of ratification:

- Ratification - This is an agreement by a state that it will be legally bound to a specific Convention. Ratification is a formal obligation taken by a State to comply with the law, the practice, and the provisions of a Convention or Treaty. It is a voluntary act and be undertaken after taking into consideration all its implications.

- The process of ratification - A Convention is generally ratified after procedures of local law-producing body, are fully completed.

ILO

- Develop policies and programs to promote basic human rights, improve working conditions and living conditions and enhance employment opportunities;

- Puts international standards (conventions and recommendations) in these fields and monitors their national implementation;

- Conducts an extensive program of technical cooperation to help countries make their policies more effective.

The ILO has drafted some 180 Conventions, laying down standards in certain areas such as working conditions, occupational safety and health, social security, employment policy and training and

protection of women, migrants and indigenous people.¹⁴

Only a small amount of the conventions of the ILO Conventions referred to as basic human rights. Below, you can find a list of these ILO conventions together with their ratification status.

The most important conventions of the ILO

Ratification of conventions (base) of the International Labour Organisation (until 8 January 2003) Convention Principle number of countries have ratified;

Freedom of association and protection Convention 87 (1948) 141e right to organize Convention 98 (1949) 152 joint meetings;

Minimum age to work, Convention 138 (1973) 120;

Prohibition of forced labor, Convention 29 (1930) 161;

Convention 105 (1957) 158;

The rights to remuneration Convention 100 (1951) 160 and prohibition of discrimination in Convention 111 (1958) 158 employment and occupation.¹⁵

Human rights related to work in international law.

The Universal Declaration of Human Rights contains a range of human rights related to labor. All these rights are further developed in agreements that make it binding upon States Parties. Below you can find the description of UDHR rights in question, which will be described in detail later. "No

⁴ <http://www.ilo.org/global/about-the-ilo/lang--en/index.htm>, last seen on 11.04.2016.

⁵ <http://www.ilo.org/global/about-the-ilo/who-we-are/lang--en/index.htm>, last seen on 10.04.2016.

one shall be held in slavery or servitude ... Everyone has the right to freedom of peaceful assembly and association ... Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to work of equal remuneration. Everyone who works has the right to fair and favourable remuneration, in order to provide him and his family an existence worthy of human dignity and, if it be necessary, supplemented with other means of social protection.¹⁶ Everyone has the right to form and join trade unions for the protection of his interests. Everyone has the right to rest and leisure, including reasonable limitation of working hours.... Everyone has the right to an adequate level of living, which corresponds to the appropriate health and life, as him personally, as well as his family..... and the right to be insured in the event of unemployment, disability.... and other cases of loss of livelihood...

UNIVERSAL DECLARATION OF HUMAN RIGHTS, ARTICLE 4, 20, 23, 24 AND 25.

Article 8 of the International Covenant on Civil and Political Rights states that: "No one shall be held in slavery... No one shall be required to perform forced or compulsory labour.... " Although universally condemned, slavery and forced labor practices still it exists in various forms today. They are often

deeply rooted in ideological or cultural heritage. According to the ILO there is an apparent link to undemocratic structures. Millions of men, women and children in the world are forced to They live their lives as slaves. Although this use is not called slavery, the conditions are the same.¹⁷ A slave is:

- forced to work - through mental or physical threat;
- owned or controlled by an 'employer', usually through mental or physical abuse or threatened abuse;
- dehumanized, treated as a commodity or bought and sold as 'property';
- Physically constrained or has restrictions on freedom of movement for them or them.

Forced labor - affects at least 10 million people in the world. People become workers forced taking or being tricked into taking out small loans, as it cost a cure for their child. To repay the debt, they are forced to work hard hours, seven days a week, 365 days a year. They receive a "salary" for food and shelter, but may never pay off the loan, which can be passed down through several generations.¹⁸ Forced labor - affects people who are illegally recruited by governments, political parties or private individuals, and are forced to work - usually under threat of violence or other penalties. The worst forms

⁶ <http://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>, last seen on 10.04.2016.

⁷ Peter Bakvis and Molly McCoy, "Core Labour Standards And International Organizations: What

Inroads Has Labour Made?", June, 2008, Friedrich-Ebert-Stiftung, International Trade Union Cooperation, Briefing Papers N° 6 / 2008.

⁸ Fabio Mazziotti, "Diritto del lavoro", Napoli 1999.

of child labor refers to children who work in dangerous conditions and exploitation. Tens of millions of children around the world work full-time, deprived of education and entertainment, which are crucial things to their personal development and social. Commercial sexual exploitation of children - children are exploited for their commercial value through prostitution, trafficking and pornography. They are often kidnapped, bought, or forced to enter the sex market. Trafficking - involves the transport and / or trade of humans, usually women or children, for economic gain using force or deception. Often migrant women are tricked and forced into domestic work or prostitution. Early marriages and forced - affects women and girls who are married without solutions and are forced into lives of servitude often accompanied by physical violence. Traditional slavery or 'chattel' -Includes buying and selling of people. They are often abducted from their homes, inherited or given as gifts.

Conclusions.

It is an indispensable *sine qua non*, the compliance with the decisions and the framework of the recommendations of the Council of Europe in particular the European Social Charter, which is specifically expressed on the right of association and its role in establishing the balance between the Council of the union and representatives of employers (enterprises, factories, other atypical companies). Respecting recommendations deriving from the role of the UN General Assembly and the decisions taken by I.L.O (International Labour Organization). These principles are not only

part of the international decision making, but apply directly when they are absorbed by the domestic legislation in the form of framework conventions. In addition to these foregoing an important role in the context of Albania before accession to the EU, its legislation needs a very voluminous work in direction of being harmonised with *acquis communautaire*. Implying that all the jurisprudence and practice of member states in the European Union in the field of social protection, quality of service, to life, the rights of employees must be synchronized and consistent with the spirit of the European pre-accession practice. What constitutes the "Achilles heel" in the myriad of problems that emerge of social protection of the rights of trade unionists and development of lawful strikes of workers and administration employees is that they except are guaranteed by law, must have and financial treatment when their strike is:

- in accordance with the Council of Ministers Decision for financial treatment of strikers and trade unionists,

- in harmony with the opportunities and state structures available, to further increase their level of living, or reducing their age of retirement.

In conclusion we can say that as the strike as well as trade unions in the field of labor contracts, in the field of collective bargaining, have a special importance because they are the strong legal and social means and mechanism, which set in motion activities of other bodies to take action. A very important role in programming, implementation and further enhancing the rights of employees, but also a helping role to

employers and labor inspectorates has in the collaboration with the Ministry of Labour and Social Affairs. For this purpose, in democratic societies and the unified social legislation, protection is more:

1. Effective (because of its effects brought to d.p.d, for the entire community of Trade Unions) and it enables the application of these rights by the employers' organizations themselves. For example, transplantation of rights and obligations arising in sports markets, in the procedures of federation of players from one team to another;

2. It has an efficient character that enables the improvements of either all revenue consequences of illegal acts that the employer may have committed. And a possible appeal by employers either through protests or strikes, would lead to the restoration of these consequences.

As observed in democratic societies it is important not only the fact of the existence of laws, but parallel existence with them and the bodies that implement the violated rights of the employee.

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