

Social dialogue at the national and European levels as a factor in the formation of a common labor and social policy

SOCIETY REGISTER
2023 / 7(3): 51–72
ISSN: 2544–5502
DOI: 10.14746/sr.2023.7.3.04



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ABSTRACT: An important object of state policy is the regulation of social relations, i.e. a system of sufficiently stable and independent ties between individuals and social groups that are essential for the existence and functioning of society. The constitutional consolidation of Ukraine's status as a social state implies the need to pursue an active policy to ensure the rights of all members of society to a decent living, social protection, participation in production management, maintaining a stable socio-economic situation, and mitigating social inequality. Therefore, the state's social dialogue is a means of establishing a social compromise in society and a factor in the formation of a unified labor and social policy. The methodological basis of the study is several general scientific and special methods of cognition, the choice of which is determined by the peculiarities of its object, subject, purpose, and objectives. The purpose of the article is to clarify the theoretical, legal, and legislative characteristics of the concept of social dialogue from the perspective of their compliance with the current trends in the development of labor and legal doctrine, and to study the issues of social dialogue at the national and European levels as a factor in the formation of a common labor and social policy.

KEYWORDS: social policy, social dialogue, European Union, European integration, social standards

INTRODUCTION

One of the tried and tested tools for regulating social and labor relations and addressing a wide range of social and economic issues is social dialogue, a process of defining and converging positions, reaching joint agreements, and making coordinated decisions by the parties to social dialogue representing the interests of employees, employers, executive authorities and local governments on the formation and implementation of the state social and economic policy for regulating labor, social and economic relations (Kiselyova et al., 2023).

A conscious approach to social dialogue as a basis for the country's socio-economic and political life is essential. Rooting the practice of social dialogue contributes to raising the level of the political culture of society and overcoming the confrontational tone of social relations. Since the process of forming the social model of the state is closely linked to its political and economic models, social dialogue is usually analyzed in conjunction with the state of democracy and market economy. Therefore, the formation of an effective system of social dialogue is largely synchronized with the pace of development of Ukraine's political system and economy. At the same time, a welfare state cannot be formed only based on political or economic determinism, if the values of civil society and the full realization of citizens' rights and freedoms are leveled (Teremetskyi et al., 2021).

After all, the expansion of the scope of social dialogue and its coverage of most socio-economic problems is a sign of an established model of social partnership, because, over time, the practice of social dialogue should overcome the limits of resolving purely labor relations and conflicts. In this sense, we are talking about the prospects of filling the state policy with the ideology of social partnership, and, of course, practical implementation of the provisions of the Law of Ukraine "On Social Dialogue in Ukraine" (Verkhovna Rada of Ukraine, 2010).

The main goal of social dialogue is to promote consensus building and democratic participation between stakeholders in the world of work—representatives of governments, employers, and employees. Successful social dialogue—which includes all types of negotiation, consultation, or information exchange between these stakeholders - depends on structures and processes that create the capacity to address important economic and social issues, promote good governance, enhance social and industrial stability, and contribute to economic progress. Thus, social dialogue is an important means to achieve social justice. In times of global economic and financial crisis, reaching consensus among key stakeholders and their democratic participation in finding solutions is of paramount importance.

Social dialogue can be a direct or "bilateral" relationship between employees and management (or trade unions and employers' organizations), or a "tripartite" relationship between government agencies and social partners. For social dialogue to work, governments need to take an active role—even if they are not directly involved in the process—by providing legal and institutional frameworks that create the preconditions for effective participation (Melnyk et al., 2023).

The European social dialogue is a unique form of social dialogue that takes two

main forms - a bilateral dialogue between European employers' and trade unions' organizations, and a tripartite dialogue, which involves interaction between the social partners and public authorities. The European Community Treaty clearly defines its principles, including the possibility of concluding legally binding agreements (Yekimov et al., 2020). Ukraine is facing major challenges in ratifying the European Union - Ukraine Association Agreement, dealing with the economic and social consequences of the coronavirus pandemic, and implementing reforms in labor law and social protection that have not yet been implemented. All of this also contains significant potential for increased social tension. As a result, the responsibility of employers' associations, trade unions, and political circles to engage in dialogue, jointly make partially difficult decisions in dialogue, and present their positions is increasing. Therefore, consistent implementation and intensification of social dialogue is an urgent need. In its latest report on strengthening social dialogue in Europe, the European Commission also emphasized that more attention should be paid to this topic in the countries with which the Association Agreements have been signed, as well as in the Eastern Partnership countries. Many scientific works, including such scholars as I. O. Humenyuk (2021), T. M. Ivanets (2021), T. G. Golovan (2020), B. Ilchenko (2022), O. A. Rachynska (2020) are devoted to this topic.

The purpose of the article is to clarify the theoretical, legal, and legislative characteristics of the concept of social dialogue from the perspective of their compliance with the current trends in the development of labor and legal doctrine, and to study the issues of social dialogue at the national and European levels as a factor in the formation of a common labor and social policy.

MATERIALS AND METHODS

The methodological basis of the study is some general scientific and special methods of cognition, the choice of which is determined by the peculiarities of its object, subject, purpose, and objectives. In studying the issues of social dialogue in the field of labor, the author used the dialectical method of scientific cognition of legal processes and phenomena, which was manifested, in particular, in the widespread use of certain paired categories of dialectics (form and content, essence and phenomenon, structure, and element, cause, and effect, etc.) The application of the formal logical method allowed for a logical analysis of the current legal provisions.

Based on a combination of this method and the method of modeling, the article formulates specific proposals for improving the national practice of social dialogue. The comparative method was used to study the compliance of national legislation with international standards in this area and to analyze foreign experience. The historical and legal method was used to study the genesis of social dialogue in the labor sphere. The study also used a systemic approach and a systemic-structural method to determine the current state and prospects for the development of social dialogue in Ukraine. The main provisions of the article are based on the analysis of the acts of the United Nations, the International Labor Organization, the Council of Europe, the European Union, and the current legislation of Ukraine.

A number of articles related to the research topic were also analyzed, such as “Social dialogue as an effective legal mechanism for ensuring the development of a socially oriented economy” (Humenyuk, 2021), “Social dialogue in relations regarding the use of public property” (Zadyraka, 2019), “Approaches to understanding ‘social dialogue’ in modern Ukrainian realities” (Ivanets, 2021), “The question of the effectiveness of social dialogue in Ukraine through the prism of legal regulation of its principles” (Golovan, 2020), “The main problems of organization and management of social dialogue in the domestic society” (Plachkovska, 2019), “Social protection of employees as an object of social dialogue” (Synchuk & Yastrubetsky, 2022), “Social partnership as an imperative for socio-economic development of Ukraine” (Spasiv et al., 2021), “Socio-communicative dialogue as a form of discursive interaction in the field of public administration” (Rachynska, 2020), “Modernization of social dialogue in new socio-economic realities: analysis of alternatives” (Ilchenko, 2022), “Just transition on the ground: Challenges and opportunities for social dialogue” (Galgóczy, 2020), “Transformative policies for the social and solidarity economy: The new generation of public policies fostering the social economy in order to achieve sustainable development goals” (Chaves-Avila & Gallego-Bono, 2020), “Theoretical basis of development of labor market and social policy in the republic of Bulgaria” (Terziev, 2019), “Power, Responsibility and Social Policy: The Impact of Basic Income in a Competitive Experimental Labor Market” (Jokipalo & Sieberg, 2023), “The Microfoundations of Latin America’s Social Policy Coalitions: The Insider/Outsider Labor Divide and Attitudes toward Different Welfare Programs in Mexico” (Baker, 2023), “Social policy and labor supply: the impact of activating labor market institutions on reservation wages” (Fuchs et al., 2023), “Social Rights, Social Policy, and Labor Law in the Hungarian Populist-Nationalist System” (Lehoczky & Majtényi, 2021), “The persistent maternalism in labor programs” (De la Cruz, 2020), “Effects of social distancing policy on labor market outcomes” (Gupta et al., 2023).

RESULTS

The culture of social dialogue and association, which has become the subject of regulation by international law and close attention of international organizations, especially those such as the International Labor Organization (ILO) and the European Union (EU), needs to be mastered by modern Ukraine, taking into account its historical experience and traditions. It is, after all, a historical pattern, a time-honored rule that people cannot create new forces, but can only exercise and direct the forces that already exist. They have no other means of self-preservation than to unite with other people to form a sum of forces capable of overcoming opposition, subdue these forces to a single engine, and force them to act in harmony (Baulin et al., 2020).

It is proved that social dialogue, wherever it began, gradually turned into the most promising method of forming relations between social partners and, more broadly, between them and the state (tripartite dialogue), which is why it was deeply rooted in the right to association (coalition), the right to collective bargaining, the right to consultation and information. Eventually, it became a mandatory part of the mosaic

of maps of all regional and professional groups.

Social dialogue proved to be productive as a result of lessons learned during acute political events. This was the case during both the First World War (ILO was founded in 1919) and the Second World War (ILO Philadelphia Declaration on the Right to Collective Bargaining, 1944), as well as during the upheavals caused by economic globalization (Declaration of Fundamental Principles and Rights at Work, 1998). Nevertheless, this phenomenon has not yet received an unambiguous scientific interpretation, even though it is already not only a basic trend in world politics but also an organic element of domestic transformations.

Diverse in nature, the ILO emerged during a period of economic and social upheaval in Europe and North America. At that time, the industrial revolution and dynamic economic growth were achieved at the cost of the suffering of wage laborers. Progress was almost always ensured by the “law of the jungle”—the survival of the fittest.

By the middle of the nineteenth century, two main approaches to resolving the contradictions between owner and employee, between labor and capital, had emerged. In our history, attention has traditionally been focused on only one of these areas - the use of force to resolve such contradictions. However, the time has come when the difference in the definition of the carriers of political and social activity began to be associated with the changes that have taken place in the civil society of leading European countries over the past century. While in the nineteenth and early twentieth centuries, the main political actors were large social groups—classes, and nations—later there was a rapid increase in the number of interest groups. Their political activity resulted in liberal democracy. This trend was based on the concept of evolutionary rather than a revolutionary transformation of society, which ensures the coordination and realization of the main interests of all stakeholders. This led to the emergence of the idea of social dialogue (Galgóczy, 2020).

The model of regulating social and labor relations and ensuring social stability in a civilized way has proven to be productive. The development of social dialogue has become one of the main factors in the development of civil society and the prevention of social conflicts. Ideas about the expediency of achieving social consensus in society at all levels have long been the subject of heated debate. Despite different points of view, almost all participants in these discussions—politicians, industrialists, economists, and public figures—spoke in favor of establishing international labor standards. The most important argument was economic: international regulation of labor standards would help countries avoid losses caused by international competition. The second argument was humanitarian: the need to ease the plight of workers (Yaroshenko et al., 2023a).

However, this initiative did not immediately gain wide support, as it came from the industrial middle class and reflected its interests. The organized labor movement emerged later when the obstacles to the exercise of the right to freedom of association were removed.

The third argument was purely political. It justified the importance of strengthening social harmony in industrialized countries to prevent political and social upheaval. The politically astute founders of the ILO supported the reformist aspirations of

working people and shielded them from the communist propaganda that was spreading in Europe after the 1917 Russian Revolution.

These arguments are reflected in the Preamble to the ILO Constitution, adopted in 1919. The document stated that general and lasting peace could be established only based on social justice and understanding. Later, this wording was clarified in the Philadelphia Declaration of 1944. Today, in the era of globalization, they sound more relevant than ever (Chaves-Avila & Gallego-Bono, 2020).

Although the ILO emerged as a product of the European social reformism of the nineteenth century, the ideas and proposals of its predecessors were long ignored by governments, regardless of their political system or level of economic development. This continued until, at the end of the century, public associations, especially in France, Germany, and Switzerland, drew their attention to these problems. It was under the influence of public organizations that the idea of introducing fundamentally new, international legislation found active supporters in political and economic, religious, and scientific circles, as well as among people of hired labor. This resulted in the establishment of the International Association for the Legal Protection of Workers in Switzerland in 1901. At the national level, during the last two decades of the nineteenth century, new norms of social legislation were introduced in Germany, as well as in Great Britain and the Scandinavian countries. In 1905-1906, two of the first international labor conventions in world history were adopted in favor of workers: on the regulation of night work for women and on the elimination of the use of white phosphorus in the production of matches.

In modern conditions, the ILO has essentially become the supreme arbiter in the regulation of labor relations in the global labor market, and social dialogue has been recognized as an essential socio-political institution. Nowadays, the ILO's important function is to develop normative instruments to improve labor relations. The documents developed by it constitute the International Labor Code. It provides a detailed legal basis for social partnership, and fixes specific norms presented in special legal acts—ILO Conventions and Recommendations, which determine the legal status of subjects of dialogic processes.

The International Labor Code enshrines the rights of trade unions to legislative initiatives and equality of social partners. It provides for the functioning of arbitration bodies in ILO member states to resolve social and labor conflicts. The Code requires ILO member states to create conditions to guarantee the independence of the parties to social dialogue from each other, and their autonomy in decision-making. The general principle of the social partners' activity is the inadmissibility of political ambitions and ideological guidelines (Terziev, 2019).

The ILO has finally determined that the legal principles of social dialogue include: equality of the parties and trust in relations; respect and consideration of the interests of the parties to the dialogue; compliance with the law; voluntariness of commitments; full responsibility for fulfilling the commitments; assistance from the state in strengthening and developing the system of social partnership; authority of the social partners and their representatives and equality of representation; non-interference in each other's affairs; freedom to choose and discuss issues included in the social dia-

logue. As the experience of EU member states shows, the ILO's authority in regulating social and labor relations, reducing social conflicts, and reducing mass strike action is undeniable (Yaroshenko et al., 2023b). In practice, it has been proven that disputes in the field of social and labor relations can be effectively resolved in any country in this way, based on the legal framework of ILO Conventions and Recommendations.

Another aspect of these principles in the context of social dialogue is the ability of a wealthy person to put himself or herself in the place of someone who needs help in a wealthy society. This is realized in the charitable activities of both commercial and non-profit structures and public organizations. Non-profit voluntary organizations are sometimes also called the "third sector" (the first is the state, the second is business). Taking care of the social protection of citizens, the state encourages civil society to do the same. A person who has achieved his or her success is always able to help someone else concretely.

Social dialogue is also the ideology of a society in which there is no supremacy of any of the parties—the state, employers, or employees. Social dialogue rejects any dictatorship and affirms a civil contract and consent based on the optimal realization of the rights and interests of the parties concerned (Jokipalo & Sieberg, 2023).

These principles formulated by the ILO have become universal. Local social institutions no longer need to go through all the steps of a vertical hierarchy to reach the global level. Families, small groups, local organizations, movements, and institutions are globalizing directly or indirectly, demonstrating new forms of participation in global processes. However, this does not exclude the possibility for social partnership institutions of any country to supplement them with provisions that take into account socio-economic and political peculiarities of the national, regional, and local levels when making tripartite decisions.

The current institutional form of social dialogue in the EU is the result of the negotiation process in Maastricht (the Netherlands) as a compromise between "corporatists" who considered the creation of a European model of social and labor relations to be a key tool for strengthening social homogeneity within the EU, and "neoliberals" who saw it as a threat to social policy and the formation of a flexible labor market. This is how the concept of "social partners' dialogue" emerged and was introduced into the EU legal framework.

In 1989, the social dialogue was included in the fundamental rights declared by the Community Charter of Fundamental Social Rights of Workers (1989). This policy instrument imposes "moral obligations" on EU member states to respect fundamental social rights in the following areas: the exercise of any occupation; employment and fair wages; improvement of living and working conditions; social protection; freedom of association and collective bargaining; vocational training; equality between men and women; information, consultation and participation of workers in management; health and safety at work; protection of children and adolescents (Baker, 2023).

The adoption of the Community Charter on Fundamental Social Rights of Workers had a significant impact on the development of EU social policy. In December 1991, the EU member states (except for the UK) signed an Agreement on Social Policy in Maastricht aimed at implementing the provisions of the Charter. This Agreement was

attached to the Maastricht Treaty on the EU (1992), the Treaty of Amsterdam (1997), and incorporated into the social chapter of the EU Treaty (1957).

Article 136 of the EU Treaty on European social policy defines its main objectives: promotion of employment; improvement of living and working conditions; adequate social protection; establishment of a dialogue between managers and employees; ensuring human resource development, increasing employment, and combating dismissals. According to Article 138 of the Treaty, before taking any measures in the field of social policy, the European Commission must consult with the social partners on possible EU actions in this area. Thus, social dialogue issues are at the center of the development and implementation of the EU's social policy and economic strategy.

In 1957, the European Economic and Social Committee (EESC) was established. It consists of 344 members nominated by EU member states from employers' organizations, employees' organizations, and civil society interest groups. The committee represents and defends its interests in dialogue with the European Commission, the European Council, and the European Parliament. The EESC's task is to provide opinions to the European Commission and the European Council, which are obliged to consult it on various social and economic issues. This body may submit proposals on other important issues on its initiative.

It should be noted that the EESC's representative functions with decision-making power not only for traditional social partners (employers and trade unions) but also for all other representatives (farmers, consumers, environmentalists, etc.), have a positive impact on the process of harmonizing interests in the social and economic spheres.

Institutionally, at the EU level, social dialogue is carried out with the involvement of the European Trade Union Confederation, the Union of Confederations of Industrialists and Employers of Europe, the European Center for Enterprises with State Participation, and General Economic Enterprises (Fuchs et al., 2023).

The European Trade Union Confederation (ETUC) was founded in 1973 and is the main umbrella organization for national trade union organizations in EU member states. This organization created the European Trade Union Forum as an institution for dialogue and cooperation with trade unions in Central and Eastern Europe. The ETUC includes 78 trade union centers from 34 European countries, as well as 11 federations representing European industry. The total number of ETUC members is about 60 million people.

One of the reasons for the ETUC's creation was the desire to effectively represent the interests of workers in both economic associations of Western Europe: the EU and the European Free Trade Association. The ETUC's main objectives are to expand and strengthen political freedoms and democracy, respect human and trade union rights, promote equal opportunities and equality between men and women, geographically balanced and environmentally sound economic and social development, freely choose productive employment for all, improve and raise the prestige of education and training, democratize the economy, continuously improve living and working conditions, etc. The ETUC's activities are aimed at cooperation between trade union organizations of different political orientations within the EU.

The Union of Confederations of Industrialists and Employers of Europe (CIEE) was established in 1958 and is the official representative of more than 20 million companies. The members of the CIEE are 39 national associations of industrialists and employers from 33 countries in the European area. The specificity of the CIEE is that this body represents not only employers' unions of the EU member states but also unions of the European Free Trade Association member states. The main task of the CIEE is to express the interests of the industry of Western European countries in all related sectors about the EU and its structures. The activities of the CIEE are carried out by organizing and holding conferences, workshops, providing advisory services to its members, and carrying out analytical studies taking into account the development of globalization trends, macroeconomic processes of the European common market, and integration processes (Lehoczky & Majtényi, 2021).

Another social partner representing the interests of employers is the European Center for Enterprises with State Participation and General Economic Purposes (ECPGP). It was established in 1961. Today, its members include several hundred associations, enterprises, and organizations from more than 20 European countries. At the time of the establishment of the ECPGP, its members were state-owned enterprises that were exclusively or mostly owned by a particular state or regional entity. As a result of EU enlargement and the completion of the internal market, the focus of the ECPGP's activities changed: private enterprises became its members. The structure of the ECPGP is flexible and adapted to the needs of its members (enterprises). It operates through structural subdivisions, one of the most important of which is the Commission on Social Affairs, Employment, and Vocational Training. The activities of this Commission are directly related to the processes in the sphere of social dialog. It should also be noted that by European legislation, the CIEE, the ETUC, and the ECPGP are recognized as social partners with whom the European Commission discusses legislative projects in the socio-economic sphere.

Recently, there has been a change in the balance of power in labor relations and, accordingly, the role of social partners, namely, the weakening of trade unions and the strengthening of the role of employers. This trend is explained by the decline in the influence and number of trade unions due to a decrease in employment in large unionized industries and an increase in employment in less organized industries, and the spread of atypical forms of employment (De la Cruz, 2020).

It should be noted that different models of organization of the trade union movement have developed in the EU. In several countries (e.g., Germany, Greece, Great Britain, Latvia, Slovakia, and the Czech Republic), there is one large center that covers up to 80 percent of trade union members on average; in other countries (Denmark, Finland, Sweden, and Estonia), there are several such centers (up to 50 percent of trade union members). The European Confederation of Trade Unions currently covers 90 percent of all European trade union members.

As for employers' associations, they vary significantly by country. An important difference between countries is the extent to which the interests of employers and businesses are combined in one organization, without prejudice to the other, and the extent to which different sectors of the economy are united or represented in-

dependently. Moreover, it is very difficult to take into account the level of employer membership statistically, since only a few countries have introduced a system of mandatory registration of employers in the Chamber of Commerce (Gupta et al., 2023).

On average in Europe, the employer participation rate is 60%. At the same time, it should be emphasized that these figures hide serious differences: in the UK—over 40%; in France, Spain, and Greece—over 70%.

The role of the state in the system of social partnership consists of both legislative regulation of the social and labor sphere and direct participation in the negotiation process. The state is actively involved in social partnerships within the framework of tripartite bodies (tripartism system).

Today, the European system of social partnership is seen as a synthesis of national systems existing in Europe against the general background of global trends. The key thesis of the new European rhetoric is “change and adaptation”, which implies the adaptation of the existing systems to new conditions.

To solve this problem, Western experts suggest focusing on the following key points.

- Achieving a balance between tripartism and bipartism (Tripartism is considered effective in addressing national issues related to economic modernization, and social and economic policy. At the same time, in their opinion, it should be complemented by bipartisan dialogue to ensure a combination of flexibility and stability).
- Coexistence and in-depth integration of cross-sectoral and sectoral levels, which allows for the development of solutions to specific requests (Synergy between different levels is not only in providing accessible and clear information but also in monitoring procedures and implementing agreements reached at the highest level, initiatives transferred from one level to another).
- Increasing the responsibility of social partners and ensuring their independence (They should not only express their views on legislative and other initiatives but also take responsibility for their implementation).

Particular attention in developed Western countries is paid to the need to include small and medium-sized enterprises in the process of social dialogue. To accomplish their tasks, social partners must be independent, structured, and representative. Achievement of a positive result largely depends not only on the technical and human resources used in the organization, but also on their contribution to public discussions, and their ability to represent and protect the interests of their members. The European model is based on voluntary membership in social partner organizations. They must be truly representative and able to implement agreements. The independence of social partners is seen as a guarantee of democracy. In this system, the state plays the role of a mediator and provides legislative, informational, infrastructural, and financial support to the participants of social dialogue (Kiselyova, 2023).

The legal regulation of social relations in Ukraine in general, and in the format of social dialogue in particular, is based primarily on the relevant constitutional principles. Art. 1 of the Constitution of Ukraine (Verkhovna Rada of Ukraine, 1996) states:

“Ukraine is a sovereign and independent, democratic, social, legal state”. Although there is no universally accepted definition of the welfare state, its content is usually understood as a type of organization of state and public life based on the priority of social values, primarily the priority of the human right to a decent life. The conceptual core of the welfare state theory is based on the provisions on the growing responsibility of the state for the welfare, development, and security of citizens. The practical implementation of these provisions is carried out by a powerful social policy. The welfare state exists in different manifestations: as an idea and its development in socio-political concepts; as a constitutional principle enshrined in the basic laws of most countries; as a real practice of state institutions in solving social problems of society, social groups, and individuals.

Thus, having declared itself a welfare state in the Basic Law, Ukraine has assumed certain obligations to conduct an effective social policy based on guaranteeing the viability of society, regulating the influence of various forces on the state power, “reasonable limitation of appetites of certain groups and social strata, prevention of uncontrolled actions that could lead to cataclysms”. Of particular importance for the implementation of the state social policy are: Article 3. of the Constitution of Ukraine, which states that “a person, his life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value”, “the establishment and maintenance of human rights and freedoms is the main duty of the state”; Article 8, which proclaims the principle of the rule of law (Teremetskyi et al., 2021).

The determining role for the legal regulation of social relations is played by the enshrinement of fundamental personal and civil rights in the Constitution of Ukraine, which generally complies with the basic international standards set out in the Universal Declaration of Human Rights of 1948, the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, the International Covenant on Civil and Political Rights of 1966, the International Covenant on Economic, Social and Cultural Rights of 1966 and other international legal acts (Ilchenko, 2022).

Article 9 of the Fundamental Law of Ukraine is the direct basis for the implementation of international legal acts dealing with social dialogue. According to this article, international treaties in force and ratified by the Verkhovna Rada of Ukraine are part of the national legislation of Ukraine. To ensure the equality of the parties in social dialogue, the norm contained in Article 13 of the Constitution of Ukraine is of paramount importance: “Property shall not be used to the detriment of a person and society. The state ensures the protection of rights of all subjects of property and economic rights, and social orientation of the economy. All subjects of property rights are equal before the law”.

Of particular importance for the legal regulation of social relations and ensuring equality of the parties in social dialogue is the observance of economic and social rights enshrined in the Constitution of Ukraine. These include the right to own, use and dispose of private property, the results of one’s intellectual and creative activity (Art. 41), the right to use state and municipal property (Art. 41), the right to engage in entrepreneurial activity not prohibited by law (Art. 42), the right to work (Art. 43), the right to strike (Art. 44), the right to social protection (Art. 46), the right to an adequate

standard of living for oneself and one's family (Art. 48), the right to health care, medical assistance and medical insurance (Art. 49). In addition to the rights and freedoms of the individual, the principles of his or her constitutional status play a decisive role, constituting the political and legal basis of the legal status of a person and citizen in society and the system of its social relations, one of the forms of which is social dialogue (Melnyk et al., 2020).

Different formats of social dialogue potentially facilitate political, legal, and administrative ways of resolving conflicts. The proven mechanisms of social dialogue in regulating both social and labor relations and the application of this practice in solving a whole range of social and economic problems, and making important social decisions are indispensable and constant practice for all successful countries.

It is symptomatic that the structure of the General Agreement on Regulation of Basic Principles and Norms of Implementation of Social and Economic Policy and Labor Relations in Ukraine for 2010-2012, for the first time since the conclusion of such agreements, included a separate section on Social Dialogue, which was caused by the need to develop social dialogue itself, to highlight procedural issues related to the implementation of the agreement through its instruments.

The logical step in the development of legal regulation of social relations in Ukraine should be considered the regulation of social dialogue issues at the legislative level, the adoption by the Verkhovna Rada of Ukraine on December 23, 2010. of the Law of Ukraine "On Social Dialogue in Ukraine". The need to develop and adopt this legal document, according to its authors, "is due to the absence of a framework law in the field of social and labor relations and the need to legislate the foundations of social dialogue as a prerequisite for socio-economic development, raising living standards, and achieving harmony in society".

An analysis of social benefits, the lack of which reduces the level of social well-being, shows that today most people (more than two-thirds of the population of Ukraine) lack benefits that correspond to the values of the middle class: stability in society and social guarantees that provide a sense of confidence in the future. And all this even though Ukraine's legislation enshrines principles and mechanisms that, to a large extent, should have remedied the situation, as they took into account international practice and the experience of the ILO, whose Conventions and Recommendations determine the general direction of legal regulation of labor relations and social dialogue (Humenyuk, 2021).

Therefore, it is very important for Ukraine, which is at a turning point between declarative and effective democracy, not to make fundamental mistakes. Moreover, the implementation of the concept of social dialogue will not automatically guarantee a rapid increase in people's well-being but will require hard work and consolidated efforts of politicians, managers, scientists, and all progressive-minded citizens. It would be more important to use the experience gained during the crisis stages of the history of modern Western democracy. This would allow us to better apply their experience, without, of course, ignoring contextual differences.

Today, Ukraine is increasingly faced with the need to improve the effectiveness of social dialogue and activate the positions of all participants in the negotiation pro-

cess. The achievement of social peace in our society depends on how perfect and manageable its mechanisms are, as well as how capable the parties to social dialogue are. Another condition will always be the political will of the country's top leadership to follow the difficult but only right path.

Given that the dynamic situation in Ukraine's economy promotes the development of a democratic system at different levels of socio-economic relations, a serious obstacle to the implementation of ILO provisions on the role of social dialogue is the focus of the formal attention of the partners only on classical methods of organizing the system of tripartite relations. Thus, it becomes clear that the society of unequal opportunities created in our country is too high a price that our society is paying and will continue to pay for a long time. Having neglected the principle of equality of the parties to social and labor relations, we did not see in it a potential opportunity to create preconditions for the development of a stable, efficient, and socially oriented economy dominated by a strong socially and politically active middle class capable of being a guarantor of building a prosperous social and legal democratic state in which there is no formal, but real, legally declared equality of the parties to social partnership (Zadyraka, 2019).

Unlike Ukrainian practice, in the EU countries, the traditional model of social dialogue and partnership is becoming diversified. And, most importantly, these things are being viewed, first of all, as a social institution, a product of people's consciousness and will. Accordingly, its social value (and the practical return on this value) depends entirely on people, their knowledge, skills, aspirations, intellectual decisions, and actions. As can be seen from practice, social dialogue, thanks to the activity of the participating parties and their level of preparedness, is now spreading to all processes of socio-economic relations.

To comprehend the prospects of social dialogue in Ukraine, first, the side of employees must be capable and possess real lobbying and influence. Secondly, consultations and dialogue should systematically move vertically down to the level of enterprises and organizations, where the horizontal scope of negotiation processes expands to cover new territories, industries, and interested allies of the parties.

In Ukraine, the main problems of social dialogue include the following: involvement of social or professional groups of territorial communities in the development and implementation of administrative and territorial reform to take into account the interests of such groups; stimulation of public discussion on the reform with the participation of representatives of the media, non-governmental organizations, state and local authorities, experts; formation of feedback mechanisms for generalization and use of citizens' recommendations in the process of planning administrative and territorial reform (Ivanets, 2021).

Thus, in order not to lose the prospects of reforming the existing, but, unfortunately, not yet entirely acceptable for the vast majority of Ukrainian society, social, labor, and other social relations, a review of the effectiveness of the current national model of social dialogue, which has proven to be practically unviable in the difficult conditions of post-socialist transition processes, should be initiated. The growth of social inequality convinces us that economic development trends based on the denial

of serious state intervention in the economy, reduction of the social function in favor of the working person, and absolutization of private property are unacceptable.

DISCUSSION

The issue of its practical organization is crucial for the formation of an effective model of social dialogue. It is in this area, not limited to the analysis of the legal framework, that it seems possible to assess the real prospects for the formation of social dialogue in Ukraine. In turn, the effectiveness of any law and the success of its implementation takes time. Thus, the next step after creating an institutional framework for social dialogue should be to establish a system of social partnership as an everyday practice of socio-economic life, which is still in its infancy in Ukraine.

The prospects for establishing a viable model of social dialogue are determined by the specifics of relations in the triangle of “trade unions—employers’ associations—state institutions”, the peculiarity of levers of influence of each party, and their role in harmonizing social relations.

Today, state institutions undoubtedly dominate a social dialogue. Firstly, state institutions, namely legislative authorities, central executive authorities, and local authorities, are entrusted with the function of regulatory and legal support of social dialogue and the introduction of necessary amendments to legislation. Secondly, these bodies have the prerogative to set tariffs, minimum wages, social benefits, and guarantees, and to justify their feasibility. In addition, they develop targeted programs for socio-economic development at the national, regional, and sectoral levels and, most importantly, further, implement state policy in the area of regulation of socio-economic relations.

At the same time, excessive overregulation of socioeconomic processes hurts the practice of social dialogue. The relations between state institutions, on the one hand, and employers, on the other, are overburdened with fiscal and administrative procedures. The social dialogue as such is leveled by the frequent cases when public authorities enter into “alliances with employers to reduce demands from trade unions”. Conducting social dialog in such forms negates the role of the state as a guarantor of the protection of the rights and interests of citizens (Golovan, 2020).

As for the other side of social dialog—trade unions. In the process of the formation of the trade union movement in Ukraine, “traditional” and “independent” trade unions have crystallized. The relations between trade unions and state authorities, which were established in the Soviet period, continue to retain their previous specifics. Today, one of the key “traditional” players in social dialogue is the Federation of Trade Unions of Ukraine, which has a branched structure, covers most types of economic activity, and represents the interests of a certain part of employees. “Independent” trade unions do not have a long period of functioning and, having failed to overcome the barrier of representativeness, cannot fully engage in social dialogue. Such trade unions, having a relatively high degree of self-organization, are more inclined to the format of civic organizations, but, in fact, “fall out” of the formula of social dialogue defined by the criteria of representativeness. In addition, the interests of a

whole segment of Ukrainian society—a part of working Ukrainian citizens involved in the labor sphere in the informal sector—are not represented. The issue of protecting the interests of those citizens who are either outside the trade union system or belong to illegal, unrepresentative trade unions remains relevant.

Most often, the trade union side prefers non-conflict, semi-dependent relations with state institutions and political and economic authorities. However, it is trade unions that may resort to mobilization of citizens (through strikes, mass protests) in case of violation of the principles of social dialogue, non-compliance with general agreements, and adoption of regulations that narrow the rights and interests of citizens. Such a tool of influence as the use of the right to strike is a last resort to protect interests and resolve conflicts at all levels, from the national to the level of the labor collective.

Another partner in social dialogue is employers' organizations. The environment of employers' organizations is heterogeneous and has a short period of its formation. There is a division, first, into those organizations that are authorized by the current legislation to represent a party in social dialogue and the rest; second, into those organizations that represent large capital and organizations of medium and small businesses. It is the employers' side that has powerful resources in defending corporate interests, in particular through various formal and informal channels of influence on state institutions and trade unions. Thus, we are talking about the "inequality of social forces". Unequal access to resources and inequality of opportunities lead to monopolization of social dialogue by powerful political and economic groups. Excessive political, financial, and economic dependence, the use of informal lobbying resources, total corruption, and illegitimate corporatism level the social dialogue. Civilized lobbying, which is associated with a transparent and legitimate process, and the social responsibility of business are in their infancy in Ukraine today. The initiated development of the National Concept for the Development of Social Responsibility of Business in Ukraine is still in progress (Plachkovska, 2019).

The nature of the general agreements, which are rather a list of goals rather than real strategies agreed between the Government and social partners, is mostly formal and declarative. The issue of their compliance and results remains acute. Violations of the general agreements and non-compliance with the Law of Ukraine "On Social Dialogue in Ukraine" (in the process of adopting the budget, preparing several regulatory legal acts on economic and social policy, drafts of pension reform, tax, and labor codes) have been repeatedly stated by the social dialogue partners—representatives of trade unions and employers.

Besides, transparent anti-corruption, anti-monopoly, budget, and tax policies are the areas in which, on the one hand, the interests of all three parties to social dialogue should be taken into account, and, on the other hand, without changes in these areas, a full-fledged practice of social dialogue is impossible. In the implementation of socio-economic policy, to achieve an adequate level of social security and protection of citizens, the priority issues are those that concern the absolute majority of Ukrainian citizens, namely, pension and health care, social insurance, conditions, and level of remuneration, overcoming unemployment, and employment issues. Therefore, the tasks

of implementing a flexible policy of modernization of the social and labor sphere, innovation policy, balancing the level of wages with the cost of production, etc. are becoming more relevant (Synchuk & Yastrubetsky, 2022).

Whether formal parties to social dialogue adequately represent and protect the interests of Ukrainian citizens is indirectly illustrated by sociological data on the level of trust in them. Thus, the index of trust, firstly, in state institutions (President, Verkhovna Rada, Government of Ukraine, local authorities, etc.); secondly, in trade unions; thirdly, in heads of state enterprises, private entrepreneurs, has remained, with slight fluctuations, at a consistently low level for a long period (from 2.1 to 2.9 points on a five-point scale).

Social dialogue is a civilized form of resolving conflicts of interest and reducing confrontation in social relations. Imbalances in the social structure of Ukrainian society (unformed “middle class”, property stratification, marginalization of citizens, etc.) inevitably affect not only relations in the social partnership triangle but the overall socio-economic situation in Ukraine.

In this context, signs of negative or positive social dynamics can be considered a sufficient criterion for assessing the formation and effectiveness of social dialogue in Ukraine. In particular, we are talking about the following social “markers”: transformations in the social structure of Ukrainian society, the existence of social mobility and so-called social elevators, demographic and migration trends, etc. The effectiveness of social dialogue is best evidenced by several socio-economic indicators, trends in public attitudes and not just conflict-free relations and agreements between official partners. Therefore, the practice of effective social partnership should be assessed not only in terms of interaction between official parties but also in terms of the development of social processes (Spasiv et al., 2021).

Thus, in our opinion, the formation of social dialogue in Ukraine should take place both in a narrow format (relations in the “triangle” of social partnership) and in a broad format (permanent partnership with a powerful third sector capable of defending the interests of citizens). Ultimately, expanding the scope of social dialogue with the active involvement of the third sector is an essential sign of implementing a full-fledged model of social partnership in Ukraine (Rachynska, 2020).

The practice of social dialogue and its effectiveness in Ukraine will be determined by several factors in the future:

- the formation of high-quality legislation, overcoming contradictions between the norms and procedures governing social dialogue, and, no less important, the availability of developed legislation in related areas (the legal framework for social dialogue in Ukraine should be in line with international norms and standards and obligations);
- the transformation of the political system towards decentralization of power, development of local self-government, strengthening of responsibility and ensuring publicity of state institutions, development of civil society structures, formation of political and legal culture;
- availability of political will and ensuring the appropriate political and eco-

conomic “climate” in the state, acceptable “rules of the game” in the permanent social dialogue, which should not be revised with the change of political configuration;

– removing the practice of social dialogue, in particular, the formation of staff of its tripartite bodies, from the excessive influence of state and political institutions (otherwise, social dialogue becomes another platform for reaching agreements on specific and urgent socio-economic issues, provoking conflicts of interest);

– finding an optimal balance of national, corporate, and private interests to reach compromises and agreements in the process of social dialogue at all levels (in social partnership, the results of agreements and compromise positions should be equally distant from all parties and corporate interests);

– ensuring public control by independent trade unions, non-governmental organizations, expert-analytical centers, human rights organizations, and public councils at central and local authorities over the process of discussion and decision-making in various forms of social dialogue, as well as over the implementation of the state policy in the sphere of social partnership (this means assessing the level of compliance with the legislation ensuring social dialogue, public expertise and monitoring of the results of the implementation of general agreements and collective bargaining). However, control over the implementation of decisions and agreements reached today is entrusted exclusively to the participants of social dialogue themselves);

– moving away from formalized and personalized formats of social dialogue (we are talking about cases of subjective “convergence of positions” of official representatives of the parties, which do not defend the objective interests of citizens);

– equal participation at all levels of social dialogue (national, territorial, sectoral, local) of representatives of employers, workers, and representatives of public authorities (instead, there is a concentration of social dialogue primarily at the national level, while at the regional and other levels it is less formed);

– equalization of levers of influence of all parties to the social dialogue, the establishment of a system of checks and balances between them;

availability of human resources, organizational support, and material and technical base for organizing social dialogue at all levels; competence of authorized representatives of social dialogue; access of all parties, without exception, to the necessary information;

strengthening the responsibility of all parties to social dialogue for compliance with the legislation on social dialogue, general and collective agreements (at the level of the country, region, and industry), and collective bargaining agreements (at the level of the enterprise).

CONCLUSION

Social dialogue is one of the most effective means of regulating social and labor relations and addressing a wide range of socio-economic issues. This process involves defining and converging positions, reaching joint agreements, and making consensus decisions between the participants of social dialogue. Participants of social dialogue are representatives of employees, employers, executive authorities, and local self-government bodies who work together to formulate and implement the state social and economic policy and regulate labor, social and economic relations.

Social dialogue is an integral part of modern society aimed at promoting consensus and democratic participation between various labor stakeholders. This process, which includes negotiation, consultation, and information exchange, is based on the establishment of effective structures and processes that facilitate the resolution of important economic and social issues. Successful social dialogue not only contributes to good governance but also ensures social and industrial stability, contributing to economic growth. An important aspect of social dialogue is its role in achieving social justice. Strengthening cooperation between governments, employers, and employees helps to ensure equality, protect workers' rights, and guarantee decent working conditions and fair pay. Social dialogue becomes especially relevant in times of global economic and financial crises when strengthening consensus among key stakeholders and their democratic participation in decision-making are essential to ensure stability and overcome difficulties. Such an approach helps to preserve jobs, implement social programs, and contribute to balanced economic development.

For a successful social dialogue in Ukraine, the employees' side must have strong lobbying and influence. This will ensure that they can actively influence decision-making that affects their interests. Consultation and dialogue should become a systematic practice that extends across enterprises and organizations, including new territories, industries, and allies. This will help make the dialogue more inclusive. The main problems of social dialogue in Ukraine include the following: involvement of local communities in reforms, stimulation of public discussion with the participation of the media and experts, feedback mechanisms for using citizens' recommendations, ongoing dialogue between the government and non-governmental organizations, and development of financial and economic relations.

To preserve the prospects for reforming social, labor, and other social relations in Ukraine, it is important to review the effectiveness of the current national model of social dialogue. This model may not be sufficiently viable in the context of complex post-socialist transition processes. Social inequality points to the need to reconsider economic trends based on limited government intervention and the unacceptable absolutization of private property, which does not always improve the lives of workers. Therefore, improving social dialogue in Ukraine requires the broad engagement of civil society groups, active dialogue with the media, the development of mechanisms for sharing information and recommendations, and a balanced approach to economic and social reforms to achieve a more equitable society.

FUNDING: This research received no external funding.

CONFLICT OF INTEREST: The authors declare no conflict of interest.

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ARTICLE HISTORY: Received 2023-08-11 / Accepted 2023-09-25