Labour relations in law enforcement agencies on the example of the prosecutor's office: A comparative analysis of Ukraine and other countries

Relações de trabalho em órgãos de segurança pública, tomando como exemplo o Ministério Público

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Abstract: The need to assess how the reforms will affect the rights of employees and identify areas for improvement based on international comparisons has made it important to study labour relations in law enforcement agencies, especially in prosecution services. Understanding and strengthening labour relations in law enforcement is crucial for maintaining the rule of law and public trust in the judiciary in light of changes in state legislation aimed at promoting openness and respect for human rights. The study uses dialectical, formal and logical, comparative legal, systemic and structural, and logical and legal methods. This topic will allow comparing the experience of Ukraine with the experience of other countries in the study of changes in the regulation of labour relations of prosecutors in the context of reforms aimed at increasing the efficiency and transparency of its activities.
Keywords: labour relations, labour relations of prosecutors, prosecutor's office, prosecutor, law enforcement agencies, administration, labour right, international comparison.

Resumo: A necessidade de avaliar como as reformas afetarão os direitos dos funcionários e identificar áreas para melhorias com base em comparações internacionais tornou importante o estudo das relações de trabalho em órgãos de segurança pública, especialmente nos serviços do Ministério Público. Compreender e fortalecer as relações de trabalho nesses órgãos é crucial para manter o Estado de Direito e a confiança pública no Judiciário, à luz das mudanças na legislação estatal voltadas para a promoção da transparência e o respeito aos direitos humanos. O estudo utiliza métodos dialéticos, formais e lógicos, comparativos jurídicos, sistêmicos e estruturais, além de métodos lógico-jurídicos. Esse tema permitirá comparar a experiência da Ucrânia com a de outros países no estudo das mudanças na regulação das relações de trabalho dos promotores, no contexto de reformas destinadas a aumentar a eficiência e transparência de suas atividades.
Palavras-chave: Relações profissionais de promotores de justiça; agências de segurança pública; administração; direitos laborais; comparação internacional.

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1 Introduction

The prosecutor's office is a public authority that exercises its functions to protect human rights and freedoms and the general interests of society and the state. Prosecutors are vested with certain powers necessary to perform their functions. Work in the prosecutor's office is connected with the performance of certain functions of the state and is very stressful and responsible. The Prosecutor's Office of Ukraine is a unified system of prosecutor's offices of different levels. Each employee of the prosecutor's office is an employee who has labour relations. Due to the specific nature of this body, labour relations of prosecutors may undergo significant changes in the course of their service in the prosecution service. Given this, prosecutors, like any other employees, should be protected by labour law, and changes in their employment relations should be regulated. Therefore, the authors believe that the grounds for changing the labour relations of prosecutors require in-depth scientific research.

The adoption of the Law of Ukraine "On the Public Prosecutor's Office" of 14 October 2014 No. 1697-VII is an important stage in the reform of the public prosecution service in the context of creating a new model of this body by the principles and standards of the Council of Europe. The explanatory note to the current draft of the Law drew attention to a key aspect of the planned reform, in particular, to rethink the role of the prosecutor's office in protecting the interests of a person and a citizen, the state and society, to deprive this body of excessive powers to exercise general supervision over the observance of laws while introducing legal mechanisms that will increase the efficiency of the prosecutor's office and focus on issues related to criminal proceedings.

Several scholars have studied the activities of the prosecutor's office and labour relations arising in this institution. Podorozhnyi (2022) studied the performance of prosecutors, determining the dependence on the quality of labour discipline and disciplinary liability. The author highlights the peculiarities of bringing them to disciplinary liability, in particular: regulation of legal relations in the field of prosecution by special labour legislation; conduct of disciplinary proceedings by the Qualification and Disciplinary Commission of Prosecutors; a wider range of disciplinary sanctions compared to general labour legislation; a clear and consistent procedure for bringing to disciplinary liability which ensures protection of the rights and interests of prosecutors. Sevidova (2021) studied the legal relations of prosecutors, pointing out their inclusion in the subjects of labour relations. He noted that the labour activity of these employees is a form of public labour, and it is regulated by both labour legislation and legislation in the prosecutor's office.

Klochko (2021) studied the dependence of the functional model of the prosecutor's office on its place in the system of the state apparatus. He pointed out that in different countries, the prosecutor's office may be subordinated to the executive, or judiciary, or occupy an intermediate or independent place in the system of separation of powers, which affects its functional model. Kiselyova, Shlapko and Khlus (2022) studied the mechanisms of realization of labour and social security rights of prosecutors. They found that prosecutors are subject to general labour law provisions, as well as special provisions established by the legislation on the prosecution service. The study showed that the legal status of prosecutors enables them to exercise their constitutional rights and obligations, including labour and social security rights. The authors drew attention to the important role of international regulations in improving Ukrainian legislation in this area and identified problematic aspects in it, suggesting ways to solve them. Kuprun (2022a) studied the pension form of social protection of prosecutors in Ukraine, identifying its specific features, reasonably considering the legal framework, objectivity about pension provision and the variety of pension types. Particular attention was paid to prosecutors' pensions, their guarantees, recalculation and inclusive approach to provision.

The purpose of the study is to analyze changes in the regulation of labour relations of prosecutors in the context of reforms and European integration aimed at increasing efficiency and transparency. A comparative analysis of Ukraine's experience with other countries will help identify similarities and differences in the regulation of labour relations in the prosecution service and highlight prospects for further development in this area.

2 Materials and Methods

The methodological basis of the study was chosen with due regard to the goal and objectives, object and subject of the study. The dialectical method, as a general scientific method of cognition, was applied when considering the legal grounds for the emergence and termination of labour relations with prosecutors in their development and interconnection with the general categories of labour law and legislation. This method allows us to consider the object of study as a system of interconnected and interacting elements, as well as to identify internal regularities and contradictions.

The concepts and terminology used in the current legislation of Ukraine regulating the labour relations of prosecutors are defined in a formal and logical (dogmatic) way. This method is

based on a methodical study of certain legal provisions, as well as how they are interpreted and applied in the context of legal practice. The formal-logical method allows us to consider the concepts and objectives of legal regulation in their codified form in the context of labour law about prosecutors. The logical-analytical method allows us to break down the legal provisions governing labour relations into their constituent elements, to find out the circumstances under which they are applied, and to establish how these provisions are related to other labour law provisions and institutions.

The comparative legal method was used to conduct a comparative analysis of the topic under study with the experience of other countries in this area. In addition, the comparative legal method allows us to find creative solutions and best practices that can be incorporated into national legislation to improve working conditions and protect the rights of prosecutors. At the same time, this approach helps to prevent adverse consequences that may arise from improperly copying foreign laws without considering the unique characteristics of one's own society and legal system.

The article uses the systemic-structural approach to analyze changes in the regulation of labour relations of prosecutors in light of reforms and European integration. In the context of European integration, the systemic-structural approach helps to assess the compliance of national legislation with the standards of the European Union and to identify areas where legal norms need to be adapted or harmonized. This is crucial to ensure that Ukrainian legislation is in line with international standards and to preserve Ukraine's ability to join European organizations. In the context of Ukraine's European integration, the application of the model approach has contributed to the design and modification of certain changes in the legal regulation of the topic under study.

Based on the examples of other countries, the logical and legal approach has made it possible to identify potential areas for the development and improvement of labour relations. The logical-legal method allows us to identify the best practices by analyzing examples from other countries that have already introduced certain modern methods into labour legislation. The logical-legal approach can help to create and implement new legislative measures that guarantee better working conditions, increased flexibility and protection of prosecutors' rights in the light of this experience. This strategy ensures that national norms are in line with international standards and helps to harmonize labour legislation with international best practices.

3 Results

3.1 Legal Status and Labour Relations of Prosecutors

As of today, there is no single approach to determining the legal status of employees exercising the right to work in the prosecution authorities of Ukraine. Undoubtedly, employees of the prosecutor's office are subjects of administrative law, since they perform the functions of a representative of the state power established by the Constitution of Ukraine and the Law of Ukraine "On the Prosecutor's Office". However, the labour rights, duties and guarantees of prosecutors are an integral part of their legal status as a subject of labour law.

The emergence of the legal status of a prosecutor's office employee is a consequence of the emergence of labour rather than administrative legal relations. At the same time, the statement of the fact of the former does not deny the possibility of the latter, since they may exist in parallel. In this case, the legal relationship involving a prosecutor is dual. On the one hand, a candidate for the position acquires the status of an employee, and on the other hand, a civil servant. Upon entering the service of the prosecutor's office, an individual acquires the status of a party to labour relations - an employee who performs tasks and functions of the state that have signs of public administration.

However, it should not be forgotten that the civil service excludes individual and collective contractual regulation of employment relations, and this circumstance gives rise to serious differences in the legal status of traditional subjects of labour law. Thus, in such relations, there is no employer figure traditional for labour law. Instead, there is an agent of the state (body, institution, etc.) with a clearly defined range of powers and financial capabilities fixed by the relevant budget. In this situation, both labour and collective bargaining agreements lose their meaning, as most of the conditions of service are regulated by non-contractual regulations."

It is important to note that according to Article 3 of the Labour Code of Ukraine (Verkhovna Rada of Ukraine, 1971), "labour legislation regulates labour relations of employees of all enterprises, institutions, organisations regardless of their form of ownership, type of activity and industry, as well as persons working under an employment contract with individuals". This implies that the legislator considers civil servants, including prosecutors, to be subjects of labour law. Thus, legal relations in the civil service are subject to labour law, taking into account the peculiarities provided for by special rules and the specifics of the civil service.

The specificity of relations arising in connection with employment with the prosecution authorities of Ukraine is due to two factors: the peculiarity of the employer and the peculiarity of the labour function. These differences, in turn, determine special requirements for persons willing to work in the prosecution service, a specific regime of remuneration, working hours and rest periods, and increased responsibility compared to employees in other industries.

As noted above, prosecutors have a special status. This is because legal relations within the framework under which prosecutors exercise their labour rights and obligations arise based on an employment contract and are regulated by the Labour Code of Ukraine and other labour regulations, as well as special regulations governing the activities of prosecutors. Thus, it can be concluded that prosecutors have a special legal personality (Podorozhnyi, 2022).

Identification of the features of the special legal personality of a certain category of employees is possible by studying the legislative provisions in the relevant area. Thus, because of a comprehensive analysis of the provisions of the current legislation of Ukraine, it can be stated that the labour legal personality of persons wishing to acquire the status of a prosecutor's office employee covers the following features: Citizenship of Ukraine. Higher legal education. Not being in any other labour relations and compliance with existing restrictions on concurrent employment and combining it with other activities as defined in anti-corruption legislation. These regulations prohibit prosecutors from engaging in other paid activities (except for teaching, research and creative work, medical practice, sports instructing and refereeing). Not being a member of a political party.

No criminal record and no administrative liability for committing a corruption offence. Two years of legal experience. Knowledge of the state language. Not being recognized by a court as having limited legal capacity or incapacity. Absence of diseases that impede the performance of the prosecutor's duties. Absence of characteristics that constitute a restriction for holding the position of a prosecutor under the Law of Ukraine "On Purification of Government". Integrity. In this regard, it can be argued that there is another feature of the special labour legal personality of prosecutors - integrity. To promote such personal qualities of prosecutors as impartiality, honesty, integrity, and the ability to resist attempts to unduly influence their work, the Code of Professional Ethics and Conduct for Prosecutors was developed. This document lists the basic principles and moral norms that should guide prosecutors both in the performance of their official duties and outside of work.

The Law of Ukraine "On the Public Prosecutor's Office" (Verkhovna Rada of Ukraine, 2015) also provides for additional features of labour legal personality for certain groups of

prosecutors (the Prosecutor General, military prosecutors, and the Specialised Anti-Corruption Prosecutor's Office). Summarising the above, the authors conclude that prosecutors are among the subjects of labour relations since their work is a type of public labour activity. Legal relations arising from the conclusion of an employment contract fall within the scope of labour law. Thus, in these legal relations, the employer is a state body, and the hired party is a prosecutor. At the same time, the legal regulation of these labour relations is carried out not only by labour law but also by the legislation in the prosecutor's office (Sevidova, 2021).

3.2 Changes in Labour Relations and Employment Conditions

Labour relations, to which a prosecutor is a party, may change after their occurrence due to certain circumstances, and therefore the conditions of the prosecutor's employment, which were agreed by the parties before the labour relations arose, may undergo significant changes. The peculiarity of the change in labour relations as a certain stage in its dynamics, unlike the stage of origin and termination, is its optional nature, since rarely does any labour relationship go through the stage of change in its development. The category of "change of employment relationship" should be distinguished from the category of "change of employment contract". Thus, a change in an employment relationship is a transition, or transformation of one or more essential working conditions provided for by labour law, a collective agreement (bargaining agreement) or an employment contract into a substantially different one (or others). Amendment of an employment agreement is a transition, or transformation of one or more essential terms of this agreement into a substantially different one(s) at the initiative of the employee, employer or third parties.

Given the specific nature of labour relations with a prosecutor's office employee, the grounds for their change may be both general, applicable to all categories of employees, and special, specific to prosecutors. However, such grounds, both general and special, are subject to certain legal elements. A legal fact alone is not enough to create, change or terminate an employment relationship. It is necessary to have a factual basis. The existence of factual elements in labour law is due to the specifics of work of certain categories of employees (civil servants, research and teaching staff), the complexity of their work, and increased responsibility for their performance.

In labour law, which has a sectoral specificity in the need to consider various life circumstances when regulating complex social relations, most legal consequences are established

not as a result of individual legal facts, but as a result of legal elements. A legally significant set of facts that directly leads to the establishment of legal consequences in labour law should be considered a legal composition. The legal composition includes legal facts that acquire legal significance at the moment of completion of the accumulation of facts and the legal consequences caused by the composition.

Thus, the labour relations of a prosecutor are no exception, and their emergence, change and termination require a certain factual composition. The change of labour relations in the prosecutor's office occurs in the context of the following legal facts: the initiative of an interested party aimed at transferring an employee; the employee's will to perform his/her functions in a new position or the actual start of his/her labour functions; written expression of the will of the management of the prosecutor's office (Klochko, 2021).

In our opinion, the most common grounds for changing the labour relations of a prosecutor's office employee are transfer and relocation. By the provisions of Article 38 of the Law of Ukraine "On the Prosecutor's Office" of 14 October 2014 No. 1697-VII, which entered into force on 15 April 2016, regarding the transfer of a prosecutor to another prosecutor's office, a prosecutor may be transferred with his/her consent to another prosecutor's office, including a higher level one, to a vacant or temporarily vacant position. Transfer to a higher-level prosecution body shall be based on the results of a competition, the procedure for which shall be determined by the Qualification and Disciplinary Commission of Prosecutors. The competition shall include an assessment of the prosecutor's professional level, experience, moral and business qualities and verification of his/her readiness to exercise powers in another prosecution body, including a higher level one. A condition for a prosecutor to participate in the competition is that he or she must submit a transfer application and have relevant work experience as a prosecutor.

The relevant competition is conducted by the Qualification and Disciplinary Commission of Prosecutors. Thus, to change the employment relationship in case of transfer of a prosecutor to a position in another prosecution body, it is necessary to have the actual composition, which includes the following: the fact of a person's employment in the prosecution body (condition); the prosecutor's consent to his/her transfer to a position in another prosecution body; the presence of a vacant or temporarily vacant position in the prosecution body to which the prosecutor will be transferred (condition); in case of transfer to a higher-level prosecution body, successful completion of the competition, in which such prosecutor will participate. Given the above, it can be concluded that to change the labour relations of a prosecutor in the form of transfer to another prosecution body, it is necessary to have a rather complex legal composition, without at least one

of the elements of which such a change in labour relations cannot take place (Kiselyova et al., 2022).

It should be noted that the concept of "transfer" to another position should be distinguished from "transfer". Thus, under Article 32 of the Labour Code of Ukraine dated 10 December 1971 No. 322-VIII, the transfer of an employee to another job at the same enterprise, institution or organisation to another workplace, another structural unit in the same location, assignment of work on another mechanism or unit within the speciality, qualification or position stipulated by the employment contract is not considered a transfer to another job and does not require the employee's consent. The owner or his/her authorised body has no right to transfer an employee to a job that is contraindicated for health reasons.

Thus, the transfer requires the fact that the prosecutor is working in a certain position in a certain prosecutor's office (a condition for changing the prosecutor's labour relations), as well as an order to transfer. The authors believe that transfer and relocation are integral elements of service in the prosecution service. Labour relations in the civil service, in the prosecution service in particular, may also change as a result of changes in essential working conditions. Under Article 32 of the Labour Code of Ukraine No. 322-VIII of 10 December 1971, due to changes in the organization of production and labour, it is allowed to change essential working conditions in case of continuing work in the same speciality, qualification or position. An employee must be notified of changes in essential working conditions, such as systems and amounts of remuneration, benefits, working hours, establishment or cancellation of part-time work, combination of professions, change of grades and job titles, etc., no later than two months in advance. If the same essential working conditions cannot be maintained and the employee does not agree to continue working under the new conditions, the employment contract shall be terminated by clause 6 of Article 36 of this Code.

It should be noted that changes in the working conditions of prosecutors can be divided into those that apply to a particular employee and those that apply to a certain range of employees. For example, renaming a position or changing a class rank may apply to only one employee, while changes in benefits and working hours established by the internal labour regulations of the relevant prosecutor's office apply to all employees of such prosecutor's office (Omelianenko, 2022).

Thus, to change the labour relations of a prosecutor's office employee as a result of changes in essential working conditions, a certain factual composition is required. The conditions and other elements of this factual composition will differ depending on what kind of significant changes will

take place. A change in the labour relations of a prosecutor's employee also occurs in the case of the appointment of a prosecutor to an administrative position by the procedure provided for in Article 39 of the Law of Ukraine "On the Prosecutor's Office" of 14 October 2014 No. 1697-VII. The provisions of part 8 of the said article, which stipulates that holding an administrative position in the prosecutor's office does not exempt a prosecutor from exercising the powers of a prosecutor of the relevant prosecutor's office, implies that in case of appointment of a prosecutor to an administrative position, his/her labour relations will change, namely, the range of rights and duties will expand.

The list of administrative positions in the prosecutor's office of Ukraine is set out in Article 39 of the Law of Ukraine "On the Prosecutor's Office" of 14 October 2014 No. 1697-VII. Based on the analysis of the provisions of the said Law, we will find out the actual composition required to change the labour relations of a prosecutor in case of his/her appointment to the administrative position of the head of a regional prosecutor's office. This requires the fact of working in the prosecution authorities (condition), the necessary professional and moral qualities, as well as managerial and organizational skills and work experience sufficient for the Council of Prosecutors of Ukraine to recommend the appointment of a prosecutor to the relevant administrative position, the recommendation of the Council of Prosecutors of Ukraine and the order of the Prosecutor General. The order of the Prosecutor General is the main element of the actual composition, which cannot be issued in the absence of at least one of the other elements (Galushko, 2020).

However, the authors believe that the basis for changing the labour relations of a prosecutor's employee in connection with the appointment of a prosecutor to an administrative position should be the actual composition with all its elements in general, since in the absence of at least one of them, the change of legal relations will not take place. However, the grounds for changing the labour relations of a prosecutor may be either the appointment to an administrative position or the dismissal of a prosecutor from an administrative position and termination of his/her powers in this position. The procedure and grounds for dismissal of a prosecutor from an administrative position and termination of his/her powers in this position are established by Articles 41, 42 of the Law of Ukraine "On the Prosecutor's Office" of 14 October 2014 No. 1697-VII. Given that part 4 of Article 41 of the said Law stipulates that dismissal of a prosecutor from an administrative position or termination of his/her powers in an administrative position, except for the case of dismissal from the position of a prosecutor or termination of powers in the position of a prosecutor, does not terminate his/her powers as a prosecutor, the authors believe that in this case there will be a change in labour relations.

From the foregoing, it can be concluded that to change the labour relations of a prosecutor in connection with the dismissal of a prosecutor from an administrative position and termination of his powers in this position, it is necessary to have a factual composition containing several elements. For example, based on the analysis of the provisions of the Law of Ukraine "On the Prosecutor's Office" of 14 October 2014 No. 1697-VII, the authors note that dismissal of the head of a regional prosecutor's office from an administrative position requires the following 1) the fact that the prosecutor holds an administrative position (condition); 2) one of the grounds provided for in part 1 of Article 41 of the Law of Ukraine "On the Prosecutor's Office" of 14 October 2014 No. 1697-VII; 3) recommendation of the Council of Prosecutors of Ukraine; 4) order of the Prosecutor General of Ukraine (Kuprun, 2022a).

3.3 Prosecution service and labor relations: Insights from United States, Germany, and France

The systems of labour relations in the prosecution service may differ from country to country. Many foreign countries have their own legal and institutional peculiarities that affect the nature of labour relations in the prosecution service.

Thus, in the United States, the prosecutor's office is called the "attorney's office", headed by the US Federal Prosecutor or Federal Attorney, whose position was introduced in 1789 in the Judiciary Act of 1789. The federal attorney is appointed to the position, among other things, based on the provisions of Section 2 of Article 2 of the US Constitution. Under the U.S. Code (28 U.S. Code § 541), the Federal Attorney is appointed by the President of the United States with the consent of the U.S. Senate for a term of four years, and at the same time, upon expiration of the term, continues to serve until his successor is appointed.

Among other things, unlike in Ukraine, the US Attorney General is the head of the US Department of Justice, but it should be distinguished from the Ministry of Justice of Ukraine, because in the US it is essentially the headquarters of the US Attorney General, and it is through the Department of Justice that the US Attorney General regulates the activities of federal attorneys in the federal judicial districts. In the United States, the Executive Office for United States Attorneys "EOUSA" operates, i.e. an institution of state power that has no analogue in any other country in the world. The EOUSA was established in 1953 by AG Order Nº 8-53 to ensure constant interaction between the Department of Justice and 93 US Attorneys located in the 50 states, the District of Columbia, Guam, the Mariana Islands, Puerto Rico and the US Virgin Islands. Thus,

the U.S. Attorney's Office in the United States is a set of executive authorities of the United States, including at the state and local levels, which advises the government at the appropriate level, represents the interests of the government in courts, and ensures the general implementation of the applicable law. Among other things, the U.S. Attorney's Office acts as a prosecutor's office, with the power to initiate criminal proceedings, investigate violations of applicable laws, and prosecute and support prosecutions in court (Bellin, 2020).

The federal prosecutor's office in the United States has its investigative agencies, including the FBI, which is only one of the law enforcement agencies that is subordinated to the Department of Justice. Among other things, the Ministry of Justice is subordinated to the Marshals Service, or bailiffs, the Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco and Narcotics Enforcement.

At the same time, it should be noted that in the United States, the prosecutor's office is a fully independent body, which is achieved through a properly organised system of crime prevention, and the prosecutor's office operates based on the following priorities: high professional competence with knowledge of crime and its high-tech means; exceptional emphasis on professional aspects and rather significant sensitivity to human rights violations; emphasis on effective cooperation with counteraction agencies, including global threats of crime and terrorism (Lynch, 2023).

Labour relations in the US prosecutor's office differ from most other areas of activity. Prosecutors can be hired by state or federal agencies under employment contracts. Their rights, responsibilities and working conditions may be set out in these contracts.

Prosecutors are required to adhere to strict professional ethics. Disciplinary sanctions may be imposed as a significant consequence of breaches of these rules. If these rules are violated, disciplinary action may be taken. For example, the District Attorney of Duke County in North Carolina was dismissed in 2007 after allegations of abuse of power and human rights violations in several criminal cases.

The responsibility of prosecutors is to act and make decisions. In case of significant violations, they may be subject to disciplinary action, receive complaints from citizens and be prosecuted, among other forms of accountability.

Among the rights and privileges enjoyed by prosecutors are the ability to obtain information necessary to perform their tasks and protection from attempts to influence their decisions. In several US counties, prosecutors earn much more money than other lawyers. For

example, the district attorney of Mangan County in Georgia receives an annual salary of almost $150,000, which is significantly more than the average lawyer's income (Antonova et al., 2021).

The positive experience of the United States with employment contracts for prosecutors may be important for implementation in Ukraine. Future misunderstandings and disputes can be prevented by introducing clear and transparent terms of employment contracts for prosecutors. This would also contribute to increased performance and professional development. Proper salaries and remuneration of prosecutors should be commensurate with their professional duties and efforts. This can significantly increase their interest in performing their tasks and their professional motivation. Public trust in prosecutors can be strengthened and the quality of their work improved by introducing standards of professional behavior and ethics comparable to those in the United States.

The rights of prosecutors and their impartiality in the performance of their duties must be preserved. A policy of non-interference, maintaining their independence and considering other external influences is part of this process. The introduction of a system for assessing the professional development and skills of prosecutors can help them maintain their powers over time and guarantee the sustainable development of the prosecution service. The prosecution system in Ukraine could be improved by applying these ideas and methods to the design and management of prosecutors' employment contracts. This would increase productivity, autonomy and professional development in this area (Mitsilegas, 2021).

In European countries, the structure of the prosecutor's office differs significantly from the United States. For example, in Germany, according to the Law on the Constitutional Court (Article 149 GVG), the Federal Prosecutor General (Generalbundesanwalt) and federal prosecutors are appointed by the President of the country, upon the proposal of the Minister of Justice and with the approval of the Bundesrat. According to the German Federal Civil Service Act (5BBG), the Federal Prosecutor General, federal prosecutors, and senior prosecutors are appointed for life and are civil servants. At the same time, the Federal Prosecutor General acts also as a political figure and can be dismissed by the Minister of Justice at any time. At the same time, the Law stipulates that no hardening is required for this. It is known that in Germany the organizational structure of the prosecutor's office is divided into federal and state prosecutor's offices, which follows from the provisions of the Order on the Organization and 1 Procedure of the German Public Prosecutor's Office of 12.03.1975.

In Germany, prosecutors are appointed by the relevant authorities, which may be political. One of these bodies is the "Ministry of Justice" (Justizministerium) in the federal states or at the level of the federal government. There may be differences in the organization of this system in different German states (Länder). Typically, the process of appointing prosecutors involves representatives of the Ministry of Justice, which may have a political component, as well as independent commissions or councils that select candidates for prosecutorial positions. This approach can ensure a balance between professionalism and political interests in the appointment process. They should be subject to a rigorous competitive selection process and should have relevant legal education and work experience (Mitsilegas, 2020).

Prosecutors must maintain and improve their skills through education and career development. Ensuring that they are qualified in criminal justice and law is crucial. In Germany, prosecutors' salaries often depend on their specialisation, rank and length of service. It may also cover other expenses and pay for work performed, including bonuses for completing complex or risky cases. Although prosecutors have set working hours, they may be required to work overtime if circumstances require it, as in the case of very complex criminal cases. They are also entitled by law to leave and rest.

The social guarantees offered to civil servants, including health insurance, pensions and other social benefits, are generally extended to prosecutors. Prosecutors may terminate their employment for any reason, including, but not limited to, breach of the law, professional ethics, or reaching retirement age. If prosecutors violate professional norms and ethics, they are subject to a system of disciplinary responsibility. Disciplinary measures such as warnings, fines, suspension or dismissal may fall under this category.

In the view, of the authors Ukraine could benefit from Germany's experience with a strong independence of prosecutors and a relatively high level of logistical support. The procedures used in Germany to select and appoint prosecutors could be useful for Ukraine. This could include involving the Ministry of Justice or other relevant authorities in a competitive selection process involving specialized commissions. Strengthening the system of guarantees for the independence of prosecutors is crucial for Ukraine to ensure that they can perform their duties objectively and impartially, free from political interference or coercion.

Establishing a system of continuing education and professional development for prosecutors, as well as encouraging such development through participation in training, courses and other educational initiatives, could be beneficial for Ukraine. Ukraine would benefit from emulating the social guarantees for prosecutors in Germany, which include pensions, health

insurance and other benefits. Ukraine could benefit from modifying the procedures for controlling the prosecution service, especially by establishing a strong system of internal control and public oversight procedures (Kirdan et al., 2024).

The French prosecutor's office also has its differences. The legal regulation of the prosecution service in France is based on the Constitution of France of 1958, the French Code of Criminal Procedure (Articles 31-48 of the section "On the Prosecutor's Office"), the Code of the Judiciary of 1978, and the French Code of Civil Procedure. As in Germany, the French public prosecution service is subordinated to the Ministry of Justice and is a centralised system of bodies. The Prosecutor General is assisted by the First Advocate General and 19 Advocates General. The Attorneys General and their assistants also act at the courts of appeal, to which the public prosecutors of the Republic (les procurers de la Republique), who are subordinated to these courts, are subordinated. The Public Prosecutors of the Republic are the district prosecutors of the tribunals, who are mainly responsible for civil cases. All public prosecutors are appointed by the President of France on the proposal of the Minister of Justice, who directly supervises their activities.

In terms of their status, prosecutors are quite close to judges, with some exceptions, but they operate on the same principles. The main organisational principles of the prosecutor's office are integrity, independence, subordination and accountability. The court and the prosecutor's office thus form a single body and have the right to change the position of prosecutor to judge and vice versa throughout their careers (Parshina, 2023).

If a prosecutor violates the law in the course of criminal prosecution, he or she is not held liable, and the prosecutor is not held liable for reimbursement of court costs or damages to the person found guilty, which is a certain guarantee of independence and saves the prosecutor from having to take part in cases of prosecution by citizens. Thus, given the above, the French prosecutor's office is an independent body from the court or the parties to criminal proceedings.

In France, prosecutors are civil servants. This means that they benefit from some of the social guarantees offered to French civil servants, including health insurance, pensions and other benefits. Prosecutors in the French public prosecution service are subject to a special career development scheme that includes experience and merit-based promotion. This may mean a promotion, an increase in status or a salary increase in line with the change in role. In France, prosecutors who breach professional standards and ethics are subject to disciplinary action as civil

servants. Disciplinary measures such as a warning, fine, suspension or dismissal may fall under this category (Mogilevsky & Sevidova, 2020).

Prosecutors have a defined working schedule, but they are also entitled to leave by the law. For example, a prosecutor may be entitled to annual paid leave, which is usually a certain percentage of the working hours. For example, a prosecutor may be entitled to 25 days of leave in 12 months of work. This allows prosecutors to recuperate and rest for further productive work. Prosecutors may be entitled to various fringe benefits and compensation for their work. For example, they may receive healthcare allowances, compensation for working under certain conditions (e.g. night shifts or weekends) or bonuses for success in cases. For example, a prosecutor may receive a bonus for completing a complex criminal case or for special achievements in their professional work.

In France, prosecutors have the right to defend both their rights and the rights of their collective workforce. This means that in situations where their employer conflicts with them or where their labour rights are violated, they have the right to legal protection. In France, there are various social initiatives and support services for prosecutors who may need help or suffer from personal problems. This may include financial assistance, medical advice, psychological support and other forms of support (Kuprun, 2022b).

It may be useful for Ukraine to emulate the French social security guarantees for prosecutors, which include health insurance, pensions and other state-provided benefits. The introduction of a professional development and training programme for prosecutors modelled on the success of France could prove beneficial for Ukraine. This would ensure that prosecutors' knowledge and skills are constantly updated to meet the needs of modern justice.

Improving the system of guarantees of prosecutors' independence in Ukraine should be useful given the French approach, which is to refuse political influence and guarantee impartiality in their work. In addition, based on the French experience, effective procedures for protecting the labour rights of prosecutors should be introduced. This will raise the bar for their social and legal protection. One positive development is the introduction of French procedures for a transparent system of prosecutorial management that encourages productive work and protects against corruption and other abuses.

4 Discussion

The analysis of the Ukrainian civil service legislation, the draft laws amending the Laws of Ukraine "On Civil Service" No. 3723-XII of 16 December 1993, No. 4050-VI of 17 November 2011 and No. 889-VIII of 10 December 2015, has allowed us to identify the following trends in the development of legal regulation of the right to civil service. 2015 No. 889-VIII (Verkhovna Rada of Ukraine, 2016) and the works of domestic scholars allowed us to identify the following trends, which, in the opinion of the authors, are characteristic of the development of legal regulation of the right to work by civil servants, including prosecutors, in independent Ukraine, and reflect how this institution will develop further. They are the tendency of legislative definition of key definitions for the exercise of the right to work by civil servants; the tendency to narrow the list of special social guarantees, which are granted only to civil servants; the tendency to extend to civil servants the labour guarantees granted to all employees in our country.

The authors believe that the regulation of the procedure for exercising the right to work by civil servants could be carried out through labour legislation, which would allow civil servants to be equalised with other employees in terms of labour guarantees. However, in the current conditions in Ukraine, this is problematic to implement. It is inappropriate to introduce such large-scale changes to the Labour Code of Ukraine as a legal act adopted in Soviet times. However, an analysis of the drafts of new codified labour regulations, both those previously considered by the Verkhovna Rada of Ukraine (for example, the draft Labour Code of Ukraine No. 1108 of 04.12.2007) and those developed more recently (in particular, the draft Law of Ukraine "On Labour" No. 2708), shows that the domestic legislator does not plan to address this issue in this way shortly (Stefanchuk, 2020).

Therefore, given that the legislator has clearly outlined the range of issues to which the acts of labour legislation of Ukraine apply, the authors believe that further development of legal regulation of the exercise of the right to work by civil servants should be linked to the transformation of the Law of Ukraine "On Civil Service" No. 889-VIII of 10.12.2015 into a single legal act that regulates labour and employment relations in our country, but at the same time, the functioning of the civil service will be carried out using different approaches.

An important tendency the authors have identified to optimise the right to work by civil servants in the context of Ukraine's European integration is the legislative definition of key definitions for the exercise of the right to work by civil servants.

Thus, referring to the content of the Law of Ukraine "On Civil Service" of 16.12.1993 No. 3723-XII, the authors can establish that the legislator defined only two concepts: "civil service in Ukraine" and "position". In other words, at the initial stages of the civil service functioning in independent Ukraine, the legislation on civil service did not even define the concept of "civil servant". This significantly complicated the formation of the doctrine of civil service as a special type of labour activity. At the same time, this problem was not resolved in any of the versions of the first Law "On Civil Service" (Ryabovol, 2021).

In this context, the content of the Law of Ukraine "On Civil Service" of 17.11.2011 No. 4050-VI was qualitatively different from the content of the 1993 Law. In Article 1, the legislator defined the concepts of "civil service", "civil servant", "head of civil service in a state body, authority of the Autonomous Republic of Crimea or their apparatus", "civil service position", "job duties", "profile of professional competence of a civil service position", "level of professional competence of a person", "working time of a civil servant", "service of personnel of a state body, authority of the Autonomous Republic of Crimea or their apparatus", "service discipline of a civil servant", "official duties", "official obligations", "official responsibilities". In other words, several definitions of concepts important for the exercise of the right to work by civil servants have been enshrined in law.

The current Law of Ukraine "On Civil Service" No. 889-VIII dated 10.12.2015 did not continue this practice, as Articles 1 and 2 of this legal act essentially defined the same number of definitions of concepts as in the previous Law, including such concepts as civil service, civil servant, direct supervisor, head of civil service and subject of appointment. However, as the research has shown, further development of legal regulation of the procedure for exercising the right to work by civil servants requires additional definitions of such concepts as "employee of a state body" and "employee of a state body who is not a civil servant", and the need for proper legal regulation of employment relations is not limited to these definitions (Kubai, 2021).

Therefore, we believe that further development of legal regulation of the procedure for exercising the right to work by civil servants, including prosecutors, in the context of Ukraine's European integration requires expanding the range of legislatively defined definitions key to the exercise of the right to work by civil servants.

The next trend of optimizing the right to work for civil servants in the conditions of the European integration of Ukraine is the tendency to narrow the list of special social guarantees, which are granted only to civil servants. Thus, analyzing the content of the Law of Ukraine "On Civil Service" dated 16.12.1993 No. 3723-XII, one can draw attention to the fact that the social

security of civil servants provided for a much wider range of guarantees than is established by the current Law of Ukraine "On Civil Service" dated 10.12. .2015 No. 889-VIII. For continuous work in state bodies and exemplary performance of labour duties, civil servants were paid a monetary reward; civil servants were provided with housing from the state fund; civil servants had the right to priority installation of apartment telephones; civil servants were given a plot of land and an interest-free loan for a term of up to 20 years for housing construction or the purchase of housing; family members of civil servants used free medical care; special pension provision was established for civil servants (Rezvorovych, 2020).

However, with the adoption of the Law of Ukraine "On Civil Service" of 17.11.2011 No. 4050-VI, the list of social guarantees for civil servants was significantly reduced. The content of this legal act retained the right of civil servants to receive official housing in case of need for improvement of housing conditions, the right of civil servants and their family members to use free medical care in state and municipal healthcare facilities, as well as special pension provisions. In this context, it should be noted that civil servants were deprived of most types of special social security.

In the current Law of Ukraine "On Civil Service" of 10.12.2015 No. 889-VIII, the list of social guarantees for civil servants was essentially limited to the provision of official housing and financial assistance for social and domestic issues. However, in the opinion of authors, the main problem for the exercise of the right to work by civil servants caused by this trend at the moment is not that there are fewer guarantees. As the authors have repeatedly noted in this paper, the equalization of rights and guarantees for civil servants with other employees is a positive process. The rights and interests of civil servants are negatively affected by the absence of legislative mechanisms for the implementation of these guarantees by civil servants. The authors are talking about the absence of a procedure for providing civil servants with official housing, which have already been established.

Therefore, in the opinion of the authors, the trend towards equalization of labour guarantees for civil servants with other employees will continue in the future, including by narrowing the list of special social guarantees that are only available to civil servants. However, at this stage, the key task of our state in this regard is to fill the legislative gap in regulating the cases and procedures for providing civil servants with official housing.

The last trend the authors have identified is the tendency to extend to civil servants, including prosecutors, the labour guarantees that are granted to all employees in our country. The

content of this trend will be explained by the example of the inclusion of the right to participate in trade unions in the list of fundamental rights of civil servants.

Thus, the right to participate in trade unions to protect one's labour and socio-economic rights and interests is one of the fundamental human and civil rights and is enshrined in Article 36(3) of the Constitution of Ukraine. In addition, the rules on granting employees this right are enshrined in Article 23 of the Universal Declaration of Human Rights (the right of everyone to form or join trade unions to protect their rights and interests), Article 22 of the International Covenant on Civil and Political Rights (the right of everyone to association with others for the protection of interests, including through trade unions), Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms (freedom to form and join trade unions to protect one's interests), Article 5 of the European Social Charter (Revised) (the right of workers and employers to freedom of association in national or international organizations for the protection of their economic and social interests), paragraphs 11-14 of the Community Charter on Fundamental Social Rights of Workers (the right to organize to form trade unions or organizations of their choice for the protection of their economic and social interests), and acts of the International Labour Organization. However, for quite a long time, participation in trade unions of civil servants was limited by the legislation on civil service (Belov & Shved, 2023).

Analyzing the list of fundamental rights of civil servants enshrined in Article 11 of the Law of Ukraine "On Civil Service" of 16.12.1993 No. 3723-XII, we can conclude that the right of civil servants to unite in trade unions for representation and protection of labour, social and economic rights and interests was not included in the list of fundamental rights of civil servants, as it is one of the main organizational conditions for the protection of labour rights and interests of civil servants. In his work, the researcher concluded that the right of civil servants to unite in trade unions should be enshrined in the content of Article 11 of the Law of Ukraine "On Civil Service" of 16.12.1993 No. 3723-XII, as this would not in any way affect the prohibition of participation in trade unions of employees of the prosecutor's office, courts, diplomatic service, customs control, security service, internal affairs and others.

The authors note that until the Law of Ukraine "On Civil Service" of 16.12.1993 No. 3723-XII expired, this right was not included in the list of fundamental rights of civil servants. Similarly, this problem was not resolved with the adoption of the Law of Ukraine "On Civil Service" dated 17.11.2011 No. 4050-VI, but it is worth noting that Article 28(1) of this legal act states that internal service regulations in a state body are approved "in agreement with the elected body of the primary trade union organization, if any". In other words, even though the right of civil servants to unite in

trade unions was not directly defined in this legal act, the legislator assumed such a possibility and did not deny it. With the adoption of the Law of Ukraine "On Civil Service" of 10.12.2015 No. 889-VIII, the right to "participate in trade unions to protect their rights and interests" was finally included in the list of fundamental rights of civil servants.

Thus, using this example, we have seen that the legislator is indeed gradually extending to civil servants, including prosecutors, the labour guarantees that are due to every person exercising their right to work in Ukraine. The previous research of the authors has demonstrated that one of the labour guarantees of employees which civil servants are currently deprived of, is the right to organize and participate in strikes. The authors believe that the extension of this right to civil servants is a logical continuation of this trend. Each of the trends the authors have analyzed to optimize the right to work by civil servants in the context of Ukraine's European integration, in the authors opinion, is relevant today and in the future may and should be reflected in amendments to the current legislation regulating the exercise of the right to work by civil servants.

5 Conclusions

Labour relations of prosecutors are dynamic and may undergo certain changes in the course of their service in the prosecution service. The grounds for changing the labour relations of a prosecutor's office employee are based on the existence of a certain factual composition, which, in addition to legal facts, includes certain conditions. The Law of Ukraine "On the Prosecutor's Office" of 14 October 2014 No. 1697-UP regulates such grounds for changing the labour relations of a prosecutor as transfer of a prosecutor to another prosecutor's office and appointment of a prosecutor to an administrative position. All other grounds for changing the labour relations of a prosecutor remain unregulated. The most appropriate way to document the change in a prosecutor's employment relationship is to sign an additional agreement to the employment contract. In the case of the appointment of a prosecutor to an administrative position, such an additional agreement should specify in detail the additional rights and obligations that arise for the prosecutor, as this section will undergo significant changes in this case.

The prosecution system in Ukraine could benefit from the favourable experience of the United States, Germany and France in the area of employment contracts and prosecutors' rights. Public trust in prosecutors can be increased by ensuring clear and transparent employment contracts, adequate compensation and social guarantees. These measures can also increase the

efficiency of prosecutors. Ensuring the independence of prosecutors and improving the selection and assessment of their professional skills are also crucial. Implementation of these procedures will allow the prosecution service in Ukraine to develop steadily and improve the quality of its work.

Based on the analysis of the Ukrainian legislation on civil service, draft laws amending the relevant laws and the works of domestic scholars, several characteristic trends in the development of legal regulation of the right to work of civil servants, including prosecutors in Ukraine, can be identified. These include, in particular, the tendency to legislatively define important terms, reduce the number of special social guarantees and extend to civil servants the labour guarantees provided to all employees.

These patterns show how laws and regulations are evolving and help the civil service to adapt to modern circumstances. In addition to the evolution of the Law on Civil Service into a fully-fledged legal document, it is necessary to establish a link between the regulations governing the exercise of civil servants' right to work and the norms of labour law. This will help to optimise the legislative regulation in this area and enable civil servants to receive the same level of labour guarantees as other employees.

No significant changes have been made to the law defining the main elements of the process by which civil servants can exercise their right to work in Ukraine (the Law on Civil Service). Nevertheless, to develop this area of law, it is necessary to define some terms more broadly and to create a system of social guarantees, in particular about official housing. These actions will help to ensure greater fairness and parity in the labour relations of federal employees. One of the fundamental rights protected by Ukrainian law is the ability of civil servants to join trade unions and protect their labour and socio-economic rights. This is enshrined in the Law on Civil Service, international documents and the Constitution of Ukraine. The analysis shows that the level of protection of this right has changed over time. Nevertheless, the new legislation recognises the fundamental right of federal employees to participate in trade unions, providing opportunities for the protection of their labour rights.

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