

THE RIGHT TO VOCATION TRAINING AS A FUNDAMENTAL LABOUR RIGHT

ПРАВО НА ПРОФЕСІЙНЕ НАВЧАННЯ ЯК ОСНОВНЕ ТРУДОВЕ ПРАВО

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This article analyzes the content of the right of the employee on vocational training. Human resource development and training based on basic social values – equality, justice, gender equality, elimination of discrimination, social responsibility.

Key words: decent work, vocational skills development, employability, personal non-property labour rights.

У статті аналізується зміст права працівника на професійне навчання. Підкреслюється, що розвиток людських ресурсів і підготовка кадрів спираються на основні соціальні цінності – рівність, справедливість, гендерну рівність, недопущення дискримінації, соціальну відповідальність.

Ключові слова: гідна праця, розвиток професійних навичок, працездатність, особисті немайнові трудові права.

В статье анализируется содержание права работника на профессиональное обучение. Подчеркивается, что развитие человеческих ресурсов и подготовка кадров опираются на основные социальные ценности – равенство, справедливость, гендерное равенство, недопущение дискриминации, социальную ответственность.

Ключевые слова: достойный труд, развитие профессиональных навыков, трудоспособность, личные неимущественные трудовые права.

Problem setting. Vocational training plays an important role in promoting equal opportunities on obtaining decent work for all employees. Vocational skills development – together with basic education – is one of the main preconditions for economic and social development. Globalisation, ageing populations, urbanisation and the evolution of social structures also accelerate the pace of change in labour market and skills requirements.

Ukraine is example of country working towards the development of skills policies based on more engagement and cooperative approaches at the national and sub-national levels.

Analysis of recent researches and publications.

A great contribution to the study of legal regulation in the sphere of vocational training of employees made Ukrainian and foreign scientists, such as: V. Artemova, M. Baru, B.K. Begichev, O. Betliy, A. Bochi, G. Chanyshva, N. Downey, S. Dunkerley, M. Inshyn, L. Feiler, V. Karbysheva, A. Loutskaya, O. Lokshyna, L. MacInnis, E. Magnitskaya, B. Mansfield, S. Melnyk, K. Miroshnichenko, M. Molodtsov, Y. Orlovsky, A. Pashkov, V. Povoroznyk, S. Prylypko, G. Sapargaliev, I. Sennik, O. Shcherbak, L. Shcherbak V. Soifer, V. Suprun, V. Uvarov, K. Urzhinsky, G. Veramejchyk, etc.

The **purpose** of this article is to research issues of ensuring the right to vocational training of employees as an independent right which should be regarded in conjunction with the right to education.

Article's main body. The cornerstones of a policy framework for developing a suitably skilled workforce are: broad availability of good-quality education as a foundation for future training; a close matching of skills supply to the needs of enterprises and labour markets; enabling employees and enterprises to adjust to changes in technology and markets; and anticipating and preparing for the skills needs of the future.

When applied successfully, this approach nurtures a virtuous circle in which more and better education and training fuels innovation, investment, economic diversification and competitiveness, as well as social and occupational mobility – and thus the creation of more but also more productive and more rewarding jobs.

Good-quality primary and secondary education, complemented by relevant vocational training and skills development opportunities, prepare future generations for their productive lives, endowing them with the core skills that enable them to continue learning.

Young women and men looking for their first jobs are better prepared for a smooth transition from school to work when they are given adequate vocational education and training opportunities, including in-work apprenticeships and on-the-job experience.

Working women and men periodically need opportunities to update their skills and learn new ones. Lifelong learning for lifelong employability captures the guiding policy principle here.

In many developing countries, the range of vocational skills development opportunities is insufficient. Existing options are usually limited to urban areas. Apprenticeships tend to be designed for the formal sector and are not sufficiently geared to economic demand. Moreover, there are high formal access barriers to be overcome. Dynamic economic development necessitates flexible training and further education opportunities. These must enhance not only specific professional skills but also basic personal competences and social skills. The situation of poor and disadvantaged population groups also requires the development of appropriate opportunities accessible to people with low elementary schooling. They should enable the reintegration of unemployed persons in the job market, address the needs of the informal market as well as of persons living in rural

regions, and in particular promote self-employment. It is also important to ensure a good level of basic education which vocational skills development can build on and consolidate, where necessary.

The aim of vocational training in the EU policy context is to produce a highly skilled and adaptable workforce.

Training and skills development is understood in broad terms, covering the full sequence of life stages. Basic education gives each individual a basis for the development of their potential, laying the foundation for employability. Initial training provides the core work skills, general knowledge, and industry based and professional competencies that facilitate the transition from education into the world of work. Lifelong learning maintains individuals' skills and competencies as work, technology and skill requirements change.

Education and training is singled out as a crucial factor favouring greater employability. It indeed has many benefits. First, it contributes to increasing the human capital and skills base of the population. Therefore, it is a necessary precondition for modernising labour market policies, which can in turn combine flexible employment patterns with adequate security. Consequently, education and training allows for greater 'flexicurity' and can thus benefit both employers and employees.

Skills development is a key factor in the employability of employees and the sustainability of enterprises. One of the objectives of skills development systems is therefore to ensure that the skills acquired match the skills valued in the workplace. Skills development systems must also help employees and enterprises adjust to change and handle new conditions. These may be triggered by climate change, globalization, demographic trends, technological progress or financial crisis.

Particularly, climate change is a major driver of technological change and innovation in the search for measures and policies to mitigate or help adjust to its effects [1]. "Green jobs" are defined as decent work which contributes to the preservation or the restoration of the quality of the environment [2].

The notion of "green jobs" has become an emblem of a more sustainable economy and society. Jobs in all economic sectors are subject to "greening", but six sectors have particular salience in this respect: energy supply, especially of renewable energy; construction; transportation; basic industry; agriculture; and forestry. Millions of green jobs already exist worldwide [3, p. 13].

For instance, in Spain, high oil prices hurt the competitiveness of the automotive industry in Navarre in the 1980s and 1990s. Unemployment in the region soared to 13 per cent in 1993. The regional government, working with industry, promoted wind-generated electricity as an alternative source of employment as much as an alternative source of energy. Since then Navarre, a small region of Spain with a population of just 620,000 has become Europe's sixth largest producer of wind power. The policy mix incorporated environmental and skill measures to respond to an immediate economic crisis through a long-term development strategy. In the current economic and employment downturn, Navarre

boasts the lowest unemployment levels of any region in the country. In the Environmental Training Plan of the Autonomous Community of Navarre, begun in 2002, the regional government responded to assessments carried out with regional industry showing that skills gaps were opening up in areas not covered by initial vocational training and were largely company-specific. To meet this need, the regional government and enterprises set up a public training centre for renewable energies [4, p. 37].

Education, vocational training and lifelong learning are central pillars of employability, employment of employees and sustainable enterprise development.

Austria is one of the countries (including Germany and Switzerland) which, alongside vocational training in schools and company in-service training and further training, has established the dual system of vocational training as a particularly important institution. Under this system, which is regulated by the 1969 Vocational Training Act, training in a range of occupations specified by ministerial order is provided in the context of an apprenticeship relationship combining practical on-the-job training from an employer (this element constitutes some 80% of the training) with compulsory attendance by the apprentice for a specified number of hours at a vocational training school for theoretical instruction. The usual period of apprenticeship is three years, and it culminates in a final examination conducted by a special board set up for the purpose.

Vocational training has always had an impact on the increased mobility of employees Portugal, leading to 13% greater mobility, on average, or a 5% increase when comparing similar companies. Another positive effect of vocational training is the small rise in the probability of an employee moving from a short-term to a permanent employment contract – which increases by an average of 0.6%, or by 2.8% when comparing similar companies. Vocational training has a significant impact on the probability of a greater number of merit-based promotions in enterprises: on average, the probability of promotion based on merit increases by 74%. When comparing companies with similar characteristics, this differential amounts to 24.7%, which is still a high value.

Ukraine's vocational education and training system comprises both initial vocational education and training and continuing vocational education and training components.

Under Ukrainian law, the principle actors involved in formulating the future of the vocational education and training system and implementing the changes required in this area are public authorities, who are responsible for implementing the approved strategic plans.

A number of important legal acts have been passed in Ukraine to develop, in particular an adult education system capable of meeting the current level of social and industrial development, including: the Law of Ukraine "On the professional development of employees" on 12.01.2012 № 4312-VI aimed to ensure the effective functioning of the professional development system for employees of enterprises, institutions and organisations, and confirmation of the informal learning outcomes of their professional training, certification and qualifica-

tions; the Law “On employment” of Ukraine 05.07.2012 № 5067-VI defines a vocational training system that will include: people completing primary vocational training in educational establishments and other institutions providing training for skilled workers; employees who undergo primary training, retraining and skills upgrading as part of their job, and; unemployed people seeking employment who require a primary vocational training, retraining and professional development.

At the same time for the vocational education and training system to be developed further in Ukraine, the following elements are needed: implementation of scientific labour market development forecasting that would respond to the true conditions and trends in the economy; creation of a mechanism for interaction among central, regional authorities and social partners in drawing up a state order for training of skilled workers; transformation to a vocational education and training quality management model based on administering qualitative changes in the system rather than controlling vocational education and training institutions, and; full financial support [5, p. 11].

The problem of vocational education and training funding is multidimensional and includes both the underfunding of vocational schools by both state and local budgets and the ineffectiveness of the current funding practice [6, p. 46].

The creation of a more employable workforce through investment in training and retraining will require a coordinated approach involving, on the one hand, the vocational education and training system and, on the other, employers and their representatives. Training investment needs to be based on short-term training needs assessment as well as on mid-term macroeconomic and sectoral forecasts of skill needs [7, p. 20]. Data monitoring and prediction systems will have to be developed.

It should be noted that the development of policies for matching vocational education and training with employment and social demands in Ukraine is based on a centralised approach, led by the Ministry of Education and Science [8, p. 27]. Roles are clearly defined and seasoned actors and partnership organisations provide the government with expert advice.

However, for the Ukrainian legislative framework relating to vocational education and training to be successfully implemented, mechanisms need to be established for effectively involving regional authorities and social partners.

Social dialogue and collective bargaining at the enterprise, sector and/or national levels are highly effective in creating incentives for investment in skills and knowledge. These processes can create a broad commitment to education and training and a learning culture, strengthen support for the reform of training systems, and provide channels for the continuous exchange of information between employers, workers and governments. In addition to promoting skills development, social dialogue and collective bargaining can also be instrumental in ensuring that the benefits of improved productivity are distributed equitably and efficiently. Employers are important providers of training. Young

people entering the labour market acquire both technical skills and insight into the world of work through formal and informal systems of apprenticeship, internship and other types of workplace experience. Employers have a responsibility to provide, and employees a responsibility to pursue, opportunities for lifelong learning, whether on the job or through training providers, to help maintain productivity and employability in the face of change. Agreements between employers and workers are important means of promoting workplace learning and of ensuring that increased skills lead to higher productivity, benefiting both employers and workers [9, p. 23].

Large Ukrainian enterprises systematically offer human capital development and continuing vocational training programmes to support skills development and qualifications upgrading. They usually have their own in-service training system, and are open to working with external providers to cover the whole range of training needs. Some of the biggest companies have established corporate universities as tools for strategic management and an inherent part of business processes. These companies are able to build alliances with training institutions at the level of strategic partnerships [10, p. 20].

Improving productivity is not an end in itself, but a means to improving employees’ lives, enterprises’ sustainability, social cohesion and economic development. Continued improvement of productivity is also a condition for competitiveness and economic growth. Productivity gains arising from skills development should be shared between enterprises and employees – including through collective bargaining – and with society in order to sustain the virtuous circle of improved productivity, employment growth and development, and decent work.

Attention should be drawn to occupational standards, consistent with the format and structure of standards in the EU have been developed by a number of organisations and agencies and there is active interest in the approach and available materials from the Institute of Vocational–Technical Education of the National Academy of Sciences of Ukraine [11, p. 23].

Consequently, effective skills development requires a holistic approach. This approach encompasses the following features:

1) continuous and seamless pathways of learning that start with pre-school and primary education that adequately prepares young people for secondary and higher education and vocational training; that provide career guidance, labour market information, and counseling as young women and men move into the labour market; and that offer employees and entrepreneurs opportunities for continuous learning to upgrade their competencies and learn new skills throughout their lives;

2) development of core skills – including literacy, numeracy, communication skills, teamwork and problem-solving and other relevant skills – and learning ability – as well as awareness of employees’ rights and an understanding of entrepreneurship as the building blocks for lifelong learning and capability to adapt to change;

3) development of higher level skills – professional, technical and human resource skills to capitalize on or create opportunities for high-quality or high-wage jobs;

4) portability of skills is based firstly on core skills to enable employees to apply knowledge and experience to new occupations or industries and secondly on systems that codify, standardize, assess and certify skills so that levels of competence can be easily recognized by social partners in different labour sectors across national, regional or international labour markets;

5) employability (for wage work or self employment) results from all these factors – a foundation of core skills, access to education, availability of training opportunities, motivation, ability and support to take advantage of opportunities for continuous learning, and recognition of acquired skills – and is critical for enabling employees to attain decent work and manage change and for enabling enterprises to adopt new technologies and enter new markets [12, p. 2, 3].

Workplace training has many advantages. To take full advantage of it, the training needs to be of high quality and employers need to be willing to provide it. This means good quality assurance mechanisms, balanced by effective incentives for employers.

Employees can benefit from skills development and productivity gains if translated into better working conditions, respect for labour rights, further training, adaptability to changes, better employment prospects, higher wages and other factors that contribute to a better quality of life.

This is especially true that becoming a safety and health professional requires multidisciplinary training. The Occupational Safety and Health (OSH) profession calls for a broad-based educational background combined with specialized knowledge in physical sciences (medicine, physics, chemistry and engineering) and social sciences (behaviour, motivation and communication) together with the principles and concepts of management. Many professionals require updating their competences in line with this situation. In this context, professionals should organize the efforts of an enterprise to improve its OSH; formulate, implement and evaluate a safety and health management plan for an enterprise, incorporating essential OSH concepts and fundamental techniques of OSH management; manage the resources to conduct the required prevention activities to manage OSH [13].

Enterprises will benefit from skills development and productivity gains by reinvesting in product and process

innovations, diversifying business activities, maintaining and improving competitiveness and market share.

Ukraine has begun its ambitious plan to improve vocational education and training by taking the Torino Process to 25 regions. The country has been involved in the Torino Process since the beginning in 2010. Progress, updates and results are tracked through the Torino Process – a participatory review involving many stakeholders. It's a two-year cycle with three key phases. Beginning at the national level, participating countries collect and analyse data. The next phase takes place at the regional level where countries share common challenges and solutions in vocational education and training development and governance [14, p. 18].

Nevertheless, skills development will not automatically lead to improved productivity or more and better jobs unless there is a conducive economic and social environment to translate productivity improvement into employment growth and development. Other critical factors include: respect for employees' rights, gender equality, health and safety standards; good labour relations; effective social protection; good leadership and a high standard of organizational processes; and effective and active labour market policies and employment services.

The education, training and employment policies of Ukraine must focus on increasing and adapting skills and providing better learning opportunities at all levels, to develop a workforce that is high skilled and responsive to the needs of the economy. Similarly, businesses must have an acute interest in investing in human capital and improving their human resource management. Moreover, gender equality is a key factor to responding to new skills needs.

Conclusions. Finally it is important to mention that the right to training is complex in its structure and it includes the right to vocational training, retraining and professional development. Nowadays, art. 2 of the current Labour Code of Ukraine among the fundamental labour rights of employees the right to vocational training is not fixed, contrary to European and international labour standards. In particular, the provisions of the European Social Charter (revised), in which contains two articles: Article 9 "The right to vocational guidance" and Art. 10 "The right to vocational training". In this regard, it is proposed to bring Art. 2 of the Labour Code of Ukraine in accordance with international and European labour standards.

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