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EUROPEAN UNION LABOR LAW AND ITS HARMONIZATION INTO NATIONAL LAW: ESTONIAN EXPERIENCE AND CURRENT SITUATION

Abstract

In order to ensure uniform application of European Union law, member states must adopt European Union law. This can be done in different ways: harmonize European Union directives; implement European Union regulations; implement CJEU judgments. The European Union leaves the member states with the option of deciding how to implement EU law, either by harmonizing directives word for word or by establishing a legal framework only to implement the purpose of the directive.

This article analyzes the application of European Union law to labor relations based on Estonian law. First, the competence of the European Union to establish legal norms in labor relations is analyzed. In the following, the personal scope of the labor law regulation of the European Union is analyzed. Finally, individual examples of how Estonia has applied European Union law to various aspects of labor relations are analyzed.

Key Words

European Union; Labor Relations; Harmonization of EU Law; Estonian Legislation: Impact of the EU Law

Introduction

The member states of the European Union are obliged to comply with the provisions and principles of European Union law. If a country expresses its wish to become a member of the European Union, it already undertakes to partially transfer competence to the European Union, and thereby the European Union would be given the competence to establish rules for

harmonizing certain areas of law. In addition, the Member States of the European Union must take into account the interpretations given by the Court of Justice of the European Union (hereinafter CJEU) when interpreting both directives and regulations.

In labor relations, the European Union has the competence to establish various common rules so that the rights of employees are protected in the same way in all European Union countries. The law of the European Union leaves it to the member states to decide how the legislation must be transposed either word by word or it is important to achieve the goal that the European Union wants to achieve with its regulations.

This article discusses the effects of the harmonization of European Union law in the field of labor relations. The article analyses what Estonia's experience has been in the adoption of labor relations' legislation upon membership of the European Union.

I General framework of European Union law

In the law of the European Union, there is no uniform definition of labor law or European Union labor law. The term "labor law" cannot be found in the Treaty on the Functioning of the European Union (hereinafter TFEU) either.[1] Sometimes the concept of European social law can also be found in the literature.[2] At the same time, the Treaty on the Functioning of the European Union enumerates the provisions of the chapter of European social policy, based on which the competence of the European Union in the field of labor relations is also defined.

While free movement of workers was a central topic to the first European Economic Community agreement, the development of European labor law has been a gradual process. Increasingly, the absence of labor rights was seen as inadequate given the capacity for a "race to the bottom" in international trade if corporations can shift jobs and production to countries with low wages.

The Treaty on the Functioning of the European Union (deriving from the Treaty of Lisbon) lists in article 2(1) the European Union's competence in the field of labor law. What is conspicuously not included is unjust dismissal of workers, and according to article 153(5) "pay, the right of association, the right to strike or the right to impose lock-outs". As it says, "the Union shall support and complement the activities of the Member States in the following fields:"

[1] CONSOLIDATED VERSION OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF.

[2] EU social law: Main texts. European Union, 2017, available: https://op.europa.eu/en/publication-detail/-/publication/08fe1592-f101-11e7-9749-01aa75ed71a1.

(a) improvement in particular of the working environment to protect workers' health and safety;
(b) working conditions;
(c) social security and social protection of workers;
(d) protection of workers where their employment contract is terminated;
(e) the information and consultation of workers;
(f) representation and collective defense of the interests of workers and employers, including co-determination, subject to paragraph 5;
(g) conditions of employment for third-country nationals legally residing in Union territory;
(h) the integration of persons excluded from the labour market, without prejudice to Article 166;
(i)equality between men and women with regard to labour market opportunities and treatment at work;
(j) the combating of social exclusion;
(k) the modernization of social protection systems without prejudice to point (c).

The objectives draw, according to TFEU article 151, inspiration from a number of other treaties and sources, which in turn draw inspiration from the International Labor Organization and the Treaty of Versailles.

From the mentioned list, it is possible to see that the European Union assumes limited responsibility in the regulation of labor relations. All topics that are outside the competence of the European Union are for the member states to decide without the European Union having any competence to establish the corresponding rules.

In labor relations in the European Union, there are two legal options for influencing the activities of the member states - these are directives or regulations.[3] In order to harmonize legal regulation in labor relations, various directives have generally been adopted, which Member States must adopt, i.e. integrate (harmonize) into their national law. When harmonizing directives, Member States always have the question of whether to harmonize the purpose or wording of the directive. Member States are free to decide how the requirements set out in the directive will be harmonized into national law.

Estonia has been a member of the European Union for 20 years. Both before the accession and during its membership in the EU, Estonia had to harmonize dozens of directives and their amendments with the aim of ensuring that Estonian law in force complies with the legal framework of the European Union. Estonia has used the opportunity to harmonize the la-

[3] Types of legislation, https://european-union.europa.eu/institutions-law-budget/law/types-legislation_en.

bor relations directives of the European Union based on the wording of the directives. Estonia has not harmonized the directives in the labor relations laws by expanding their purpose, but rather Estonia has chosen their possible narrow adoption when transposing the directives. This means that everything that is essential has been transposed, but not more.

Regulations that are directly applicable and do not require changes in national law are also important for the regulation of labor relations. For example, the working time of transport workers (truck drivers) is regulated by the relevant regulation of the European Union.[4] According to the mentioned regulations, compliance with the working and rest time requirements of truck drivers is checked based on the regulation, and there is no need to adopt a separate national legal act for that purposes.

II Personal scope of application of the legal regulation of labor relations

The European Union has the competence to establish rules in employment relations that harmonize certain rules in employment relations. In the employment relations directives, an important question is to whom the directives are applicable and to what forms of employment, the harmonized requirements are applicable. At this point, it is possible to see various developments regarding the personal scope provided for in the European directives. In the European Union directive dealing with the transfer of an undertaking, the scope of the Directive is set out as follows: "*employee" shall mean any person who, in the Member State concerned, is protected as an employee under national employment law.*"[5] As a result, both national legislation and case law, which define important characteristics for an employee, play an important role. The later directives already broaden the definition of employee. For example, the directive that deals with the general conditions related to employment has the following definition of a worker: *This Directive lays down minimum rights that apply to every worker in the Union who has an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State with consideration*

[4] Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (Text with EEA relevance)Text with EEA relevance, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02006R0561-20200820. See also: Driving time and rest periods, https://transport.ec.europa.eu/transport-modes/road/social-provisions/driving-time-and-rest-periods_en.

[5] Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32001L0023.

to the case-law of the Court of Justice.[6] Therefore, it is not enough to only formulate the definition of an employee and its characteristics prescribed in national law, but to a significant extent it is also necessary to take into account the case law of the CJEU in the area of the definition of an employee.

The same approach in terms of personal scope is also stipulated, for example, in the European Union's minimum wage directive. *This Directive applies to workers in the Union who have an employment contract or employment relationship as defined by law, collective agreements or practice in force in each Member State, with consideration to the case-law of the Court of Justice.*[7]

A recent directive dealing with platform workers provides for an analogous concept*: 'platform worker' means any person performing platform work who has an employment contract or employment relationship as defined by the law, collective agreements or practice in force in the Member States with consideration to the case-law of the Court of Justice.*[8]

The Court of Justice of the European Union has considered the concept of employee within the framework of Article 45 of the TFEU. It is a primary right and a concept arising from the freedom of movement of employees. Any discussion of the concept of 'worker' in EU law usually takes as its basis the fundamental freedom of the free movement of workers enshrined in Article 45 TFEU, given that the founding purpose of the EU was the creation of a common market in which barriers to trade between Member States were progressively removed. The Treaties provide no definition of the underlying concept.

The CJEU has developed its understanding of the concept of 'worker' most extensively in the area of free movement of workers. It uses the definition of 'worker' as developed in line with Article 45 TFEU, as a point of reference in determining the meaning of the same or similar terms in employment-related Directives.[9] The foundation for secondary legislation in the field of employment can be found in the Treaties, more specifically in Article 153 TFEU in its reference to the concept of 'worker'. The ECJ has not yet interpreted the concept of 'worker' in this connection.

[6] Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019L1152.

[7] Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32022L2041.

[8] Directive on improving working conditions in platform work, https://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=10120&furtherNews=yes#navItem-2.

[9] Martin Risak and Thomas Dullinger. The concept of ‘worker’ in EU law Status quo and potential for change. ETUI, 2018, pp 18-19.

In conclusion, the ECJ clearly employs a unified concept of 'worker' when dealing with primary EU law as developed in the context of the free movement of workers laid down in Article 45 TFEU. However, the Court does not refer to the different aims and purposes or adapt the concept of "worker" to them.[10]

Thus, when transposing the directives, the member state must take into account the concepts of employee established in both national law and the jurisprudence of the European Court of Justice.

In Estonian labor law, the law does not clearly define who is an employee. The primary source is the Estonian Employment Contract Act (hereinafter ECA).[11] Based on this definition, an employee works on the basis of an employment contract. He works while obeying the employer's orders and receives payment from the employer for doing the work.

The Supreme Court of Estonia *(Riigikohus)* has established the criteria on the basis of which an employment relationship can be established.[12] The Supreme Court has stated that in order to identify the nature of the disputed contractual relationship, it is necessary to compare the features characterizing the contracts. The main feature of an employment contract is the employee's subordination to the management and control of the employer (ECA § 1 (1)). Since the employee's partial independence in performing work alone does not exclude an employment contract, the degree of subordination of the employee is also important for determining the legal relationship, i.e. the extent to which he was bound by the alleged employer's orders regarding the manner, time and place of work performance. According to ECA § 1 (4) the provisions on the employment contract do not apply to the contract, according to which the person obliged to perform work is largely independent in choosing the way, time and place of performing the work. Thus, in order to refute the presumption, set forth in § 1(2) of the ECA, the alleged employer must prove above all that the employee was not subject to his management and control and was largely independent in choosing the way, time and place of work.

The Supreme Court has also stated that, in addition to the above, when determining the legal relationship, other circumstances of a specific case must also be taken into account. The law does not allow establishing a legal relationship solely on the basis of the title of the

[10] Martin Risak and Thomas Dullinger. The concept of 'worker' in EU law Status quo and potential for change. ETUI, 2018, p 21.

[11] Employment Contracts Act, https://www.riigiteataja.ee/en/eli/529052024001/consolide.

[12] A.H vs Trust OÜ, Supreme Court, 20. Mai 2020, case: 2-18-6908, https://www.riigikohus.ee/et/lahendid/marksonastik?asjaNr=2-18-6908/47.

written contract or the terms used in it. Determining the legal nature of the disputed agreement requires its interpretation in accordance with the interpretation rules set forth in § 29 of the Law of Obligations Act. In order to determine the nature of the agreement, it is possible to take into account, among other things, following criteria: who organized and managed the work process, who paid for work tools, materials, equipment, premises and other costs related to the performance of the work, whether the work was paid periodically, whether the employee had to be willing to work for the alleged employer, whether the employee acted for several employers or received all or a significant part of his income from the alleged employer, how the parties interpreted the disputed relationship outside of this dispute, e.g. in the relationship of others with persons or while fulfilling their other duties.

The Supreme Court emphasizes that the criteria on the basis of which the legal relationship is determined and relied upon must be analyzed together. Even if each fact presented does not independently establish the alleged contract, they may together prove it.

Taking into account the case law of the Supreme Court, it is important to determine the subordination to the person receiving the work, as well as receiving payment for the work performed. There can be several criteria based on which it is possible to establish a subordination relationship.

In addition to the above, it is also important to look at the Treaty on the Functioning of the European Union (hereinafter TFEU). In the mentioned Treaty, the concept of employee is discussed only when it comes to the free movement of employees and the removal of barriers related to it. The TFEU does not contain the concept of employee or employer in other places, nor does it use the concept of social partners. Consequently, the CJEU has not had the opportunity to interpret the concept of employee within the TFEU as there was no opportunity for this, and there is no direct need for it. At the same time, it should be mentioned here that even if the concepts of employee and employer or social partners are not used, the European Union has the competence to develop social dialogue. This is what the TFEU article 151 refers to.

III Harmonization of European Union law in Estonia

Even before Estonia officially became a member of the European Union, the current labor laws of Estonia were amended to ensure their compliance with the requirements of the European Union legislation.

In the harmonization of European Union directives, it is an important issue to further develop national law and ensure uniform rules in certain areas of labor relations in order to

ensure the protection of employees. At the same time, it can be observed that the transposition of directives by itself may change the relevant legislation but may not always lead to changes in national labor relations practice.

Employees' involvement

The European Union directive on the transfer of an undertaking[13] stipulates that before a decision is made on the transfer of an undertaking, the employees must be consulted in advance regarding the possible consequences of the transfer.

The European Union directive on collective redundancies[14] stipulates that before the collective redundancies are carried out, it is necessary to discuss the effects of collective redundancies with employee representatives and to inform employees about the upcoming collective redundancies. Collective redundancies will take place when the employer has to terminate the employment contract with a certain number of employees for a short period.

In addition to the above-mentioned directives, there is a European Union directive that stipulates that national law must provide for a general set of rules on informing and consulting employees.[15] According to the said directive, a mandatory information and consultation system must be established in the member state. It is compulsory to consult the employees in advance in situations where the working conditions applied in the company change to a significant extent. Employees must be informed about the annual financial report once a year, and they have the right to express their opinion in this regard.

Estonia has harmonized the above-mentioned rules into its law. Article 112 of the ECA stipulates the obligation to inform and consult in the event of a company transfer. In addition, the rules for informing and consulting in the case of collective redundancies have been transposed to the ECA.

The obligation to establish a general information and consultation framework has been harmonized by the Estonian legislator in a separate law, which is the Employees' Trustee

[13] Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32001L0023.

[14] Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies, https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A31998L0059.

[15] Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation, https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32002L0014.

Act.[16] The Employees' Trustee Act has literally taken over the wording of the directive and provided for the obligation to inform and consult employees in advance if the employer makes significant changes in employment relations that affect a larger number of employees.

Studies conducted in Estonia have shown that informing and consulting employees in Estonian companies has not changed. In companies where there has been the system of information and consultation of the employees, information and consultation will continue. In companies where this has not been the case, the new provisions of the law have not highlighted information and consultation. The involvement of employees continues to be modest, and there are often violations, according to which the employer makes significant changes to the working conditions but does not inform the employees of such changes as required by law.[17]

Such a development shows that although the necessary legislation is harmonized according to the law, the implementation of such requirements in itself may not be in accordance with the law or, consequently, with the requirements of the directive and European Union law.

Such a situation does not mean that Estonia constantly violates the rules prescribed by European Union law, but in certain cases, the harmonization of European Union law has not led to the expected outcome.

At the same time, the effect of harmonization of European Union directives can be assessed as positive. For example, the working time directive of the European Union provides for an option according to which restrictions on e.g. overtime work and night work do not have to be applied to those employees who have independent decision-making competence.[18] Based on the provisions of the directive, the concept of an employee with independent decision-making competence is provided for in the ECA.[19] An employee with independent decision-making competence means that the employee is free to decide on its working hours and is not subject to restrictions on night work, restrictions on daily and weekly rest etc.

[16] Employees' Trustee Act, https://www.riigiteataja.ee/en/eli/518112021004/consolide.

[17] Töötajate kaasamine Eesti ettevõtetes (Involvement of employees in Estonian companies), https://www.praxis.ee/tood/tootajate-kaasamine-eesti-ettevotetes/. See also: Töötajate kaasamine aitab optimeerida ettevõtte tegevusi (Employee involvement helps to optimize the company's activities), https://rmp.geenius.ee/ajaviide/huvitav-lugemine/tootajate-kaasamine-aitab-optimeerida-ettevotte-tegevusi-2014-12-10/.

[18] Article 17, Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time, https://eur-lex.europa.eu/eli/dir/2003/88/jo.

[19] § 43^2 ECA

If the harmonization of European Union directives is an obligation that every member state must do, the meaning of the decisions of the European Court is different. Although the decisions of the European Court of Justice must also be taken into account in the member states, the member states do not comply with the said decisions in every case.

One such example is the concept of **on-call time** in Estonian law and its non-compliance with European Union law.

In Estonian law, there is a prescribed on-call time.[20] On-call time is the period of time during the day when the employee must be available to the employer to perform work duties. According to Estonian law, on-call time is neither working time nor rest time. The employee is paid a separate fee for on-call time, which is not considered as a wage.

The CJEU has stated in its case law that an employee can only have either working time or rest time.[21] There can be no other option. Therefore, each member state must decide whether a specific period is working time or rest time. Rest-time is a period of time in which the employee can decide for himself how he will use his free time. Although the CJEU has repeatedly emphasized such a difference, Estonia has not changed its labor legislation and Estonia continues to apply on-call time, which is neither rest time nor working time.

On the other hand, one can see a situation where a member state starts to apply the decision of the CJEU directly without changing the national law. The recent court decision of the European Union is important here, which led to changes in the calculation of work and rest time for shift workers.

The European Union directive on working and rest time stipulates that the rest time between working days must be 11 consecutive hours. If the work is done in shifts, there must be a total of 36 hours of uninterrupted rest-time during the seven-day period. The aforementioned regulation is also stipulated in the ECA. Until now, the rule in Estonia was that in the case of cumulative working hours (summarized working time), the duration of an uninterrupted rest period was 36 hours within a seven-day period. The CJEU made a change in the mentioned rule, according to which, in the case of cumulative working hours, the weekly

[20] § 48 ECA

[21] Judgment of the Court (Grand Chamber) of 9 March 2021 (request for a preliminary ruling from the Vrhovno sodišče – Slovenia) – D.J. v Radiotelevizija Slovenija, (Case C-344/19), https://curia.europa.eu/juris/document/document.jsf?text=&docid=241053&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=4150235. Judgment of the Court (Grand Chamber) of 9 March 2021 (request for a preliminary ruling from the Verwaltungsgericht Darmstadt – Germany) – RJ v Stadt Offenbach am Main (Case C-580/19), available: https://curia.europa.eu/juris/document/document.jsf?text=&docid=241068&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=4150798.

rest period must also be preceded by the rest period between working days by 11 hours.[22] Thus, in the case of cumulative working hours, the weekly rest period is a total of 47 hours. It is an interpretation of the directive, which also has an impact on national law. The case law of the CJEU so far has led to a situation where the law is generally changed to be in line with the corresponding interpretations of the CJEU.

Estonia has not changed the working and rest time regulation in the ECA but has started to implement the CJEU judgment in practice. Since working and rest time falls under the supervision of the labor inspectorate, the labor inspectorate has the possibility to impose a financial fine for such a violation.[23] At this point, it is possible to state that in Estonian law, this is the first time that the labor inspectorate has started to implement the decision of the CJEU without amending national law (ECA) accordingly.

As a recent example that can be brought here, is the regulation of the expiry of annual holidays. According to the Estonian ECA, the duration of an employee's annual leave is 28 calendar days. It is possible to postpone the use of leave for up to one year. If the employee has not used the leave later than two years after the right to leave arose, the annual leave claim expires and the employee cannot take the said leave, and it is not possible to financially compensate for the expired leave days. Therefore, during a period of two years at the latest, the employee has the right to use the regular annual leave provided for him. In 2022, the CJEU made a decision according to which the employee's right to use annual leave does not expire in all cases.[24] Namely, the CJEU stated that the employee's right to use the leave provided for him does not expire if the employer did not give the employee the opportunity to use the leave provided for him. Therefore, if the employer did not take any actions or directly prevented the use of vacation, unused vacation days do not expire. Based on the above, the employer is obliged to prove that he did not prevent the employee from using the prescribed leave and did everything possible that the employee could use his annual leave. The mentioned situation means that the employer must remind the employee of the possibility of his leave and also of the fact that if the employee does not use his regular annual leave, the said leave may expire and the employee will not be able to use the said leave later, and the employer also does not have to financially compensate for the unused leave days .

[22] Judgment of the Court (Second Chamber) of 2 March 2023 (request for a preliminary ruling from the Miskolci Törvényszék – Hungary) – IH v MÁV-START Vasúti Személyszállító Zrt., (Case C-477/21, MÁV-START), https://curia.europa.eu/juris/document/document.jsf?text=&docid=273084&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=4153586.

[23] Tööinspektsioon selgitab, mis muutub graafikuga töötavate inimeste jaoks töö- ja puhkeaja arvestuses (The Labor Inspectorate explains what will change in the calculation of working and rest time for people working with a Schedule), https://www.ti.ee/uudised/tooinspektsioon-selgitab-mis-muutub-graafikuga-tootavate-inimeste-jaoks-too-ja-puhkeaja.

[24] Judgment of the Court (Sixth Chamber) of 22 September 2022. LB v TO, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62021CJ0120.

The said court decision is an example of a situation where neither domestic legislation nor domestic case law has changed the relevant content, but due to the interpretation of the CJEU, the practice of implementing the law both by the courts and by the labor inspectorate must change. In order to exclude violations by the employer, it is also necessary regularly to inform the employers what the judgements of the CJEU are and what effect the mentioned judgments may have on the daily activities of the employers. Sometimes one can hear positions from employers, according to which the law of the European Union is not important in the daily implementation of labor relations, and the decisions of the CJEU do not determine the legal relationship between the employee and the employer. This point of view is not correct, because the impact of the European Union on labor relations is immediate - either through the harmonization of directives or through the decisions of the CJEU.

Regarding European Union law, it is also important to note that European Union law led to maximum restrictions on working hours. According to the European Union working time directive, an employee's working time cannot be longer than 48 hours per week including overtime. This limitation applies in case of working for one employer. If the employee's working time is longer than 48 hours including overtime, then it is a violation of the requirements arising from the labor laws. The mentioned limitation means that the employment where an employee cloud work 60 hours[25] in a week disappeared from Estonian law. There is no such possibility in Estonia today. Before the harmonization of European Union law, according to Estonian labor law, it was also possible to work for one employer based on so-called co-location, which meant a weekly working time of 60 hours (40 hours plus 20 hours). In connection with the establishment of the requirements of European Union law, such a possibility of working has been eliminated, because European Union law does not provide for the possibility of working more than 48 hours in one week, including overtime. The aforementioned changes were introduced into Estonian labor laws already in 2002,[26] even before Estonia was accepted as a full member of the European Union. Based on such an example, it is possible to state that there are still individual cases in which the national law or also the national practice of implementing labor laws must be changed, because the law of the European Union sets certain limits or no longer allows the use of some aspects that have been used recently.

The implementation of **occupational health and safety** requirements has an important impact on the implementation of labor relations. The European Union has established a large

[25] Such possibility was foreseen by the Estonian Labor code from 1972, also in Work and Rest-Time Act 1994, Töö- ja puhkeaja seadus 1994 (Work and rest time Act), https://www.riigiteataja.ee/akt/2862.
[26] Töö- ja puhkeaja seadus 2002 (Work and rest time Act), https://www.riigiteataja.ee/akt/13098104.

number of different directives designed to create a safe working environment.[27] The legal basis for establishing the aforementioned directives is the TFEU, which directly provides for the competence of the European Union to establish such legal norms. The mentioned directives regulate the occupational health and safety conditions when working in different work environments in quite detailed terms. Although the framework directive of the European Union was adopted already in 1989,[28] numerous individual directives have been adopted based on the framework directive, which deal with e.g. chemical safety, safety labelling, psychological aspects, biological, physical and other aspects. Separately, for example, a directive has been established on how and under what conditions it is possible to work with various technological means (work with the display).[29] In addition to the above, separate requirements have been established for various fields of activity (e.g. safety requirements in construction).[30]

The set of norms that must be adopted in terms of occupational safety and health is considerable. Estonia has adopted the mentioned requirements by establishing a general law - the Occupational Health and Safety Act.[31] The said law defines more generally the obligations of the employee and the employer in ensuring the right to work. The said law also stipulates the definition of occupational accident and occupational disease and the procedure for investigation of an occupational accident and occupational disease. In addition to the general framework law, the Estonian Government has established various regulations specifying specific requirements in certain areas[32] (e.g. manual lifting of weights, working with a display, labelling of the working environment, etc.). Regarding COVID-19, the occupational health regulations were also changed,[33] according to which COVID-19 was treated as a biological hazard. With the mentioned changes, the employer got the opportunity to demand the vaccination.

[27] See the full list of different directives: https://osha.europa.eu/en/safety-and-health-legislation/european-directives.

[28] Council Directive of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (89/391/EEC), https://eur-lex.europa.eu/eli/dir/1989/391.

[29] Council Directive of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (fifth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (90/270/EEC), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01990L0270-20190726.

[30] Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile constructions sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01992L0057-20190726.

[31] Occupational Health and Safety Act, https://www.riigiteataja.ee/en/eli/523052024003/consolide.

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Summary

The influence of European Union law on the legal regulation of labor relations is important. Although the European Union does not have the competence to regulate all aspects related to labor relations, over time various aspects of labor relations have been legally regulated. In the legal regulation of labor relations, it must be borne in mind that the European Union has limited competence in regulating aspects of labor relations. The directives of the European Union, which state the requirements for the labor relations, help to a certain extent to create uniform requirements throughout the European Union and in each member state separately. Although the norms of the directives are the same, the transposition of the directives may be different. Transposition of directives do not always mean that it is necessary to adopt a new law or to change existing legal regulations. When introducing directives, it is possible that the domestic legal system already meets all requirements and there is no need to make a change. At the same time, there may be situations where a member state takes over all the necessary legal norms, but the practice of implementing said legal norms does not change.

The case law of the CJEU cannot be ignored in the legal regulation of labor relations. The practice of the CJEU may also lead to situations where the national legislation may not change, but the practice of implementing the law both by the courts and the labor inspectorate must change, taking into account the legal positions formed by the CJEU.

Each member state has the opportunity to shape the legal regulation of labor relations in accordance with European Union law. Certain aspects of employment relations, e.g. termination of the employment contract and restrictions in the event of termination of the employment contract, these aspects can be regulated independently by each member state without any additional requirements established by the European Union law. Member states have enough freedom to establish different ways of working and related legal regulations, as well as, for example, legal issues of termination of employment contracts and legal regulations related to labor disputes.

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ТРУДОВЕ ПРАВО ЄВРОПЕЙСЬКОГО СОЮЗУ ТА ЙОГО ГАРМОНІЗАЦІЯ З НАЦІОНАЛЬНИМ ЗАКОНОДАВСТВОМ: ДОСВІД ЕСТОНІЇ ТА ПОТОЧНА СИТУАЦІЯ

Анотація

Для того, щоб забезпечити однакове застосування права Європейського Союзу, держави-члени повинні прийняти право Європейського Союзу. Це можна зробити різними способами: гармонізувати директиви Європейського Союзу; імплементувати регламенти Європейського Союзу; виконувати рішення Суду ЄС. Європейський Союз залишає державам-членам можливість самим вирішувати, як імплементувати право ЄС: або гармонізувати директиви слово в слово, або створити правову базу лише для реалізації мети директиви.

У цій статті проаналізовано застосування права Європейського Союзу до трудових відносин на основі естонського права. Спочатку аналізується компетенція Європейського Союзу щодо встановлення правових норм у трудових відносинах. Далі аналізується персональна сфера регулювання трудового права Європейського Союзу. Насамкінець проаналізовано окремі приклади того, як Естонія застосовувала право Європейського Союзу до різних аспектів трудових відносин.

Ключові слова

Європейський Союз; трудові відносини; гармонізація права ЄС; естонське законодавство: вплив права ЄС