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# The Role of Trade Unions as a Subject of Social Partnership in Resolving Labour Disputes

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**Abstract**: The relevance of this scientific work which focuses on trade unions as subjects of social partnership to resolve labour disputes lies in the need to enhance the role of trade union organisations in the mechanism of implementation of social partnership activities in resolving labour disputes. The purpose of this article is to conduct an analysis of trade union activities in general, highlighting its main

characteristics and principles on which such activities are based, and also to investigate what is the role of trade unions as the subjects of social partnership. The scientific work was aimed at revealing both theoretical and practical aspects. Such methodological approaches include theoretical and methodological, dialectical and methodological, deduction method, induction method, logical analysis method, synthesis method, and others. Thus, in the course of the research, it was revealed that trade unions play a rather important role in the formation of civil society and in improving the mechanism of social and labour relations. In addition, the mechanism of trade unions as subjects of social partnership in resolving labour disputes was analysed in detail, and the problems that stand in the way of the proper functioning of participation of trade union organisations in social partnership were identified. The results of the study will contribute to the development of methodological recommendations to help resolve problems related to trade union participation in social partnerships and to enhance the role of cooperation between trade unions and employers in the settlement of labour disputes.

Keywords: Social and labour relations; civil society; tripartism; labour conflict; civil law

**Summary:** 1 Introduction – 2 Materials and Methods – 3 Results and Discussion – 4 Conclusions – References

# **1** Introduction

In recent decades, the study of the social partnership sector as one of the important directions in the implementation of social and public policy has gained special relevance in scientific research. Therefore, with the development of social and economic relations, and the policy focus on stabilising the social sector of society development, the social partnership is a significant regulator in social and labour relations between the employee, the employer, and the state.¹ The role of social partnership is conditioned by its direct purpose, the key areas of which are optimal coordination of interests of such different groups, as a state representative, employees, and employers; carrying out preventive measures on arising conflicts in organisations and resolution of such conflicts; directing the management of organisations towards democratisation; developing and supporting the employer's attractiveness brand for its employees in the organisation.²

Social partnership is a rather important tool in social and labour relations, which contributes to their regulation and optimisation. The content of the concept of social partnership is interpreted rather ambiguously. In general, it can be seen as one of the best-known types of corporatism and neo-corporatism, which occurs in the relationship between three groups of actors, namely entrepreneurship, trade unions, and states, which classify social partnerships into systems such as bipartism, tripartism, micro-corporatism, and meso-corporatism.<sup>3</sup> The social

<sup>&</sup>lt;sup>1</sup> KNIAZIEVA; SHEVCHENKO; SHEVCHENKO; YAROSHENKO; INSHYN; YAKOVLYEV, 2021, p. 279-292.

<sup>&</sup>lt;sup>2</sup> STRELCHENKO, 2018, p. 262-270.

<sup>&</sup>lt;sup>3</sup> BORNSCHIER; NOLLERT, 2017, p. 377-403.

partnership acts as a way of cooperation at the level of state relations, expressed as a form of harmonious interaction between the subjects of social and labour relations. It is also worth mentioning that on the other hand, the social partnership is considered as a method and mechanism that allows regulating social and labour relations, neutralise emerging conflict situations that arise in organisations, contributes to the resolution of such situations and appeared contradictions between employees and employers in the most effective and constructive ways. It is not only a means of stabilising economic and political development but also an important tool in the development and change of social society. It should also be mentioned that social partnership is one of the special types of social relations, where an important factor is an alignment of interests of different social groups within the existing legal framework of the socio-economic sector.

To implement social partnership activities, citizens have the right to associations and freedom for trade unions. In general, trade unions should be defined as an association of citizens voluntarily, which is linked to common occupational and professional interests according to the nature of their work, which is established to perform the function of representation and implement a mechanism for the protection of the rights and freedoms of citizens and their labour interests. At the moment, there are two types of trade unions, in particular alternative trade unions, which focus their activities on the classical protective functions, and traditional trade unions, which aim to support the contact between the employer and the employees. The main difference between the two is that they are politicised, independent of the organisation's leaders, confrontational in orientation, and address the social and welfare problems of union members and organisations.

The importance of the study of trade unions' activities stems from the need to identify the role in the mechanism of implementation of social partnership between employees, employers, and the state. The peculiarity of trade unions' activities is that they help in the formation of civil society and in the formation of social and labour relations. Effective social partnerships provide opportunities for constructive dialogue to resolve conflicts between employees and employers, establish synergies between union actors and prevent the increase of social tensions in a social society. Therefore, the important steps in the research work are to conduct a detailed analysis of the trade union mechanism in general, to consider this

<sup>&</sup>lt;sup>4</sup> KRAINOV, 2019, p. 115-124.

<sup>&</sup>lt;sup>5</sup> KUCHKO, 2021.

<sup>&</sup>lt;sup>6</sup> YAROSHENKO; MOSKALENKO; SLIUSAR; VAPNYARCHUK, 2018, p. 1-10.

<sup>&</sup>lt;sup>7</sup> LIU; YANG; XIAO; HUANG; NIE; LIU; CHANG, 2021.

<sup>&</sup>lt;sup>8</sup> WATSON, 2018.

<sup>&</sup>lt;sup>9</sup> INSHYN; VAVZHENCHUK; MOSKALENKO, 2021.

<sup>&</sup>lt;sup>10</sup> KEUNE; PEDACI, 2020, p. 139-155.

sector as a subject of social partnership in labour dispute resolution, as well as to identify the problems that may stand in the way of the proper functioning of the segment and identify recommendations to improve its effectiveness.

# 2 Materials and Methods

The study that has been carried out in the framework of studying the role of trade unions as subjects of social partnership in resolving labour disputes has been carried out through various methodological approaches that help in revealing the theoretical and practical components of the topic of study. Thus, due to the theoretical and methodological approach, it is possible to study in more detail the concept of trade unions, to highlight the characteristic features and principles of implementation of their activities. Further, highlighting such methodological approach as a dialectical methodological approach in scientific work, it is possible to highlight the key objectives, directions, and features of trade unions in the implementation of their activities, in particular, in the resolution of labour disputes. The method of logical analysis will help to analyse in more detail what are the peculiarities of labour dispute resolution with the participation of the trade union as a subject of social partnership. Equally important is the method of deduction, which allows highlighting the specific features of trade unions' activities in resolving labour disputes, and characterising this mechanism in its role as a subject of social partnership. The methodological approach opposite to this one, the induction method, makes it possible to identify the specific features inherent in the implementation of their powers in the settlement of labour disputes based on the general characteristic of trade unions' activities. The formally legal methodological approach will assist in the analysis of individual legal norms that enshrine acts of social partnership. The methodological approaches, such as the method of analysis and comparative analysis, are also useful in studying this aspect of the work, which enables a detailed analysis of the stated theoretical and practical aspects, from which the main objective of the research can be identified, in particular, to identify the role of trade unions as the subjects of social partnership in resolving labour disputes. The method of synthesis is quite important in the research, as it brings together the studied theoretical and practical aspects into an overall picture and makes it possible to layout the material consistently and logically, thus achieving the main goal of the work.

Therefore, the author identifies such stages in the conduct of scientific research:

1. The first stage of the research is aimed at revealing the theoretical component, through which the concept of social partnership can be

- analysed in more detail and the main characteristics and principles of this segment's activities can be highlighted.
- 2. The second stage of the work helps to reveal the main purpose of the study, which is to consider the trade union as a subject of social partnership in the implementation of labour dispute resolution and analysing such activities, and, equally importantly, analysing the legal provisions that enshrine social partnership acts.
- 3. The third stage, which is the final stage of the research work, assists to highlight the characteristics and problematic aspects when considering the role of trade unions as subjects of social partnership in resolving labour disputes and to highlight recommendations that will improve and enhance the effectiveness of the role of trade unions as subjects of social partnership in resolving labour disputes.

# 3 Results and Discussion

# 3.1 Exploring the Social Partnership Mechanism

In today's context, the most common way to regulate labour relations is to find a way to reach an agreement. "Social partnership" is one of such ways. In general, it should be stressed that the term "social partnership" is conditional, because a partnership between the employer and the employee cannot be formed because of their opposing interests. But at the same time, notwithstanding their opposites, there is also a commonality of interests, which manifests itself in achieving the effective functioning and organisation to create the necessary conditions in the implementation of the necessary interests of the employer and the employees. 11 For the system of social partnership, three main elements should be distinguished, through which the effectiveness of this mechanism can be realised. These elements include a set of operating bodies formed by representatives of employers, employees, and public authorities that interact between them at different levels on a permanent basis: a set of various acts, such as agreements, collective bargaining agreements, decisions, and others that aim to regulate the emerging social and labour relations; the establishment of appropriate procedures, the definition of forms through which the interaction between subjects of social and labour relationships and be carried out, the relations and sequences in the development, timing, and prioritisation of bodies and regulations can be determined.

<sup>11</sup> TOMASHEVSKI; YAROSHENKO, 2020, p. 41-49.

The object of the social partnership should include the implementation of the social and labour policy of the state and the relations between the subjects of labour activity, the definition of working conditions, labour protection and its organisation, the establishment of wage for work, the definition of social guarantees and their extension, and ensuring the participation of labour collectives in solving social and work-related issues that arise.<sup>12</sup>

In order to analyse the mechanism for implementing social partnership activities in more detail, it is worth highlighting the principles on which it is based. 13 The main principles include equality of the parties, which means that each party can initiate negotiations; ensuring that the interests of all parties are taken into consideration and that they are respected, which is realised by ensuring that the interests of the parties are reconciled in the course of negotiations; the interest of both parties in participating in negotiations to reach agreements; active participation of the state in promoting democratisation and stabilising social partnerships, which is realised by creating a special establishments who are authorised to regulate social and labour relations; compliance with labour legislation and other regulations governing labour law in the course of negotiations; freedom of choice in negotiations in issues regulating labour standards; the obligations arising from the negotiations should be real and enforceable for the parties to the negotiations; the supervision of collective agreements and agreements; the responsibility of the parties and their representatives for the implementation of obligations; negotiations are based on the principles of tolerance, consensus, and compromise.<sup>14</sup> When considering the concept of social partnership, the following are generally distinguished: negotiations that arise for the conclusion of collective contracts or collective agreements, participation of employees and employee representatives in the management of the organisation, mutual negotiations to reach agreements, participation of employee and employer representatives in pre-trial proceedings in matters related to labour disputes, negotiations and consultations to implement social and labour policy, negotiating actions and obligations to achieve the satisfaction of all parties to the negotiations, and monitoring the parties' compliance with obligations and agreements during the negotiations. 15

Social dialogue is the most effective instrument of social partnership to achieve all the objectives and principles that underpin the social partnership mechanism. It refers to the system of relationships between employees, employers, public

<sup>&</sup>lt;sup>12</sup> ADDISON, 2020.

<sup>&</sup>lt;sup>13</sup> MARAGNO, 2020, p. 17-39.

<sup>&</sup>lt;sup>14</sup> TASSINARI; DONAGHEY, 2020.

<sup>&</sup>lt;sup>15</sup> ATZENI, 2021, p. 1349-1362.

authorities, and their representatives with a view to implementing and shaping social and labour policies and settling economic, labour, and social relations.<sup>16</sup>

In other words, it is thus worth noting that modern social partnership prioritises people and human values, gives priority to national consensus, and agreement is reached through compromise rather than the confrontation of the parties' interests. <sup>17</sup> Next, models of social partnership should be examined to examine the mechanism by which it functions in more detail. World practice demonstrates that social partnership and the relationships it generates are always regulated with state participation, with an advisory and legislative function, but the degree of state involvement varies depending on the chosen model of social partnership in the state.

Hence, in countries where the role of the state is not dominant in the regulation of social and labour relations, such as the United Kingdom, Canada, the United States, and Japan, the social partnership model is based on the principle of bipartisanship, meaning that two parties participate in the negotiations: trade unions as employee representatives and employers' associations, while the role of the state is indicated by facilitating the negotiations between these parties. In contrast, the social partnership model of tripartism, which is widespread in countries such as France, Germany, Sweden, Finland, and other European Union countries, involves the active participation of the state in the contracting process as a full party but has its own specific characteristics in each country. In Northern Europe, for example, there are three levels of regulation – local, sectoral, and national – while in countries such as France and Germany, regulation of social partnerships with the state involvement takes place on only two levels – sectoral and regional.

It is also worth considering other approaches to defining models of social partnership. There is a distinction between pluralistic, conciliatory. and conservative and liberal models of social partnership. The pluralistic model of social partnership refers to the localisation of the parties' cooperation and decentralisation of the negotiations process, which is characteristic of organisations in the United States, Canada, Japan, and the United Kingdom. Considering the conciliatory model of social partnership, in this case, there is the participation of three parties in the negotiations process, i.e. trade unions, state, and entrepreneurship, which is noted in the practice of Australia, Scandinavian countries, and the Netherlands. Also, highlighting the conservative and liberal model of social partnership, its

<sup>&</sup>lt;sup>16</sup> KOVAL, 2021, p. 8-24.

<sup>&</sup>lt;sup>17</sup> BRAGA; SIRANGELOV, 2019, p. 39-67.

<sup>&</sup>lt;sup>18</sup> IBSEN; TAPIA, 2017, p. 170-191.

<sup>&</sup>lt;sup>19</sup> MAIKAWI, 2021, p. 1-9.

<sup>&</sup>lt;sup>20</sup> KARLHOFER, 2020, p. 139-155.

characteristic feature is the reduced role of trade unions in social partnership, which is found in the practice of France.<sup>21</sup>

A different methodological approach highlights social partnership models such as the cross-sectoral model and the trade unionist model, which refers to the tripartite system. The notion of intersectoral partnership should be understood as the interaction of two or three sectors, i.e. the state, business, and trade unions in its constructive manifestation, used to resolve social and labour problems, allowing for synergies that depend on the use of different types of resources and are beneficial to each of the parties in the negotiations and the population as a whole. That is, based on the above, the mechanism of social partnership aims to achieve social peace and harmony in the organisation, society, and the state as a whole, with such fundamental conditions as equality of the parties, respect, and satisfaction of their interests, finding consensus to resolve disputes and conflicts that arise, the implementation of social justice, and the control over the mutual responsibility of parties to fulfil obligations under the arisen agreements. The role of the state in providing a social partnership mechanism depends on the chosen model of social partnership.<sup>23</sup>

Next, it is worth examining the mechanism of trade unions as actors in social partnership and identifying the current status of their role in social partnership.

# 3.2 Trade Unions as Subjects of Social Partnership

It is worth noting that all citizens have the right to form trade unions to protect their rights and interests. A trade union is a voluntary public association of citizens to represent their interests of social and labour nature, production and professional directions, and to protect violated rights within labour relations. Violations of labour law are becoming more and more frequent and widespread. Most of the labour disputes that arise relate to working hours, working conditions, non-payment or late payment of wages, and the quantitative inability to reproduce the workforce or incentives for employees. It is precisely based on this list of reasons that trade unions have a special role to play in the regulation of social and labour relations. Trade unions are mandated to regulate such relations at all possible levels, namely at the macro-, meso-, and micro-levels.

At the micro-level, for example, when collective labour agreements are concluded, it is the responsibility of the trade union to regulate social and labour

<sup>&</sup>lt;sup>21</sup> ORR, 2021, p. 498-515.

<sup>&</sup>lt;sup>22</sup> LEISERSON, 2020.

<sup>&</sup>lt;sup>23</sup> NOVAK, 2021.

<sup>&</sup>lt;sup>24</sup> SOSHNIKOVA, 2021, p. 284-290.

<sup>&</sup>lt;sup>25</sup> PREENA, 2019.

relations in the organisation. At the micro-level, the dissatisfaction of the subjects of organisations may be due to violations of normative-legal acts or other agreements that contain labour law norms, the general index of labour discipline, a large index of personnel turnover in the organisation, and the index of labour conflicts in the organisation, the strength of arising conflicts, their number, reasons of arising conflicts in the organisation and others.

At the meso-level, the role of trade unions is to participate as a joint commission in the drafting of tariff agreements. At the macro level, it is worth noting that the role of trade unions is to participate as part of a tripartite commission in issues that relate to the regulation and formation of methods to improve social and labour policy in organisations.<sup>26</sup>

The role of trade unions in the regulation of social and labour relations is precisely to conduct analysis and expertise on their condition and to carry out certain activities that will improve their current condition. Regardless of the level of regulation of social and labour relations, any trade union organisation must go through several key stages in the functioning of its own activities. There are seven such key stages, in particular informational, analytical, problem identification, subjects' behaviour assessment, compliance stage, analysis of causes of disruptive behaviour of subjects and project stages.<sup>27</sup>

The first stage is informational, it collects information about the needs and interests of the subject of the labour dispute and the extent to which these needs and interests can be realised. The second stage, which is analytical, is to analyse the needs and interests of the subject of the labour dispute and to identify which of the collected information is most relevant to the issue at hand. The third stage problem identification, consists of examining the subjects of the social and labour relations between the actors that are likely to cause the greatest discontent and dissatisfaction. The next stage evaluates the behaviour of the subjects, and. that is, assesses the behaviour of both the employer and the employee, which consists of such criteria as evaluating the actions of the subjects, evaluating the costs of the employer to the employees, and evaluating the efficiency of the employee's labour costs. The next step is the compliance stage, i.e. analysing the consistency of the actors' interests and their actions aimed at achieving them as well as identifying causes of their destructive behaviour; this stage is implemented by analysing the employees' actions that can hinder the implementation of the employer's interests, analysing employer's behaviour that can hinder the realisation of the employee's interests, and analysing subject's actions that can hinder the implementation of personal interests.

<sup>&</sup>lt;sup>26</sup> ATANTAEV, 2021, p. 133-141.

<sup>&</sup>lt;sup>27</sup> KRAINOV, 2020, p. 115-124.

The next stage allows for an analysis of the causes that can create destructive behaviour on the part of actors and act as causes of labour disputes. The seventh stage, which is the final stage in the mechanism for the implementation of trade union powers in social partnership, allows the development of recommendations, methods, and techniques for resolving labour disputes, increasing the effectiveness of social and labour relations, and facilitating the mechanism for implementing these methods and recommendations in social partnership.<sup>28</sup>

The representation of employees in individual labour disputes by trade unions has not been regulated by law. This lack of regulation is seen in the fact that to apply to the court to implement the mechanism of protection of employee interests by the trade union, it can be done only in three cases: on its initiative, at the request of trade union members or at the request of other employees. For recourse to the court on the request of trade union organisation members, the important conditions are direct membership in the trade union organisation and the proof of the authority held by the trade union organisation. It is worth mentioning that the representation of an employee by a trade union organisation can be legally secured through a written request by the employee to the trade union organisation to go to court to enforce their interests and rights.<sup>29</sup>

In addition, trade unions have the right to apply to the court for their own initiative to protect the rights and interests of their member employees in cases where labour law regulations have been violated. However, such applications are perceived ambiguously by the courts, arguing that the employees have not specifically designated or authorised the trade union as their representative for the protection of their rights and interests, which is why in practice such applications are often rejected by the court.<sup>30</sup>

It's worth noting that a trade union organisation has authority in negotiations representation in labour disputes of a subject who is not a member of the trade union organisation. Such type of representation is often used when a labour dispute involves issues of declaring a dismissal unlawful or issues of reinstatement, as in such cases the employee would not be a member of a trade union organisation. Such representational relations could be said to be of a purely private, contractual nature. It should be noted that this is possible if the local acts provide for the trade union representative to act not on behalf of the trade union organisation that is within the framework of the trade union organisation's legislation, but on a voluntary basis.<sup>31</sup>

<sup>&</sup>lt;sup>28</sup> KOVAL, 2021, p. 8-24.

<sup>&</sup>lt;sup>29</sup> LEISERSON, 2020.

<sup>30</sup> KARLHOFER, 2020.

<sup>31</sup> ATANTAEV, 2021, p. 133-141.

Equally significant is the fact that trade unions' function of representation to protect their rights and interests is denied to young workers. In general, the minimum age for joining a trade union is fourteen years of age or older. The purpose of this restriction is that a young worker is not able to fully understand when his rights are violated and in what cases, and under what circumstances, it becomes necessary to protect the rights and interests of such a young worker. But in this case, it is worth mentioning that the under-aged worker has the right to approach a trade union organisation for representation in labour disputes on a contractual basis.

To summarise the above, the role of trade unions in the social partnership mechanism for resolving labour disputes is quite important as it enables the protection of the rights and interests of employees, but the proper functioning of trade union organisations is hampered by certain factors that can contribute to the role of the trade union in social partnership and the effective resolution of labour disputes.

# 3.3 Problems in Trade Union Activities and Recommendations for Dealing with them

The most important of these factors is a lack of awareness. It is quite common that employees do not see the tangible results of trade union activities and therefore refuse to join them. This is due to the fact that employees are poorly informed about the results of the activities of the primary trade union organisations. It has been noted that the poor performance of trade unions in informing employees means that most of their members do not know what exactly they do and what their purpose is.<sup>32</sup>

The lack of interaction between trade unions and the younger generation is another fact worth mentioning. This is since trade unions do not have departments for working with young people, and collective agreements do not include clauses that would implement the protection of the rights and interests of the younger generation in the organisation. This indicates that, given the current situation, not only is the younger generation reluctant to actively participate in the trade union organisation, but it is also reluctant to join this institution. In such a case, it should be noted the importance of creating a positive image in the group of the younger generation of employees, and mentioning the addition of clauses in collective agreements that would indicate the presence of social guarantees and benefits that would be relevant and necessary for the younger generation of employees.<sup>33</sup>

A further problem is the reduced responsibility of the employer. For example, it is often the case that employers "make advances" by concluding collective

<sup>32</sup> NELSON, 2019.

<sup>&</sup>lt;sup>33</sup> ORR, 2021, p. 498-515.

labour agreements and undertaking certain contractual obligations, but trade union representatives have no influence on the employer in this case. Therefore, one of the main tasks that trade unions have to perform is the implementation of these collective bargaining contracts or agreements. Often in practice, the trade union organisation is not very active in this matter, since the agreements are determined by the employer and the chairman on an individual basis. In this case, the employer can apply its own leverage to its subordinate to change any clauses of the collective contract or the agreement, which significantly reduces the effectiveness of the protection of the rights and interests of the employees.<sup>34</sup>

Hence, the following recommendations should be considered in order to resolve such problems that stand in the way of the effective functioning of trade union organisations. First of all, to raise awareness among employees about the activities of trade unions, their goals, functions, and tasks. This can be done through the use of information and communication technology, publishing reports on their activities, informing employees about them, etc. The next step is to create awareness of the importance of trade unions, especially among the younger generation of employees, which is done through effective protection of employees' rights and interests. Equally important is the conduct of surveys by trade unions to help identify desired employees the benefits or problems that hinder the proper performance of work duties, and the use of the most relevant mechanisms to protect employee rights and interests in resolving labour disputes.

Thus, by conducting scientific research into the study of trade unions as subjects of social partnership in resolving labour disputes, it has been revealed that this mechanism performs the function of protecting the rights and interests of employees, but at this stage of its functioning there are several problems, according to which recommendations to improve the effectiveness of the studied segment have been identified.

# 4 Conclusions

By conducting a study on trade unions in social partnership in the resolution of labour disputes, their key role has been identified, and it's significantly important since the mechanism of trade union organisations aims to protect the rights and interests of the subjects of organisations and enterprises. This work has been carried out in several key stages, which help to analyse the area under study in more detail.

<sup>34</sup> TASSINARI; DONAGHEY, 2020.

Thus, the first stage is theoretical, it helps to consider social partnership as a whole, according to which, its key functions, principles, and features can be identified. It has been established that social partnership is a method and mechanism that enables the regulation of social and labour relations, the neutralisation of emerging conflict situations that arise in organisations, the resolution of such situations and emerging contradictions between employees and employers in the most effective and constructive ways. The key elements of the social partnership include a set of operating establishments formed by representatives of employers, employees, and public authorities interacting with one another, a set of various acts aimed at resolving emerging social and labour relations, and the establishment of appropriate procedures through which interaction between the subjects of social and labour relations is possible, the determination of the correlation and consistency in the development, timing, prioritisation of establishments and regulations.

The next stage implied revealing the trade union as a subject of social partnership. In general, it is a voluntary public association of citizens to represent their interests of social and labour nature, production and professional directions, and to protect violated rights in the sphere of labour relations. Characteristic features for the implementation of this mechanism at the micro-, meso-, and macro levels have been highlighted, and its key functions have been considered.

The final stage aimed at uncovering problems that may reduce the role of trade unions in social partnership and hinder its effectiveness. Such problems were emphasised as poor awareness, reduced employer responsibility, and insufficient interaction with the younger generation by the trade union organisations. To the factors outlined in the research paper, recommendations have been proposed to address them, and they will also help in improving the effectiveness of trade unions in their obligations of protecting rights and interests in labour disputes.

#### O Papel dos Sindicatos como Sujeito da Parceria Social na Resolução de Controvérsias Trabalhistas

Resumo: A relevância deste trabalho científico que incide sobre os sindicatos como sujeitos da parceria social para a resolução de conflitos laborais reside na necessidade de reforçar o papel das organizações sindicais no mecanismo de implementação das actividades de parceria social na resolução de conflitos laborais. O objetivo deste artigo é realizar uma análise das atividades sindicais em geral, destacando suas principais características e princípios em que se baseiam tais atividades, e também investigar qual é o papel dos sindicatos como sujeitos da parceria social. O trabalho científico teve como objetivo revelar aspectos teóricos e práticos. Tais abordagens metodológicas incluem teórico e metodológico, dialético e metodológico, método de dedução, método de indução, método de análise lógica, método de síntese, entre outros. Assim, no decorrer da pesquisa, foi revelado que os sindicatos desempenham um papel bastante importante na formação da sociedade civil e na melhoria do mecanismo das relações sociais e trabalhistas. Além disso, analisou-se detalhadamente o mecanismo dos sindicatos como sujeitos da parceria social na resolução de conflitos laborais e identificaram-se os problemas que impedem o bom funcionamento da participação das organizações sindicais na parceria social. Os resultados do estudo contribuirão para o desenvolvimento de recomendações metodológicas para

ajudar a resolver os problemas relacionados com a participação sindical nas parcerias sociais e para reforcar o papel da cooperação entre sindicatos e empregadores na resolução de conflitos laborais.

Palavras-chave: Relações sociais e trabalhistas; sociedade civil; tripartismo; conflito trabalhista; direito civil

# References

ADDISON, J. T. The consequences of trade union power erosion, 2020. Retrieved from: https://wol.iza.org/articles/consequences-of-trade-union-power-erosion/long. Acesso em: 10 jun. 2022.

ATANTAEV, A. T. State participation in the settlement of collective labor disputes (conflicts) on the example of the Russian Federation. *Bulletin of Osh State University*, v. 3, p. 133-141, 2021.

ATZENI, M. Workers' organizations and the fetishism of the trade union form: toward new pathways for research on the labour movement? *Globalizations*, v. 18, n. 8, p. 1349-1362, 2021.

BORNSCHIER, V.; NOLLERT, M. Political Conflict and Labor Disputes at the Core: An Encompassing Review for the Post-War Era. *In: Conflicts and New Departures in World Society*, London: Routledge, 2017. p. 377-403.

BRAGA, J. de C.; SIRANGELOV, F. P. Arbitragem trabalhista: Um eficaz método alternativo à jurisdição estatal. *Revista Brasileira de Alternative Dispute Resolution*, v. 01, n. 2, p. 39-67, 2019.

IBSEN, C. L.; TAPIA, M. Trade union revitalization: Where are we now? Where to next? *Journal of Industrial Relations*, v. 2, p. 170-191, 2017.

INSHYN, M. I.; VAVZHENCHUK, S. Y.; MOSKALENKO, K. V. Protection of labour rights by trade unions in separate post-soviet countries. *Journal of the National Academy of Legal Sciences of Ukraine*, v. 28, n. 2, p. 222-233.

KARLHOFER, F. The present and future state of social partnership. London: Routledge, 2020.

KEUNE, M.; PEDACI, M. Trade union strategies against precarious work: Common trends and sectoral divergence in the EU. *European Journal of Industrial Relations*, v. 2, p. 139-155, 2020.

KNIAZIEVA, T. V.; SHEVCHENKO, A. V.; SHEVCHENKO, A. V.; YAROSHENKO, O. M.; INSHYN, M. I.; YAKOVLYEV, O. A. Current trends in the formation and development of insurance marketing in Ukraine. *Risk Management and Insurance Review*, v. 24, p. 279-292, 2021. Disponível em: https://doi.org/10.1111/rmir.12185. Acesso em: 10 jun. 2022.

KOVAL, O. V. Domestic and foreign experience in the implementation of social partnership in the educational and industrial spheres. *Person. The Science. Society*, v. 2, p. 8-24, 2021.

KRAINOV, G. N. What Role Do Russian Trade Unions Play in Social Partnership? *Editorial Team*, v. 4, p. 156-161, 2019.

KRAINOV, G. N. The Role of Trade Unions in the Mechanism of Implementation of Social Partnership. *Scientific-analytical journal Observer-Observer*, v. 3, p. 115-124, 2020.

KUCHKO, A. Foreign experience of legal regulation of non-discrimination on gender grounds in the world of labor: overview and possibilities of its implementation in Ukraine. *Visegrad Journal on Human Rights*, n. 5, p. 110-116, 2021.

LEISERSON, W. M. Right and Wrong in Labor Relations. Oakland: University of California Press, 2020.

LIU, J.; YANG, Y.; XIAO, B. Y.; HUANG, Z. T.; NIE, X. H.; LIU, W. J.; CHANG, S. F. *Taking Al Neural Network to Analyze Labor Rights and Labor Disputes*. Les Ulis: EDP Sciences, 2021.

MAIKAWI, B. A. M. Assessment of the legal regulation for the settlement of collective labor disputes before labor court in the Jordanian Labor Law. *Journal of Legal, Ethical and Regulatory Issues*, v. 5, p. 1-9, 2021.

MARAGNO, A. S. Panorama na arbitragem trabalhista no Brasil. *Revista Brasileira de Alternative Dispute Resolution*, v. 02, n. 03, p. 17-39, 2020.

NELSON, C. Social partnership and governance under crises. Hershey: IGI Global, 2019.

NOVAK, T. To the issue of labor conflicts resolution in Ukraine. *Law. Human. Environment*, v. 12, n. 1, p. 85-94, 2021.

ORR, L. A review of the state of trade union-based worker education. *Social Dynamics*, v. 47, n. 3, p. 498-515, 2021.

PREENA, R. *Are Trade unions suitable for organizations in* the *21st century?* 2019. Retrieved from: https://www.researchgate.net/publication/335691632\_Are\_Trade\_unions\_suitable\_for\_organizations\_in\_the\_21\_st\_century. Acesso em: 10 jun. 2022.

SOSHNIKOVA, T. A. The role of social partnership in the regulation of employment and employment problems. *Education and Law*, v. 8, p. 284-290, 2021.

STRELCHENKO, D. I. Social partnership in the system of state regulation of social and labor relations. Bulletin of Donetsk National University. Series V. Economics and Law, v. 3, p. 262-270, 2018.

TASSINARI, A., DONAGHEY, J. *Social partnership in Europe in the aftermath of the Great Recession.* Champaign: Labor and employment relations association, 2020.

TOMASHEVSKI, K. L.; YAROSHENKO, O. N. Problems of Labour Legislation Codification in Belarus and Ukraine: History, Current Situation and Prospects. *Journal Transition Studies Review*, v. 27, n. 2, p. 41-49, 2020.

WATSON, D. H. *Managers of discontent:* Trade union officers and industrial relations managers. London: Routledge, 2018.

YAROSHENKO, O. M.; MOSKALENKO, O. V.; VELYCHKO, L. Y.; KOVRYGIN, V. S. Property civil law liability and material liability of employees for damage caused to an employer: On the basis of civil law of Ukraine. *Asia Life Sciences*, v. 21, n. 2, p. 735-748, 2019.

YAROSHENKO, O.; MOSKALENKO, O.; SLIUSAR, A. M.; VAPNYARCHUK, N. M. Commercial Secret as an Object of Labour Relations: Foreign and International Experience. *Journal of Legal, Ethical and Regulatory Issues*, v. 21, p. 1-10, 2018.

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