

## MILITARY'S MEDICAL COOPERATION BETWEEN POLAND AND UKRAINE: LABOUR LAW FEATURES

**Summary.** In report proposed is discussed the problems of labour legal regulation of military's medical cooperation between Poland and Ukraine in conditions of military conflicts and in viewpoint of mankind's global problems. The purpose of this paper is to establish a field of medically social relations, which are covered by military-political cooperation between aforesaid states; providing the historical review of problem; search the status praesens; its connections with the global problems of mankind; furthermore steps to reform Ukrainian legislation and ways to deeping of Ukrainian-Polish cooperation during the post-war Reconstruction of Ukraine. Research methodology is based on general scientific methods such as analysis, synthesis, induction, deduction, analogy and empirical, formal-legal and comparative-legal methods. The author's recommendations, in particular, on the development of the Code on Labour, Medicine and Social Welfare in post-war European Ukraine are provided.

**Key words:** medically social relations, military's medical cooperation, Poland, Ukraine, Code on Labour, Medicine and Social Welfare.

### ВІЙСЬКОВО-МЕДИЧНЕ СПІВРОБІТНИЦТВО МІЖ ПОЛЬЩЕЮ ТА УКРАЇНОЮ: ОСОБЛИВОСТІ ТРУДОВОГО ПРАВА

**Анотація.** У пропонованій доповіді обговорено проблеми трудо-правового регулювання військово-медичного співробітництва Республіки Польща та України в умовах воєнних конфліктів та з огляду на глобальні проблеми людства. Мета цієї роботи полягає у встановленні кола медико-суспільних відносин, котрі охоплюються військово-політичною співпрацею між згаданими державами; історичному огляді проблеми; ознайомленні із сучасним станом; її зв'язків з глобальними проблемами людства; подальших кроків з реформування українського законодавства та шляхів поглиблення українсько-

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*польської співпраці під час повоєнної відбудови України. Методологія дослідження базується на загальних наукових методах, таких як аналіз, синтез, індукція, дедукція, аналогія і емпіричних, формально-юридичному та порівняльно-юридичному методах. Внесено авторські рекомендації, зокрема, щодо напрацювання Кодексу з питань Праці, Медицини та Соціального Добробуту у повоєнній європейській Україні.*

**Ключові слова:** медико-суспільні відносини, військово-медична співпраця, Польща, Україна, Кодекс з питань Праці, Медицини та Соціального Добробуту.

Amid the Russian aggression, Ukraine needs almost all kinds of aid, includes numerous actions on the international front, further sanctions, actual military equipment support as well as humanitarian aid for the victims of the conflict and for those fleeing in fear of their lives<sup>2</sup>.

However, military's cooperation before mass Russian aggression was restricted by weapons' and treatment actions.

Poland and Ukraine have very similar assessments of the threats to peace in Europe and the security of their citizens – the primary source of instability and aggression is Russia. For the first time since the fall of the Soviet empire and the recovery of Poland and Ukraine's independence, the same opponent has appeared in the defense doctrines of both states – the Russian Federation. Worth noting that Poland and Ukraine similarly define the tasks of their countries in the sphere of defense: increasing defense budgets, modernizing the army, increasing its numerical strength, developing territorial defense, modernizing and developing the defense industry, and most importantly, recognizing maximum participation in NATO structures as a cornerstone of their defense policy. After the start of the fighting in Donbas, Ukraine was interested in purchasing personal equipment for soldiers in Poland, namely modern helmets and bulletproof vests. The first deliveries were successfully completed in the summer of 2014.

The “Ukrainian lesson” is Russian unconventional warfare using a whole arsenal of tools in the “gray zone”: “top-notch cybernetics and electronics,

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<sup>2</sup> The Chancellery of the Prime Minister. Website of Republic of Poland. URL: <https://www.gov.pl/web/primeminister/chief-of-the-chancellery-of-the-prime-minister-of-poland-we-must-help-ukraine-together-but-we-must-also-do-so-in-a-coordinated-way> (Last accessed: May 18, 2022).

intelligence actions, disinformation campaigns, sabotage, murder, bribery and forgery”, said Dr. Michael R. Carpenter, of the Biden Center for Diplomacy and Global Engagement at the University of Pennsylvania. The concept of the “gray zone” has thus far mainly concerned the economy, and in particular tax avoidance, VAT embezzlement and unbridled speculation. Russia is extending it to international politics, by initiating unconventional warfare and information operations at the limits of international law, blurring the lines between law and lawlessness, making it impossible to determine who is responsible for the consequences.

Moscow realizes that its conventional capabilities lag behind those of NATO, and that in order to gain an advantage over the traditionally stronger Western forces, it must invest in the “gray zone”, when counting on achieving its strategic goals: to undermine the North Atlantic Alliance and the values of the Western world. There is no doubt that Russia is taking actions across the spectrum: political, diplomatic and military power on a global scale. Russia is constantly testing its approach and drawing conclusions, thus improving its arsenal of tactical and technical resources in the “gray zone”. Having succeeded in Crimea, they attempted to replicate this scenario in Eastern Ukraine, but they did not gain support from the local population, outside the border areas (currently occupied by the separatists), and encountered defensive operations of the Ukrainian army and the forces of the national movement born of the Maidan protests<sup>3</sup>.

After February 24 context of military cooperation between aforesaid states grows in size noticeably. From these reasons, President Volodymyr Zelensky announced the creation of a new “format of political cooperation” involving Ukraine, Poland and the U.K. in his address to Ukraine’s Parliament.

The announcement came amid the ongoing visit of U.K Prime Minister Boris Johnson and his Polish counterpart Mateusz Morawiecki, the country’s second-highest official behind President Andrzej Duda.

According to Foreign Minister Dmytro Kuleba, the new trilateral partnership will strengthen security and develop trade and readiness for

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<sup>3</sup> Defense Cooperation between Poland and Ukraine: Present State and Prospects. *The Warsaw Institute Review*. URL: <https://warsawinstitute.org/defense-cooperation-between-poland-and-ukraine-present-state-and-prospects/> (Last accessed: May 18, 2022).

concrete action: “Warsaw, Kyiv and London don’t only understand the threats to European security and have a strategy to counter Russian activity, but also have great potential for trilateral cooperation in trade, investment and energy, including renewals,” assumed Mr. Kuleba<sup>4</sup>.

Chief of the Chancellery of the Prime Minister of Poland Mr. Michal Dvorcik reported that one of the key activities of the Polish government is to provide wide support to the victims of the Russian invasion of Ukraine. This is a response to the human needs and tragedies that unfold every day during the conflict. Humanitarian aid will be coordinated by the Chancellery of the Prime Minister of Poland together with the Ministry of Foreign Affairs, Ministry of the Interior and Administration, Governmental Agency for Strategic Reserves and other relevant partners. Their cooperation will improve the efficiency of actions that are often spontaneous and ensure safety for all people involved in them. It also covers railway sanitary and medical transport or distribution of aid measures in cooperation with governmental agencies and Ukrainian border guards<sup>5</sup>.

Before that, on July 2 2015 Assistant of Ukrainian Military Minister had meeting with Polish National Military Ministry’s delegation with Mr. Machei Yankowski in chief. Aforesaid meeting was aimed to continue of military’s medicine cooperation.

During this event Mr. Gusev underline, that such relevant activity helps save Ukrainian soldiers’ lives and approach Ukrainian Army to the NATO’s standards.

Head of the Polish Military Medical Inspection Mr. Pietor Djengilewski presented the Curriculum of Medical Education for Ukrainian participants. These persons have to divide on two groups: Tactical Medicine and Clinic Medicine Trainings<sup>6</sup>.

On June 9 2020 the Ambassador Extraordinary and Plenipotentiary of the

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<sup>4</sup> Zelensky announces trilateral partnership between Ukraine, Poland, UK. *The Kyiv Independent*. URL: <https://kyivindependent.com/national/zelensky-announces-trilateral-partnership-between-ukraine-poland-uk> (Last accessed: May, 18, 2022).

<sup>5</sup> See note 2.

<sup>6</sup> Активізується співпраця оборонних відомств України та Польщі з питань реформування системи медичного забезпечення ЗСУ. *Урядовий портал*. URL: <https://www.kmu.gov.ua/news/248293383> (Last accessed: May 18, 2022).

Republic of Poland to Ukraine Mr. Bartosz Cichoński and the Chairman of the International Solidarity Foundation of the Republic of Poland Solidarity Fund Mr. Rafał Dzięciołowski handed over humanitarian aid – personal protective equipment for doctors and physicians, as well as equipment needed to fight coronavirus for over UAH 500.000 from the International Solidarity Foundation of the Republic of Poland to the National Military Medical Clinical Centre of Main Military Clinical Hospital, headed by the Mr. Anatoliy Kazmirchuk within the framework of international cooperation between the Republic of Poland and Ukraine<sup>7</sup>.

Generally, treaty-legal framework between Ukraine and the Republic of Poland consists of 129 current international treaties and regulates the vast majority of Ukrainian-Polish cooperation, as well as ensures the proper development of bilateral cooperation at the level of strategic partnership.

The basic document of Ukrainian-Polish cooperation is the Treaty between Ukraine and the Republic of Poland on good neighborhood, friendly relations and cooperation, concluded on May 18 1992. Among the key bilateral documents are the following:

– Agreement between the Government of Ukraine and the Government of the Republic of Poland on checkpoints across the state border on May 18, 1992;

– Agreement between the Government of Ukraine and the Government of the Republic of Poland on mutual encouragement and protection of investments on January 12, 1993;

– Agreement between Ukraine and the Republic of Poland on legal assistance and legal relations in civil and criminal cases on May 24, 1993;

– Agreement between the Government of Ukraine and the Government of the Republic of Poland on cooperation in the field of environmental protection on January 24, 1994;

– Agreement between the Government of Ukraine and the Government of the Republic of Poland on cooperation in the field of culture, science and education on May 20, 1997;

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<sup>7</sup> Генеральний штаб ЗСУ. Офіційна сторінка у Facebook. URL: [https://m.facebook.com/story.php?story\\_fbid=1620512481451336&id=453559011480028&m\\_entstream\\_source=permalink](https://m.facebook.com/story.php?story_fbid=1620512481451336&id=453559011480028&m_entstream_source=permalink) (Last accessed; May,18, 2022).

- Agreement between the Cabinet of Ministers and the Government of the Republic of Poland on economic cooperation on March 4, 2005;
- Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Poland on the rules of local border traffic on March 28, 2008;
- Agreement between Ukraine and the Republic of Poland on Social Security on May 18, 2012.

Significant component of the Ukrainian-Polish treaty and legal framework is bilateral agreements between the subjects of the administrative system of Ukraine and the Republic of Poland, which total more than 470.

For the further development of the strategic partnership between Ukraine and the Republic of Poland, it is important to further expand and improve the existing contractual and legal framework. In present time there are actively work on the preparation of bilateral documents in the field of trade, economic and energy cooperation, border cooperation, transport, ecology, cultural and humanitarian cooperation, youth policy and military-technical cooperation, et cetera<sup>8</sup>.

Contemporary Ukrainian conflict evidently derivates from Global Conflicts and thereof is a part of Global Instability, Hunger and Forced Displacement as Global Problems of Mankind.

UN Organization estimated that in 2020, about 60 per cent of all conflicts worldwide were fought violently. Despite repeated calls for global ceasefires due to the COVID-19 pandemic, political conflicts continue to hit civilian populations the hardest and further exacerbate the needs of the most vulnerable categories of people. The overall number of civilian deaths and injuries from the use of explosive weapons decreased by 43 per cent in 2020 compared to the previous year, yet civilians still account for the most casualties.

In 2020, 59 per cent of casualties were civilians, totaling 11.056 deaths and injuries. Civilians continued to be far more at risk when explosive weapons were used in populated areas. The destruction to essential infrastructure including homes, hospitals, roads and schools has had devastating impacts

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<sup>8</sup> Договірніо-правова база українсько-польських відносин. URL: [http://www.ukrexport.gov.ua/ukr/ugodi\\_z\\_ukrain/?country=pol](http://www.ukrexport.gov.ua/ukr/ugodi_z_ukrain/?country=pol) (Last accessed: May 18, 2022).

on civilian populations, driving up displacement and protection risks. Globally, 88 per cent of people harmed by explosive weapons are civilians, a trend that has been observed for the tenth consecutive year. The overall decrease in civilian casualties could be linked to parties shifting focus to the pandemic and related safety measures, as well as ceasefires in Libya and the Syrian Arab Republic.

Children are particularly vulnerable. In 2020, the United Nations verified over 26.000 grave violations against children, including the recruitment and use of children by armed groups, killing, maiming, harassment, rape and sexual violence, abductions and attacks on schools and hospitals. Persons with disabilities often face difficulties fleeing violence and a higher risk of injury and death. When escaping hostilities, they can struggle to access devices that might usually enable them to carry out daily activities, such as prostheses or mobility aids. Persons with disabilities face challenges meeting basic needs such as food, protection, sanitation and health care, which can be inaccessible even when service provisions are in place. Women and girls with disabilities also experience higher rates of sexual violence.

Humanitarian access and operations continued to be hampered by conflict, insecurity, violence against humanitarian workers and assets, bureaucratic impediments, counterterrorism, sanctions' measures and political attacks, which delegitimize humanitarian response. COVID-19 has also intensified access challenges. Border closures, flight suspensions, lockdowns and other countermeasures cause delays, additional costs and the partial suspensions of some humanitarian activities<sup>9</sup>.

The number of people forcibly displaced worldwide is higher than ever. By the end of 2020, 82.4 million people were forcibly displaced, including 48 million IDPs and 26.4 million refugees, because of persecution, conflict, violence, human rights violations, or events seriously disturbing public order. More than 1 per cent of the world's population is now displaced, about 42 per cent of whom are children. This represents a worrying trend that has increased for nine consecutive years and is now more than double the number compared to 10 years earlier. Many people are also driven to forced and voluntary

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<sup>9</sup> Global Humanitarian Overview 2022. URL: <https://gho.unocha.org> (Last accessed: May 18, 2022).

movements for multiple reasons, including environmental factors and/or threats to their human rights and dignity. The number of refugees remains at a record high, growing from 26.0 million in 2019 to 26.4 million at the end of 2020. Almost 65 per cent of all refugees come from just five countries: Afghanistan, the DRC, Myanmar, South Sudan and Syria. Developing countries host 83 per cent of refugees, while the least developed countries have provided asylum to 33 per cent of this total. Of these refugees, at least 40 per cent are children and 49 per cent women and girls. Some 5.7 million refugees, migrants and asylum seekers remained displaced from Venezuela at mid-2021. COVID-19 disruptions have further hampered efforts to find durable solutions. Despite efforts to adapt asylum procedures, the number of new applications worldwide was 45 per cent lower in 2020 than in 2019. In 2020, fewer than 300.000 refugees were able to return to their country of origin or resettle to a third country compared to 425.000 the year before. Some 15.7 million refugees (76 per cent) were in a protracted situation at the end of 2020, similar to 2019.

Internal displacement is also at an all-time high. The number of IDPs due to violence and conflict reached 48 million in 2020, the highest ever figure and a rise of 4.2 million on the previous year. A further 7 million people remained internally displaced due to natural disasters. Millions of IDPs are living in protracted situations, with 40 per cent fewer able to return to their place of residence in 2020 compared to 2019<sup>10</sup>.

Last year's warnings of unprecedented levels of global food insecurity have been confirmed. Up to 811 million people worldwide were undernourished in 2020, an approximate rise of 161 million from the previous year. In 2021, the situation continued to deteriorate. Acute hunger levels and famine-like conditions were driven by a toxic combination of factors including conflict, the impacts of COVID-19, extreme weather and climate shocks, transboundary pests and difficulties reaching people in need. In 2021, overlapping and compounding drivers have come together to form a perfect storm. The impacts of each of these converging catastrophes are disproportionately felt by women and girls – who account for 60 per cent of people who are chronically food insecure globally. In nearly two thirds of countries, women are more likely than men to report food

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<sup>10</sup> See previous note.



insecurity. Women farmers are also at particular risk of hunger, and face greater barriers to accessing land, agricultural inputs and credit.

This increase is primarily driven by new food insecurity figures from Afghanistan, Myanmar and Somalia. Meanwhile, famine-like conditions remain a real and terrifying possibility in 43 countries around the world, with 45 million people facing emergency or catastrophic levels of acute food insecurity in IPC Phase Emergency and above, up from 41 million people in June 2021. This includes 584.000 people facing famine-like conditions in Ethiopia, Madagascar, South Sudan and Yemen. The situation also remains extremely concerning in Nigeria, where areas in the conflict-affected north-east may be at risk of famine should the situation deteriorate further<sup>11</sup>.

Evidently, that in these circumstances lengthy war conflicts provoke increasing of aforesaid problem's scale and as well as humanitarian problems need immediately solutions.

From these provisions, assumed the military's medicine cooperation between Poland and Ukraine we have constituted ongoing key areas:

1. Railway sanitary and medical transport or distribution of aid measures in cooperation with smb.
2. Medical education.
3. Humanitarian medical aid.

Hence, for aforesaid activities need drivers, doctors, nurses, professors, lecturers, distributors and others as special participants of **labour law**.

In addition, as it is in high-developed world states, Medical Law norms are widely presented in labour contracts and labour relation itself depends on medical provisions noticeably.

Notwithstanding, contemporary Ukraine has no legal framework in field of Medical Law, which is hereditary to former USSR' legal system.

**Furthermore “communism refuses” process of Ukrainian Legal only worsened of situation, since Medical Law Acts creation is not planning absolutely.**

In our previous papers we discuss the problems of historical development of medical and social relations as preconditions for the emergence of norms of medical law in the states of the Ancient World.

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<sup>11</sup> See previous note.

In particular, it is concluded that the aforesaid medical relations needed to be regulated by the norms of labor, criminal and administrative law, which created a medically legal triad of the settlement of public relations in the specified sphere.

According to the historical and chronological feature, medically social relations for the first time were regulated by the norms of labor law (norms on the remuneration of doctors, the Laws of Hamurabi, XVIII century BC).

This fact generates a medical legal paradox, since labor law as an independent branch is not recognized in scientific doctrine for that period of time, but already in the XVIII century BC there were its subjects (doctors), sources (Laws of Hamurabi) and norms, even in conditions of slave rule.

**Above leads to certain doubts in the axiomatics of the formation's criterion of social development and the correctness of approaches in determining the time of acquisition of independent status by the branch of labor law<sup>12</sup>.**

We repeatedly provided, that in post-war Ukraine totality of quantities' improvements must stimulate of the Code on Labor, Medicine and Social Welfare creation as a fundamentally new codified act as for the post-Soviet territories, which in reality, but not on paper, will correspond to the progressive trends of the world community's development and the current needs of science and the field of labor law. This activity needs financial and mental efforts of European governments and scientists after the finish of Russian aggression as well as common rebuilding of Ukrainian medical and social infrastructure.

Besides, there are possibilities to expansion of medicine and military's medicine cooperation areas between Ukraine and Poland in respect to labour law development.

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<sup>12</sup> Колосов І.В. Історичні передумови виникнення правових актів у галузі медицини у державах Стародавнього світу. Статтю прийнято до друку у № 1/2022 фахового наукового видання «Вісник НТУУ «КПІ». Серія: Політологія. Соціологія. Право. Очікує свого опублікування із затримками, пов'язаними із воєнним станом в Україні.

Particularly, we presented that prof. O.A. Yakovlev<sup>13</sup> and M.I. Inshin<sup>14</sup> studied the legal regulation of home and distance work in the conditions of the COVID-19 pandemic as a sign of the direct impact of medical and social relations on the content of the labor contract and the problem of organizing labor discipline.

Prof. G.O. Yakovleva paid attention to the phenomenon of social risk, which is inextricably linked to the medical component<sup>15</sup>.

Prof. V.V. Zhernakov researched the socio-legal components of the realization of the right to donation in a military conflict<sup>16</sup>.

Prof. O.A. Yakovlev, in addition, devoted the research to the problems of workplace certification as a guarantee of the right to safe work<sup>17</sup>.

Additionally, we paid attention to medical law in the context of the protection of human rights for decent and safe work through the application of criminal liability legislation, medical and social relations are grouped and classified, which allows divide them into a certain sphere of legal regulation, justified division of medical law into medical-obligatory, security-healthy and medical-procedural, studied foreign experience in providing professional health, the impact of artificial intelligence on the medical industry, etc. Just have achieved results of research on medical and legal conditions as essential conditions of employment contract, which had

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<sup>13</sup> Яковлев О.А., Ванджурак М.М. Теоретико-правові аспекти розвитку та впровадження надомної та дистанційної праці в сучасних реаліях. *Право та інноваційне суспільство*. № 2 (15). 2020. С. 56–62. DOI: [https://doi.org/10.37772/2309-9275-2020-2\(15\)-9](https://doi.org/10.37772/2309-9275-2020-2(15)-9).

<sup>14</sup> Іншин М.І. Переваги дистанційної зайнятості працівників. *Правове забезпечення соціальної сфери* : матеріали XI Міжнародної науково-практичної конференції (м. Одеса, 27 травня 2020 року). Одеса : Фенікс, 2020. С. 12–16.

<sup>15</sup> Яковлева Г.О. До визначення поняття та природи соціальних ризиків у праві соціального забезпечення. *Право та інновації*. Вип. 2. 2018. С. 49–53.

<sup>16</sup> Михайлін А., Жернаков В. Соціально-правові складники реалізації права на донорство крові. *ЛОГОС. МИСТЕЦТВО НАУКОВОЇ ДУМКИ*. Вип. 8. 2019. С. 149–153.

<sup>17</sup> Яковлев О.А. Атестація робочих місць як дієвий захід гарантування для працівників належних, безпечних і здорових умов праці. *Науковий вісник Міжнародного гуманітарного університету*. № 45. 2020. С. 96–99. DOI: <https://doi.org/10.32841/2307-1745.2020.45.21>.

given reason to consider certain medical and social relations as part of the subject of labor law<sup>18</sup>.

**Conclusions.** Thus, summarizing aforesaid, we have to constitute that the military's medical and medically legal cooperation of Poland and Ukraine has not only positive consequences in the context of solving the global problems of mankind, but also put forward a fundamentally new understanding of the essence and social value of the labour law in the post-communist states of Eastern Europe.

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<sup>18</sup> Серета О.Г., Колосов І.В. Державно-правовий механізм захисту прав працівників в азійсько-тихоокеанському регіоні: порівняльно-правове дослідження. *Актуальні проблеми держави і права*. 2021. Вип. 92. С. 88–105. DOI: <https://doi.org/10.32837/apdp.v0i92.3266>.

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