

**THE RIGHT TO VOCATIONAL TRAINING, RETRAINING  
AND PROFESSIONAL DEVELOPMENT AS A FUNDAMENTAL  
PERSONAL NON-PROPERTY LABOUR RIGHT**

Vocational skills development — together with basic education — is one of the main preconditions for economic and social development. Globalisation, ageing populations, urbanisation and the evolution of social structures also accelerate the pace of change in labour market and skills requirements. A great contribution to the study of legal regulation in the sphere of training, retraining and professional development of employees made labour law specialists: V. N. Artemova, M. I. Baru, B. K. Begichev, E. V. Magnitskaya, M. V. Molodtsov, Y. P. Orlovsky, A. Pashkov, V. G. Soifer, V. N. Uvarov, G. Sapargaliev, K. P. Urzhinsky, A. V. Yarkho.

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

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

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

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

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

In many developing countries, the range of vocational skills development opportunities is insufficient. Existing options are usually limited to urban areas. Apprenticeships tend to be designed for the formal sector and are not sufficiently geared to economic demand. Moreover, there are high formal access barriers to be overcome. Dynamic economic development necessitates flexible training and further education opportunities. These must enhance not only specific professional skills but also basic personal competences and social skills. The situation of poor and disadvantaged population groups also requires the development of appropriate

opportunities accessible to people with low elementary schooling. They should enable the reintegration of unemployed persons in the job market, address the needs of the informal market as well as of persons living in rural regions, and in particular promote self-employment. It is also important to ensure a good level of basic education which vocational skills development can build on and consolidate, where necessary.

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

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

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

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

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

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

For instance, in Spain, high oil prices hurt the competitiveness of the automotive industry in Navarre in the 1980s and 1990s. Unemployment in the region soared to 13 per cent in 1993. The regional government, working with industry, promoted wind-generated electricity as an alternative source of employment as much as an alternative source of energy. Since then Navarre, a small region of Spain with a population of just 620,000 has become Europe's sixth largest producer of wind

power. The policy mix incorporated environmental and skill measures to respond to an immediate economic crisis through a long-term development strategy. In the current economic and employment downturn, Navarre boasts the lowest unemployment levels of any region in the country. In the Environmental Training Plan of the Autonomous Community of Navarre, begun in 2002, the regional government responded to assessments carried out with regional industry showing that skills gaps were opening up in areas not covered by initial vocational training and were largely company-specific. To meet this need, the regional government and enterprises set up a public training centre for renewable energies [4, 37].

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

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

The apprenticeship relationship is based on a written apprenticeship contract concluded between an approved apprenticeship employer and the apprentice. If the latter is still a minor (although he or she must have at least completed compulsory schooling) the consent of the apprentice's legal representative is required. Authorization as an approved apprenticeship employer is restricted to employers who possess the necessary occupational expertise, have passed the relevant qualifying examination (or have appointed a qualified instructor) and operate an establishment appropriate to the form of training concerned (which is subject to official inspection). Where the employer is a legal person or a partnership under commercial law, the appointment of a qualified instructor is an essential precondition. Under the apprenticeship relationship, employers are responsible for ensuring that an apprentice receives appropriate practical training in the recognized apprenticed occupation concerned, either from themselves or from other suitable persons, and also for releasing the apprentice from work for the time needed to attend a vocational training school. Apprentices, for their part, are responsible for endeavouring to acquire the skills and knowledge needed for the apprenticed occupation in question and properly to perform the work assigned to them as part of their training. In return, they are entitled to, and their employer is obliged to pay them, an apprenticeship allowance which is in principle fixed by the relevant provisions of the applicable collective agreement. The duration of the relationship varies according to the apprenticeship period specified for the occupation in question. Although as a general principle it cannot be terminated

unilaterally, it ends prematurely if supervening circumstances make its continuation impossible (such as the apprentice's death) or if either party terminates it without notice for a substantial reason. After an apprentice has successfully passed the final examination, which ends the relationship automatically, the apprenticeship employer is required by law to continue employing him or her in the occupation that has been learned for a further four months. This is intended to facilitate a transition to a manual worker or white-collar worker employment relationship with the same employer.

The main advantage of this dual system lies in its strong practical slant. The method of training within firms at relatively low pay is reflected in a relatively low level of youth unemployment. Furthermore, at a time when schools are increasingly concentrating on imparting specialized knowledge, on-the-job training promotes integration into working life and independence more effectively than a purely scholastic training.

Whereas for a long time there was a surplus of apprenticeship places and business and industry complained that there were too few apprentices, talking of a growing shortage of skilled workers, in recent years there has come to be an acute shortage of places. Over the past decade, the number of employers offering apprenticeship places has dropped by around 25%. Problems also arise from the fact that apprenticeship is strongly associated with the small-scale craft tradition. More than half of all apprentices are trained in craft occupations, with 20% in retail distribution, 10% in tourism and only a sixth in manufacturing industry. Most training is provided in small firms and is therefore closely related to their particular activities, whereas large companies have apprentice workshops which also provide a systematic basic training. The latter, however, produce trained apprentices only in numbers to meet their own needs, while small firms train more than they need. In addition, training is concentrated on a small number of occupations: although there are over 230 recognized apprenticed occupations, over 60% of all female apprentices are trained in three occupations and half of all male apprentices in ten occupations.

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

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

- 1) continuous and seamless pathways of learning that start with pre-school and primary education that adequately prepares young people for secondary and higher

education and vocational training; that provide career guidance, labour market information, and counseling as young women and men move into the labour market; and that offer employees and entrepreneurs opportunities for continuous learning to upgrade their competencies and learn new skills throughout their lives;

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

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

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

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

Workplace training has many advantages. It provides a strong learning environment, it can improve transition from school to work by allowing employers and potential employees to get to know each other, it contributes to the output of the training firm, and it links training provision to a direct expression of employer needs. To take full advantage of workplace training, the training needs to be of high quality and employers need to be willing to provide it. This means good quality assurance mechanisms, balanced by effective incentives for employers.

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

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

Enterprises will benefit from skills development and productivity gains by reinvesting in product and process innovations, diversifying business activities, maintaining and improving competitiveness and market share.

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

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

### Literature

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### Summary

*Lagutina I. V.* The right to vocational training, retraining and professional development as a fundamental personal non-property labour right. Article.

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

*Keywords:* decent work, vocational skills development, employability, personal non-property labour rights.

### Анотація

*Лазутіна І. В.* Право на професійну підготовку, перепідготовку та підвищення кваліфікації як одне із основних особистих немайнових трудових прав. — Стаття.

У статті аналізується зміст права працівника на професійну підготовку, перепідготовку та підвищення кваліфікації. Підкреслюється, що розвиток людських ресурсів і підготовка кадрів спираються на основні соціальні цінності — рівність, справедливість, гендерну рівність, недопущення дискримінації, соціальну відповідальність.

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

### Аннотація

*Лагутина И. В.* Право на профессиональную подготовку, переподготовку и повышение квалификации как одно из основных личных немущественных трудовых прав. — Статья.

В статье анализируется содержание права работника на профессиональную подготовку, переподготовку и повышение квалификации. Подчеркивается, что развитие человеческих ресурсов и подготовка кадров опираются на основные социальные ценности — равенство, справедливость, гендерное равенство, недопущение дискриминации, социальную ответственность.

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

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### ОСНОВНІ ТРУДОВІ ПРАВА У ЗАРУБІЖНОМУ ЗАКОНОДАВСТВІ

Каталог основних трудових прав, закріплених у конституціях, а в деяких країнах також у трудових кодексах зарубіжних країн, включає наступні права: право на працю, заборона примусової праці, свобода вибору професії, рівність і заборона дискримінації у сфері праці, право на відпочинок, право на справедливую заробітну плату, рівна винагорода чоловічої та жіночої праці, право на об'єднання працівників (у профспілки) і роботодавців (в організації роботодавців), право на участь в управлінні виробництвом, право на колективні переговори і договори, право на трудові спори, право на страйк, заборона застосування дитячої праці, право на здорові та безпечні умови праці, право на охорону праці жінок, вагітних жінок, інвалідів, охорона материнства та батьківства, працівників похилого віку, право на роботу в умовах, не принижуючих людську гідність, право на просування по службі, право на справедливе відшкодування шкоди, заподіяної працівникові нещасним випадком на виробництві та професійним захворюванням, право на професійну підготовку і перепідготовку. У конституціях зарубіжних країн обсяг та зміст зазначених прав відрізняються. Основні трудові права у більшості зарубіжних країн закріплені у конституціях, а у деяких країнах — також у трудових кодексах.

Чимало зарубіжних країн уникають проголошення у трудовому законодавстві прав декларативного характеру. Існує точка зору, що права, які закріплюються в актах трудового законодавства, повинні мати конкретний, нормативно-приписаний характер і не походити на гасла, що відображують певні світоглядні позиції і носять у багатьох випадках більшою мірою пропагандистський характер.

Оскільки обмежений об'єм публікації не дозволяє в повній мірі розкрити всі перелічені права, в рамках статті зупинимось лише на деяких з них.

Право на відпочинок проголошено у конституціях і у трудових кодексах. В одних країнах це право сформульовано як загальна декларація. В інших — більш чи менш докладно розшифровується. Зазвичай зазначається, що право