

Implementing the self-check practice for compliance with the Guiding Principles on Prevention of Forced Labour and Human Trafficking

Kyiv, 11 April 2023



Preventing forced labour: international level

➤ **Universal Declaration of Human Rights**

adopted by the UN General Assembly on 10 December 1948 (*defines everyone's right to work, to free choice of employment, to just and favourable conditions of work*)

➤ **International Covenant on Economic, Social and Cultural Rights**

adopted by the UN General Assembly in 1966 (*proclaimed that the right to work includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts*)

Preventing forced labour: the ILO documents

- **Forced Labour Convention (No. 29)** (*ratified on 10.08.1956*)
- **Abolition of Forced Labour Convention (No. 105)** (*ratified on 5.10.2000*)
- **Worst Forms of Child Labour Convention (No. 182)** (*ratified on 5.10.2000*)
- **Private Employment Agencies Convention (No. 181)** (not ratified by Ukraine)
- **Labour Inspection Convention (No. 81)** (*ratified on 08.09.2004*)
- **Labour Inspection (Agriculture) Convention (No. 129)** (*ratified on 08.09.2004*)
- **ILO Declaration on Fundamental Principles and Rights at Work (1988)**

Preventing forced labour: the national level

- Constitution of Ukraine
- Code of Labour Laws of Ukraine
- Law of Ukraine “On Combating Human Trafficking” (No. 3739-YI of 20.09.2011)
- Law of Ukraine “On Social Services”
- Decree of the President of Ukraine No. 722/2019 of 30.09.2019 “On the Sustainable Development Goals of Ukraine for the period until 2030”
- Decree of the President of Ukraine No. 306/2020 of 05.08.2020 “On the National Coordinator on Combating Human Trafficking”
- Decree of the President of Ukraine No. 119/2021 of 24.03.2021 “On the National Strategy on Human Rights”
- Criminal Code of Ukraine (Article 149 “Human trafficking or other unlawful agreement concerning a person”)
- Executive Order of the Cabinet of Ministers of Ukraine No. 756-p of 23 June 2021 “On approval of the Action Plan on implementation of the National Strategy on Human Rights for 2021-2023”

Preventing forced labour: international initiatives

- **Guidelines for Multinational Enterprises** (revised in 1997) *approved by the Organization for Economic Cooperation and Development (OECD) in 1986*
- **UN Global Compact** *(officially took effect in 2000)*
- **Guiding Principles on Business and Human Rights** *(approved by the UN Human Rights Council in 2011)*

Guiding Principles

- **Freedom of employment**
- **Freedom to terminate employment**
- **Prevention of a threat of violence, harassment and intimidation**
- **Prohibition of coercion in wage payment**
- **Prohibition of disciplinary measures against a worker as a ground for continued employment**
- **Prevention of overtime work as a means of coercion to work**
- **Prevention of child labour**
- **Guaranteed freedom of movement**
- **Prevention of the use of skills development and vocational training as a means of coercion to work**

Using the guidelines

- **Guiding Principles for Ukrainian Employers on Prevention of Forced Labour** have been adapted by the Confederation of Employers of Ukraine with support from the International Labour Organization Project financed by the EU “Towards safe, healthy and declared work in Ukraine”
- **In December 2022**, the Confederation of Employers of Ukraine launched the initiative “**Ukraine without forced labour**”
- **The goal of the initiative** is to promote responsible business without forced labour in Ukraine, based on the documents and guidance developed by the ILO and the Code of Responsible Business Conduct in Prevention of Forced Labour and Human Trafficking as part of the General Rules of Responsible Business Conduct



Implementing the self-check practice for compliance with the Guiding Principles on Prevention of Forced Labour



Coercion in employment relationship: self-check

| Guiding principle: Freedom of employment | Employment relationship began without the person's free consent to work |
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| | Employment relationship is not formalized with an employment agreement, or the agreement does not specify material conditions of work |
| | An employment agreement contains conditions that worsen the worker's situation compared to the legislation in force |

Coercion in employment relationship: self-check

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| Guiding principle: Freedom to terminate employment | Employment agreement is not terminated at the worker's will within the deadlines set by law |
| | To terminate employment, the worker is required to pay a cash deposit or waive in writing any claims to the employer |
| | The worker's documents are forcibly withheld by the employer |

Coercion in employment relationship: self-check

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| Guiding principle: Prevention of a threat of violence, harassment and intimidation | Employment relationship is conditioned by a debt (actual or fictitious) of the worker or his/her family member |
| | In case of refusal to work, physical or sexual violence or intimidation is used against the worker or his/her family members |

Coercion in employment relationship: self-check

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| Guiding principle: Prohibition of coercion in wage payment | Wage is not paid as agreed (including arrangements fixed in an employment agreement and/or collective contract), or is not paid regularly |
| | Wage is paid to a third party (intermediary, recruitment agency, creditor, etc.). |
| | Wage is paid to the worker in kind (products made by the employer) without the worker's consent or against his/her will |



Coercion in employment relationship: self-check

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| Guiding principle: Prohibition of coercion in wage payment | The worker's wage is less than the legally mandated minimum, or minimum state guarantees of remuneration are not adhered to |
| | Deductions from the worker's wage, including those used to repay a debt or loan, exceed the statutory rates or amount to 100% of wage |

Coercion in employment relationship: self-check

**Guiding principle:
Prohibition of disciplinary
measures against a worker as a
ground for continued employment**

**Disciplinary measures at the
enterprise result in an obligation
to continue employment (in
particular, emergence of a debt to
the employer or the need to
complete (redo) the work started)**

Coercion in employment relationship: self-check

**Guiding principle:
Prevention of the use of overtime
as a means of coercion to work**

**Work targets subject to payment
are discriminatory and inherently
impossible to achieve within a
statutory working day**

The worker is deprived of wage (for the work already done) if he/she refuses to continue working overtime

Coercion in employment relationship: self-check

**Guiding principle:
Guaranteed freedom of movement**

The worker's right to move freely is restricted (the worker is kept in the employer's premises or is not allowed to leave the premises in free time)

Coercion in employment relationship: self-check

Guiding principle:
Prevention of the use of skills development and vocational training as a means of coercion to work

Upon completion of training (skills development), the worker is required to work for some time against his/her will and without his/her consent, or the documents confirming the qualification obtained are forcibly withdrawn

Coercion in employment relationship: self-check

**Guiding principle:
Prevention of discriminatory
treatment of migrant workers**

**Migrant workers have worse
working conditions compared
with other workers**

Coercion in employment relationship: self-check

**Guiding principle:
Prevention of child labour**

**The enterprise uses child labour
in breach of labour legislation**



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