Univerzitetska misao - časopis za nauku, kulturu i umjetnost [ISSN: 1451-3870]
Vol. 21, str. 140-151, 2022 god., web lokacija gde se nalazi rad:http://um.uninp.edu.rs
Tematska oblast u koju se svrstava rad: Društvene i humanističke nauke / podoblast: Pravo
Datum prijema rada: 21.06.2022. *Datum prihvatanja rada: 24.08.2022.*
UDK : 349.2:341.645(4) doi: 10.5937/univmis2221140D

Originalni naučni rad

THE HUMAN IN THE WORK SUIT

– Workers' Rights in front of the European Court of Human Rights –

(Article 1 – Article 6)

Vildan Drpljanin
Lawyer and Master of Laws in Public International Law & Intellectual Property Law,
Attorney-at-law
Skopje, North Macedonia
Drpljaninvildan@gmail.com

Irma Mašović Muratović
University of Novi Pazar
Novi Pazar, Serbia
i.masovic@uninp.edu.rs

Abstract

Is there anything more time-consuming in the human experience than our ritual of labouring eight hours or more in at least five out of seven days every week of one's adult life? Naturally, only thinking about this question leads us to the assumption that our very human integrity and therefore human rights are directly involved in the workplace where we usually spend most of our waking hours. However, the law and the economy are not so clear on the intersection between labour and human rights and the debate around their interplay is beginning to gain increasing attention in the academic world. Questions regarding the potential complementarity, conflict, or divergence between the two areas still provoke vigorous disagreements and mostly keep the debate at a stalemate. This article examines the issue and analyses the ECtHR cases in order to consider the legal options for cohesion. The legal, economic, social, and political complexities, function as a starting point for further exploration. Thus, the paper transcends the legal and the economic standpoints, and analyses the very principles that underlie human dignity in the issue at stake.

Key words: workers' rights, employment relationship, law and economy, the European Court of Human Rights

ČOVEK U RADNOM ODELU

– Radnička prava pred Evropskim sudom za ljudska prava –

(Član 1 – Član 6)

Apstrakt

Postoji li u ljudskom iskustvu nešto dugotrajnije od rituala rada osam sati ili više u najmanje pet od sedam dana svake nedelje? Naravno, samo razmišljanje o ovom pitanju dovodi nas do pretpostavke da su naše ljudsko dostojanstvo, a samim tim i ljudska prava direktno uključeni u radno mesto gde obično provodimo većinu naših budnih sati. Međutim, zakon i privreda nisu tako jasni kada je u pitanju presek između rada i ljudskih prava i debata oko njihove interakcije počinje da dobija sve veću pažnju u akademskom svetu. Pitanja u vezi sa potencijalnom komplementarnošću, sukobom ili divergencijom između ove dve oblasti i dalje izazivaju žestoka neslaganja i uglavnom drže debatu u ćorsokaku. Ovaj članak istražuje ovo pitanje i analizira slučajeve Evropskog suda za ljudska prava kako bi se razmotrile pravne opcije za koheziju. Pravne, ekonomske, društvene i političke složenosti funkcionišu kao polazna tačka za dalja istraživanja. Time se u radu prevazilaze pravna i ekonomska gledišta, i analiziraju sami principi koji su u osnovi ljudskog dostojanstva u pitanju.

Ključne reči: radnička prava, radni odnos, pravo i privreda, Evropski sud za ljudska prava

INTRODUCTION

> *'The right to work should serve as a fixed reminder that the economy was designed to serve the person, and not vice versa. […] In this more ambitious space created for human rights, the currently nebulous right to work must and can present a stronger statement.'*
>
> Guy Mundlak (2007)

Is it possible to talk about human rights if the corpus of rights that the employee should have with the establishment of employment (Arendt, H., 2013) is excluded? No, because work is related to existence (Arendt, H. 2013), earnings (Murphy, J.B., 1993), personal achievement (Mundlak, G. 2007: 189), dignity (Arendt, H. 2013, 136-144) and social inclusion? Yes, because labour rights are subject to a contractual relationship (Mantouvalou, V., 2012.: 151-172, 168-171), have numerous differences compared to human rights (Seidman, GW, 2007: 348-350) and cannot be considered as inalienable human belonging? These questions are the subject of decades of theoretical debate that has significant implications for millions of people around the world. The answers to these questions can define who will be considered a 'worker' and determine what safeguards are available to employees (Mantouvalou, V. 2012: 171-172).

One group of academics and practitioners equates labour rights with human rights as they believe employment to be inevitably linked, inter alia, to the right to life, human dignity, liberty, the right to privacy, freedom of opinion, expression, assembly and association, and the prohibition of discrimination, torture, slavery and forced labour. On the other hand, a second group considers that these are different areas and that the sole existence of the institute of a 'work contract' gives the employee and the employer a considerable contractual freedom to regulate their rights and obligations or to terminate the employment if they do not like what has been agreed.

Nevertheless, both groups agree that labour and human rights have much in common (Mantouvalou, V., 2012: 167-172), but actions of different groups of activists still remain divided. For example, slavery and discrimination often continue to be treated almost exclusively as human rights issues, while non-payment of wages and strike bans remain in the realm of trade union activity. The connection between the two areas is obvious and the thesis of 'free' regulation of relations is especially unsustainable when looking at data on labour rights and income distribution. For instance, it is indisputable that most employees who are women, migrants, refugees, stateless and/or minorities have 'atypical' employment contracts with a high degree of unpredictability, and that these groups of people are at the same time the poorest in terms of income. Given that these people are also often the first victims of human rights violations, it becomes clear that workers and human rights are part of the same spectrum and that only joint action can bring about improvement.

This paper emphasises the importance of regulating such issues as a decisive element in the relationship between workers, employers, and the state. These reasons impose the need to open this issue in national contexts in Europe, consider the possibilities of submitting an application to the ECtHR (European Court of Human Rights) for protection of certain labour rights and provide a clear view of the scope of the articles of the Convention. Due to editorial limitations, this first section analyses the provisions and jurisprudence from Article 1 to Article 6 of the ECHR.

LABOUR RIGHTS AND ECHR IN NATIONAL LEGAL CONTEXT: THE CASE OF NORTH MACEDONIA

The question of categorization of workers' rights in national context must be posed along the background of international agreements that a certain country has committed to respect. Against the backdrop of the ECHR, that means that all state-signatories, which includes the case study state-North Macedonia, undertake to ensure the basic civil and political rights of their citizens (Sweet, AS, & Keller, H., 2008: 3), but also to all persons under their jurisdiction.

The main subject of research of this paper is precisely the part that points out that the Convention protects, above all, civil and political rights, although by its nature and name it generally protects human rights, which should be defined by the member states.

Given that the Convention does not contain any article specifically devoted to rights arising from employment nor mentions them, the answer in relation to the dilemma of what status workers' rights have under the ECHR, should be given by the

caseload of the ECtHR. The Strasbourg Court was established to monitor the compliance of the signatory states with the Convention (Helfer, LR, 2008: 125-159, 125-127), but its case-law also defines the scope of protection of the rights in segments of all areas (Helfer, LR, 2008: 128-131) including labour relations. A brief analysis of the cases shows that the Court's jurisprudence to date has shown that Articles 2, 6, 7, 8, 9, 10, 11, 13 and 14 of the Convention and Article 1 of the First ECHR Protocol have in many cases been applied in the field of labour relations, which provides good basis for analysis of the research question.

On the other hand, the Macedonian Constitution considers workers' rights as human rights and guarantees everyone the right to work, unrestricted choice of employment, safety and protection at work and material security during temporary unemployment. Thus, the position of these rights in the national legislation is indisputable given that fundamental freedoms and rights are a fundamental value of the constitutional order of the state and that one of the purposes of the Constitution is to guarantee human rights. Next, we will see what does it means in the context of the ECHR's Articles.

ANALYSIS OF THE ARTICLES OF THE ECHR: OBLIGATION TO RESPECT HUMAN RIGHTS (ARTICLE 1)

North Macedonia recognizes and guarantees to all persons under its jurisdiction the rights and freedoms enshrined in the Convention. This indisputably means that the protection covers all social spheres, including the field of labour, and thus determines the role of the state in the dynamics of labour relations. Hence, the responsibility of the state does not cease with the adoption of appropriate legal regulations. The State also has obligations for implementation of those laws, but also a procedural duty to investigate and punish all those responsible for the consequences that occur due to violations of workers' rights.

RIGHT TO LIFE (ARTICLE 2)

The first permissible case of endangering the right to life in employment that has reached the stage of consideration by the ECtHR is the case *of Vilnes and others v. Norway*, for which a judgement was rendered just over several years ago. The procedure was initiated by seven divers who claimed that they remained immobile and that their health was seriously endangered as a result of diving in the North Sea by order of their employers, i.e., the oil companies. The diving took place during the pioneering period of oil exploration from 1965 to 1990, and workers felt that Norway had failed to take appropriate steps to protect their health, endangering their lives. The divers also referred to violations of Article 3 and Article 8 of the Convention because the State failed to provide them with adequate information on the risks arising from diving, but these articles will be considered in the continuation of the paper under the specific sections.

The court found that Article 2 was applicable in the present case and that the States' obligations to respect the right to life also required protection against injuries

to workers which might occur as part of the work process. However, the Court ruled that there was no violation of Article 2 in the present case because Norway had established diving protection regulations, including a compensation scheme, which was actively applied. In doing so, the state demonstrated its efforts to ensure the protection of the safety and health of workers and took measures to meet its positive obligations arising from the right to life under the ECHR. In addition, the significance of this judgement is that the Court has explicitly accepted the applicability of Article 2 of the ECHR in labour relations and thus paved the way for the first positive judgement in this regard.

A few months later, in the case of *Brinkat and others v. Malta*, the Court unequivocally found a violation of the right to life due to inadequate protection at work. The case was initiated by a group of twenty-one workers, who were repairing a shipyard between 1950 and 2000. They were exposed to asbestos in the workplace, which led to the development of various diseases, some of which were fatal. The applicants, the workers themselves and relatives of the deceased, considered that the state had violated their right to life by failing to protect them from decades of asbestos exposure.

In its legal reasoning, the court primarily crystallised the obligation of states to protect the right to life of all those under their jurisdiction, including the lives of workers at their workplaces, for which employers have a primary obligation. The verdict states that it is inadmissible for the state not to take active legislative measures to protect workers for decades and not to conduct research on the harmfulness of asbestos even though there were complaints from employees. Consequently, the ECtHR found a violation of Article 2 of the Convention on account of the death of one worker as a direct consequence of the effects of asbestos and Article 8 with regards to the other workers.

This verdict is of great importance because it clearly states that the ultimate responsibility for the health and life of workers always lies with the state. Considering that the occupational safety systems in the countries of Southeast Europe have catastrophic balances, which can be seen from the fact that unsafe working conditions take the lives of hundreds of workers, this can be a drop of hope to foster change. There are almost no cases of criminal liability of employers in the region, even in situations when the injury or death occurs solely due to omissions on their part. The case-law by the ECtHR creates space for some of these cases, which never reach a fair resolution in these countries, to be registered as violations of the Convention and to force the state to correct the behaviour in order to enforce the judgments. According to the elements of the verdicts, these violations need to be reported to the state authorities for years without a proper response and the incurred injuries ought to be very serious, if not fatal, in order to expect a positive verdict. Even then, the Court would have a great deal of manoeuvre to upgrade its jurisprudence in another direction and decide differently, because, as we have seen, it has so far given its reasoning in only two cases, of which only one had a positive outcome for the workers in relation to the right to life.

In any case, this shift in case-law in recent years is a positive trend for the protection of workers' rights before the ECtHR and leaves a limited, but feasible

chance for European workers to submit admissible applications for the protection of their lives in the workplace.

PROHIBITION OF TORTURE (ARTICLE 3)

The only case before the ECtHR in the field of labour relations, which is related to Article 3 of the Convention is the judgement in the above-mentioned *Brinkat and Others v. Malta*. Here, the Court only found that due to the personal nature of the ban, the wife and the children of the deceased worker did not have an eligible standing for application under Article 3 and refused to consider potential injuries on a meritorious basis. In doing so, the ECtHR avoided to answer whether under the Convention it was possible for a worker to be subjected to horrors such as torture, inhuman or degrading treatment or punishment as part of employment and whether and to what extent protection can be provided.

However, given the fact that the focus of this ban is on punishment, workers should be very 'creative' in preparing applications if they want their case to fall within the scope of this article. This does not mean that certain horrific forms of physical, psychological and/or sexual harassment of workers would not meet the threshold of one of the three levels of cruelty - torture, inhuman and degrading treatment or punishment, but indicates that at this point the ECtHR approach could not be predicted as there is still no jurisprudence in the area. Such an example could be the failure of the state to protect workers in the terrible case reported in Serbia, where employees in a foreign factory were forced to wear diapers so as not to waste time meeting their physiological needs or the substandard conditions in which textile workers work in confectioneries throughout North Macedonia, Albania, Bosnia and Herzegovina, and Turkey.

PROHIBITION OF SLAVERY AND FORCED LABOR (ARTICLE 4)

The only article that contains the word 'work' in its name focuses on the prohibition of coercion (Cullen, H., 2006: 585-592). The very phrase of the three paragraphs of this article and the jurisprudence that has arisen so far, lead to the conclusion that it is almost impossible to bring the lack of job choices or other similar forms of economic policies under this sphere of protection. As the ECtHR has never considered such a case on the merits, *Schwittmaker's inadmissible case against the Netherlands* can be used as an illustration.

Namely, the applicant, who is a philosopher by profession, was unemployed for a long time and therefore received financial assistance from the state since 1983. After the law was amended in 2004, Schwitmaker was informed that in the future she would receive social assistance only if she agreed to accept 'generally accepted' employment and that if she refused, she would be deprived of the right to financial compensation. She considered that under the new legislation she was forced to do what would be imposed on her and that this constituted coercion to perform forced labour contrary to the prohibition of slavery clause and forced labour under the ECHR.

The court rejected the application as inadmissible on the grounds of 'apparent unfoundedness' and noted that states were free to determine the terms and conditions for the use of social assistance and in determining economic policies. In a brief statement, the ECtHR pointed out that such approaches could not be considered unreasonable and did not fall within the scope of coercion or forced labour within the meaning of Article 4 of the Convention.

This approach prevents applicants from challenging the weaknesses of countries in terms of creating economic policies with insufficient number of jobs, often difficult to change, to be considered before the ECtHR. Given the emerging situation caused by the coronavirus, pandemic first-line workers who provide medical services, food, water, hygiene and other necessary goods and services in many countries are often forced to work without any protection. Forcing these vulnerable workers to work without the necessary protective equipment and having no choice but to endure in conditions that endanger them can cause a form of forced labour and a violation of Article 4 by states that fail to provide protection for workers. In this situation, numerous countries, including North Macedonia had departed from the ECHR, but only from Article 8, Article 11, Article 2 of the First Protocol and Article 2 of Protocol No. 4. This means that there was and still is some possibility to hold the state accountable to the ECtHR once domestic remedies have been used, but given the unknown terrain on which legal arguments would clash, case preparation should be approached very carefully.

RIGHT TO LIBERTY AND SECURITY (ARTICLE 5)

This article, which mainly deals with deprivation of liberty, has never been even closely correlated with violations of workers' rights. Such applications cannot be found even in inadmissible applications for the simple reason that the Article usually targets a completely different sphere from a criminal point of view. Hypothetically, it would not be impossible to imagine a case that could fall under this article, say if a corrupt political system cooperates with the richest people in the country to destroy the labour movement and prosecute workers' leaders. Fortunately, as far as the research is aware, this is not applicable to the situation of most countries in Europe in general, so this article currently remains outside the scope of labour relations on the continent.

RIGHT TO A FAIR TRIAL (ARTICLE 6)

The vast majority of employment applications are based on Article 6, as well as Article 8 of the ECHR. What is specific to labour cases related to Article 6 of the Convention is that the Court devotes a significant part of its judgments to determining the applicability of the right to a fair trial in a particular case. For example, the ECtHR in a large number of judgments openly considers whether employment disputes, career advancement and dismissal disputes fall within the civil part of the right to a fair trial. Over the years, the case law has clearly determined the scope of these cases, with one exception in relation to administrative officials for whose positions the state in its legislation has provided a different, objectively justified treatment due to a

certain state interest. These employees are excluded from protection due to the ECtHR's view that the nature of certain positions in the police, army and other areas requires the state to have a special relationship with them based on trust and loyalty. For all other labour disputes, the state must ensure a fair and public trial in a reasonable time, before an unconstrained and impartial court established by law.

Since then, the Court has established the practice that Article 6 has been violated even when embassy staff are not allowed access to court in their home countries, proceedings take an unreasonably long time and when national courts set lump sums not applicable to certain cases. This also applies to workers who face similar problems without adequate access to court and/or justice to be able to solve them. Particularly problematic aspects in this regard are long-term employment procedures that according to most European legislations are considered urgent, but still sometimes last up to ten years. Hence, the jurisprudence of the ECtHR allows the workers, who have been stuck in court mazes for years, to demand responsibility from the state for violations of Article 6 of the ECHR.

However, in general, the procedural nature of this right and its necessary connection with the work of national courts, also allows this right to be treated purely from the aspect of civil law that does not have to be related to labour. Consequently, much of the legal reasoning in the judgments focuses on formal elements such as the jurisdiction of states, access to legal mechanisms, and the length of proceedings before national courts. This in no way diminishes the importance of the right to a fair trial for workers but points out that the ECtHR admits and adjudicates cases under this Article based on their focus on court proceedings without going into whether workers' rights have been violated. This practice is encouraging for workers because it offers the opportunity to go one step further from state instances, but we should not be deceived that this solves the question of the status of workers' rights in front of the ECtHR.

CONCLUSION AND RECOMMENDATIONS

Workers' rights are not explicitly protected by the ECHR. To understand their status and the relationship between employment rights and the Convention, it is necessary to carefully scrutinise the case-law of the Strasbourg Court and to understand the principles on the basis of which the Court adopts judgments in labour cases. This approach can serve as a guide in interpreting the scope of the existing provisions of the Convention and to answer how much of the body of rights that an employee should have when establishing employment are considered human rights. The review of the first six Articles of the ECHR leaves room, albeit modest and limited, for European workers to seek redress for violations of their rights before the ECtHR.

This mostly refers to the lack of criminal liability for serious or fatal injuries at work when the blame for it lies entirely with the employers. Given that the state has the ultimate responsibility for the health and life of workers, the ECtHR could identify violations of the right to life in employment if it is successfully proven that there was multiple reporting of violations to state bodies without an appropriate response from

them. This would mean that the State violated Article 2 of the ECHR by failing to protect the lives of workers. Furthermore, the ECtHR offers hope regarding the vulnerability of frontline workers during the pandemic or any other emergency of similar sorts who are nevertheless forced to work at great risk for themselves. Workers providing medical services, food, water, hygiene, and other necessary goods during the pandemic without being provided with the necessary protective equipment, have a chance for a successful application to the ECtHR. Forcing these vulnerable workers to work unprotected when they have no choice but to endure in conditions that endanger them can lead to a form of forced labour and result in a violation of Article 4 by states that fail to provide protection to workers. Finally, from a procedural point of view, it seems that the way has been completely paved for the long-standing labour procedures which repeatedly break the national legally allowed maximum to be challenged before the ECtHR as violations of the right to a fair trial. In this regard, the ECtHR's jurisprudence allows European workers to seek accountability from the State for unreasonable trials as violations of Article 6 of the ECHR.

Lastly, the ECtHR has in recent years taken major steps towards a positive inclusion of workers' rights under the Convention. Many issues remain unresolved, and we are yet to see the extent and the scope of other Articles, but the area is definitely open and we can expect a rapid turn of events.

LITERATURE

1. UN General Assembly (UNGA), International Covenant on Economic, Social and Cultural Rights, signed on 16 December 1966, with effect from 3 January 1976. Republic of Macedonia ratified the Covenant on 18. January 1994.
2. European Court of Human Rights, *Brinkat and others v. Malta*, applications nos. 60908/11, 62110/11, 62129/11, 62312/11 and 62338/11, final judgment of 24.10.2014.
3. European Court of Human Rights, *Walishauser v. Austria*, application no. 156/04, final judgment of 19.11.2012.
4. European Court of Human Rights, *Vilnius and Others v. Norway*, applications 52806/09 and 22703/10, final judgment of 24.03.2014.
5. European Court of Human Rights, *Wilho Eskelinen v. Finland*, application no. 63235/00, final judgment of 19 April 2007.
6. European Court of Human Rights, *Vukota-Bojic v. Switzerland*, application number 61838/10, final judgment of 18.01.2017.
7. European Court of Human Rights, *Garcia Matheos v. Spain*, application number 38285/09, final judgment of 19.05.2013.
8. European Court of Human Rights, case of *De Santa v. Italy*, application no. 27/1996/646/831, final judgment of 02.09.1997.
9. European Court of Human Rights, *D.M.T. and D.K.I. v. Bulgaria*, application number 29476/06, final judgment of 24.10.2012.
10. European Court of Human Rights, *Emel Boyraz v. Turkey*, application number 61960/08, final judgment of 02.12.2014.
11. European Court of Human Rights, *Lombardi Valauri v. Italy*, application number 39128/05, final judgment of 20.01.2010.

12. European Court of Human Rights, *Lopez Ribalda and others v. Spain*, applications nos. 1874/13 and 8567/13, final judgment of 17.10.2019.
13. European Court of Human Rights, March 2020, updated list of workplace cases, available at: http://shorturl.at/dBGV7 , last accessed: 01.07.2020.
14. European Court of Human Rights, case of *Nigel v. France*, application no. 18725/91, final judgment of 17 March 1997.
15. European Court of Human Rights, case of *Pellegrini v. France*, application no. 28541/95, final judgment of 08.12.1999.
16. European Court of Human Rights, *Sabeh El Laile v. France*, application number 34869/05, final judgment of 29.06.2011.
17. European Court of Human Rights, case of *Huber v. France*, application no. 160/1996/779/980, final judgment of 19 February 1998.
18. European Court of Human Rights, *Howald Moore and others v. Switzerland*, applications nos. 52067/10 and 41072/11, final judgment of 11.06.2014.
19. European Court of Human Rights, *Cudak v. Lithuania*, application number 15869/02, final judgment of 23.03.2010.
20. European Court of Human Rights, *Schweitmaker v. The Netherlands*, application no. 15906/08, final judgment of 0 4. 0 5.2010.
21. Assembly of the Republic of Macedonia, the Law on Civil Procedure (Official Gazette of the Republic of Macedonia number 79/05, 110/08, 83/09, 116/10 and 124/15).
22. Assembly of the Republic of Macedonia; Constitution of the Republic of Macedonia (Official Gazette of the Republic of Macedonia number 52/1991), date of promulgation: 17.11.1991.
23. Assembly of the Republic of Macedonia. Constitution of the Republic of Macedonia (Official Gazette of the Republic of Macedonia number 52/1991), date of promulgation: 17.11.1991, together with Amendments 1-36.
24. Council of Europe, European Convention for the Protection of Human Rights & Fundamental Freedoms, together with Protocols 1-14, signed on 4 November 1950 in Rome, ETS 5, effective 3 September 1953. The Republic of Macedonia ratified the European Convention for Human Rights & Fundamental Freedoms on April 10, 1997.
25. Council of Europe, *Notifications under Article 15 of the Convention in the context of the COVID-19 pandemic*, available at: http://shorturl.at/ehmyZ , last accessed on 16.06.2022.
26. European Court of Human Rights (2019). *Guide on Article 4 of the ECHR (European Convention on Human Rights)*. Strasbourg, France.
27. Arendt, H. (2013). *The human condition* (1958). University of Chicago Press.
28. Davidov, G., & Langille, B. (Eds.). (2011). *The idea of labour law*. Oxford University Press.
29. Donnelly, J. (2013). *Universal human rights in theory and practice*. Cornell University Press.
30. Donnelly, J., & Whelan, D. J. (2020). *International human rights*. Routledge.
31. Forbath, W. E., & Forbath, W. E. (2009). *Law and the shaping of the American labor movement*. Harvard University Press.
32. Langford, M. (Ed.). (2008). *Social rights jurisprudence: emerging trends in international and comparative law*. Cambridge University Press.
33. Mantouvalou, V. (Ed.). (2015). *The Right to Work: Legal and Philosophical Perspectives*. Bloomsbury Publishing.

34. Murphy, J. B. (1993). *The moral economy of labor: Aristotelian themes in economic theory*. Yale University Press.
35. Sabelhaus, J., & Volz, A. H. (2020). Social Security Wealth, Inequality, and Lifecycle Saving. *Measuring and Understanding the Distribution and Intra/Inter-Generational Mobility of Income and Wealth*. University of Chicago Press.
36. Seidman, G. W. (2007). Beyond the boycott: Labor rights, human rights, and transnational activism. *Russell Sage Foundation*.
37. Vitkauskas, D., & Dikov, G. (2012). *Protecting the right to a fair trial under the ECHR (European Convention on Human Rights)*. Council of Europe.
38. Williams, E. (2014). *Capitalism and slavery.* UNC Press Books.
39. Bellace, J. R. (2014). The ILO and the right to strike. *International Labour Review*, 153(1), 29-70.
40. Blanke, H. J., & Mangiameli, S. (2013). Article 6 [Fundamental rights–the charter and the ECHR]. In *the Treaty on European Union (TEU)* 287-348. Springer, Berlin, Heidelberg.
41. Cullen, H. (2006). Siliadin v France: Positive Obligations under Article 4 of the ECHR (European Convention on Human Rights). *Human Rights Law Review*, *6*(3), 585-592
42. Helfer, L. R. (2008). Redesigning the European Court of Human Rights: embeddedness as a deep structural principle of the European human rights regime. *European Journal of International Law*, *19*(1), 125-159.
43. Kabeer, N. (2016). Leaving no one behind: the challenge of intersecting inequalities. *ISSC, IDS and UNESCO, Challenging Inequalities: Pathways to a Just World, World Social Science Report*, 55-8.
44. Mantouvalou, V. (2012). Are labor rights human rights? *European labor law journal*, 3(2), 151-172.
45. Mavronicola, N. (2017). Is the prohibition against torture and cruel, inhuman & degrading treatment absolute in international human rights law? A reply to Steven Greer. *Human Rights Law Review*, 17(3), 479-498.
46. Mundlak, G. (2007). The right to work: Linking human rights and employment policy. *International Labour Review*, 146(3-4), 189-215.
47. O'Gorman, R. (2011). The ECHR (European Convention on Human Rights), the EU and the weakness of social rights protection at the European level. *German law journal*, *12*(10), 1833-1861.
48. Sweet, A. S., & Keller, H. (2008). The reception of the ECHR (European Convention on Human Rights) in national legal orders. *A Europe of rights: the impact of the ECHR on national legal system*, 3-28.
49. Ölçer, F. P. (2013). The European Court of Human Rights: The Fair Trial Analysis Under Article 6 of the ECHR (European Convention of Human Rights). In *Exclusionary Rules in Comparative Law*, 371-399. Springer, Dordrecht.
50. Vasilev K., Demiri M., Neshevska N. and Steriov N. (2019) *Analysis of the level of satisfaction with the mechanisms for protection of workers' rights in the Republic of North Macedonia*, Helsinki Committee for Human Rights.
51. Гарванлиева, Б. (2013) *Sewing*, available at: https://vimeo.com/54517757, last accessed 15.06.2022.
52. United Nations (2020), *All workers are important and must be protected by COVID-19, without exception*, a statement from UN human rights experts, shared on 18.05.2020.
53. TV 021 (2016) *Television announcement entitled* 'In Geox [name of the company], workers have to wear diapers' from 20.07.2016.

54. Macedonian Helsinki Committee for Human Rights (2017) *Patched life-real stories of textile workers,* video stories.
55. Mole, N., & Harby, C. (2006). The right to a fair trial. *Guide for the application of Article 6*.

RESUME

Ideja za pisanje ovog rada prvobitno je nastala nakon poziva makedonskog časopisa *Focus luris* za pisanje rada posvećenog ovoj problematici zbog čega su ranije neki od segmenata ovog rada pisani i objavljeni na makedonskom jeziku, ali sa drugačijim lokalnim značenjem i lingvističkim specifičnostima.

Konvencija je inkorporirana u zakonodavstvu država ugovornica koje treba da štite prava koja su definisana Konvencijom i poznato je da Evropski sud za ljudska prava može doneti presude protiv država koje nisu zaštitile prava državljana.

Imajući u vidu da se Konvencija razvija, naročito putem tumačenja njenih odredbi i sudske prakse otvaraju se polja koja privlače istraživačku pažnju akademskog sveta. Konvencija kao 'živi' instrument može se oblikovati na šta upravo intelektualne polemike poput prikazane u radu mogu imati uticaj kao i analiziranje sudske prakse čime se otvara prostor za proširivanje obezbeđenja prava i menjanje protokola.