

**Volodymyr ARTEMOV; Olena SIMONENKO; Vitalii  
ZHALUBAK; Oleksandr MYKHAILYK; Nataliia BORSUK**

*Legal Mechanisms for Protecting Migrants' Labour Rights in  
Host Countries*

## Secção

# Investigação Científica / Scientific Research\*

---

\* Os artigos presentes nesta secção foram sujeitos a processo de revisão segundo o método *blind peer review* / The articles in this section have undergone a blind peer review process.



## Legal Mechanisms for Protecting Migrants' Labour Rights in Host Countries

### Mecanismos Legais de Proteção dos Direitos Laborais dos Migrantes nos Países de Acolhimento

Volodymyr ARTEMOV<sup>1</sup>  
Olena SIMONENKO<sup>2</sup>  
Vitalii ZHALUBAK<sup>3</sup>  
Oleksandr MYKHAILYK<sup>4</sup>  
Nataliia BORSUK<sup>5</sup>

**ABSTRACT:** This article examines the legal mechanisms available to protect migrant workers' labour rights in host countries. The study aims to critically assess international instruments, regional frameworks, and national legislation governing migrants' rights, with attention to gaps in their harmonisation and enforcement. A mixed-methods approach was adopted, combining comparative legal analysis of fifteen key legal instruments, thirty expert interviews, and statistical data from international and national sources. The results indicate significant variation in the protection of migrant workers' rights. Germany demonstrates full compliance with ILO Conventions Nos. 97 and 143, while Italy, the United States, and Brazil display partial compliance with weak enforcement in specific sectors. The United Arab Emirates remains non-compliant, with restrictive regimes such as the Kafala system severely limiting rights. Expert interviews highlighted persistent enforcement gaps, the vital role of civil society organisations, and barriers to accessing justice. Statistical analysis confirmed that stronger legal frameworks and enforcement mechanisms reduce labour rights violations, particularly wage disputes and workplace discrimination. The study concludes that effective protection of migrant workers requires not only legislative incorporation of international norms but also robust enforcement, judicial remedies, and institutional independence. Legal reforms are proposed to strengthen the incorporation of core ILO and UN conventions into domestic law, establish specialised labour courts, regulate digital labour platforms, and extend protections to undocumented and informal-sector workers. These findings provide a legal basis for future reforms at both national and transnational levels, contributing to more consistent and equitable protection of migrant workers.

**KEYWORDS:** migrant labour rights; ILO conventions; labour law; enforcement mechanisms; comparative legal analysis; international human rights law.

**RESUMO:** O artigo aborda os mecanismos legais de proteção dos direitos laborais dos migrantes nos países de acolhimento. O objetivo do estudo foi estudar e analisar criticamente

---

<sup>1</sup> Doctor of Pedagogical Sciences, Professor of the Department of Counterintelligence, National Academy of the Security Service of Ukraine, Kyiv, Ukraine; email vuk\_karadzic@ukr.net

<sup>2</sup> Senior Lecturer of the Special Department of the Study-Scientific Institute of the State Security, National Academy of the Security Service of Ukraine, Kyiv, Ukraine; email helen.hrytsanchuk@gmail.com

<sup>3</sup> PhD in Law, Senior Lecturer of the Special Department of the Study-Scientific Institute of the State Security, National Academy of the Security Service of Ukraine, Kyiv, Ukraine; email vzhallubak@i.ua

<sup>4</sup> Doctor of Law, Professor of the Department of Law Enforcement and Anti-Corruption Activities, Educational and Scientific Institute of Law. Prince Vladimir the Great, Interregional Academy of Personnel Management, Kyiv, Ukraine; email 12081968am@gmail.com

<sup>5</sup> Doctor of Science Law, Professor of Departments of Private Law, Kyiv National Economic University named Vadym Hetman, Kyiv, Ukraine; email nataliia45@yahoo.com

os instrumentos legais que asseguram a proteção dos direitos laborais dos migrantes nos países de acolhimento. São considerados os problemas que enfrentam e a eficácia dos actuais quadros jurídicos. O estudo baseia-se na análise da legislação nacional, das convenções internacionais e dos acordos regionais, o que permitiu identificar as principais lacunas e inconsistências na proteção dos direitos dos migrantes. Foi utilizado o método comparativo para avaliar a jurisprudência, entrevistas qualitativas e análise estatística. Os resultados mostraram que, embora alguns países tenham estabelecido mecanismos legais fiáveis, subsistem problemas significativos, em particular para os migrantes sem documentos e para os que trabalham no sector informal. Sublinha-se que a cooperação internacional e as reformas jurídicas são necessárias para garantir a igualdade de proteção de todos os migrantes. É dada especial atenção às perspectivas de investigação sobre o impacto das tecnologias digitais, em particular da inteligência artificial (IA), no controlo dos direitos laborais. É igualmente analisado o papel das redes de defesa na reforma das políticas. Este trabalho distingue-se pela sua abordagem transnacional, propondo soluções que podem ser adaptadas a nível mundial.

**PALAVRAS-CHAVE:** direito do trabalho; direitos dos migrantes; proteção dos migrantes; direitos humanos; direitos humanos internacionais; convenções internacionais; mecanismos jurídicos.

## 1. Introduction

The protection of migrant workers' labour rights is a pressing issue in contemporary international law, shaped by globalisation and intensified migration flows.<sup>6</sup> Migrants often face structural vulnerabilities arising from their legal status, which limit their ability to secure fair wages, safe working conditions, and access to justice.<sup>7</sup> While numerous legal frameworks exist at the international, regional, and national levels, their fragmented implementation often leaves migrants exposed to exploitation and discrimination.<sup>8</sup> International law provides a solid foundation for the protection of migrant workers' rights.<sup>9</sup>

The International Labour Organization (ILO) Migration for Employment Convention (No. 97) and the Migrant Workers (Supplementary Provisions) Convention (No. 143) establish key guarantees of equal treatment, while the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families enshrines comprehensive rights protections.<sup>10</sup> At the regional level, the European Union has adopted instruments such as the

<sup>6</sup> GLOBAL REFUGEE WORK RIGHTS REPORT 2022. 2019, March 17. Available from [https://migrant-integration.ec.europa.eu/library-document/global-refugee-work-rights-report-2022\\_en](https://migrant-integration.ec.europa.eu/library-document/global-refugee-work-rights-report-2022_en)

<sup>7</sup> BUSINESS & HUMAN RIGHTS NAVIGATOR. Migrant workers. 2024, May 30. Available from <https://bhr-navigator.unglobalcompact.org/issues/migrant-workers/>

<sup>8</sup> KORTUKOVA, Tamara, et al. Peculiarities of the legal regulation of temporary protection in the European Union in the context of the aggressive war of the Russian Federation against Ukraine. *International Journal for the Semiotics of Law - Revue Internationale De Sémiotique Juridique*, 2022, vol. 36, no. 2, pp. 667–678. <https://doi.org/10.1007/s11196-022-09945-y>

<sup>9</sup> IHRB. Realizing rights and maximizing benefits: Improving development outcomes through the responsible recruitment of migrant workers. 2024, August 7. Available from <https://www.ihrb.org/resources/realising-rights-and-maximising-benefits-improving-development-outcomes-through-the-responsible-recruitment-of-migrant-workers>

<sup>10</sup> INTERNATIONAL LABOUR ORGANISATION. Migration for Employment Convention (Revised), No. 97. 1949. Available from: [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO::p12100\\_instrument\\_id:312242](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::p12100_instrument_id:312242); INTERNATIONAL LABOUR ORGANISATION. Migrant Workers (Supplementary Provisions)

Single Permit Directive (2011/98/EU) and the Temporary Protection Directive (2001/55/EC). Despite this normative progress, implementation remains inconsistent, particularly for undocumented migrants and those working in informal sectors.<sup>11</sup> Geopolitical developments, restrictive immigration policies, and socio-economic crises have further exposed the fragility of migrant protections. In some host countries, the convergence of immigration and labour law has produced legal environments that complicate access to remedies.<sup>12</sup> Comparative scholarship has also shown that selective migration policies exacerbate inequalities in the labour market, while restrictive frameworks – such as the Kafala system – institutionalise precariousness.<sup>13</sup>

Against this background, this study seeks to analyse the legal mechanisms through which host countries protect migrant workers' labour rights.<sup>14</sup> Besides, economic dependence and attitudes towards migrants make it difficult to implement effective protection mechanisms.<sup>15</sup> The geopolitical context of Ukraine's relations with the EU is an important factor in reforming administrative justice and ensuring better legal protection for migrants facing exploitation.<sup>16</sup> Furthermore, post-pandemic developments in the EU's common migration policy play a crucial role in shaping legal protections for migrants, affecting their access to employment rights and social security measures.<sup>17</sup>

Specifically, it pursues three objectives:

---

Convention, No. 143. 1975. Available from: [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312288:NO](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312288:NO); THE RESOURCE: PART V. Persons with disabilities and multiple discrimination - Rights of special groups, 10/10. 2024. Available from <https://www.un.org/esa/socdev/enablen/comp509.htm>

<sup>11</sup> ANTOSHKINA, Valeriya, et al. The practice of legal interpretation by judicial authorities in Ukraine: theoretical and organizational principles. *Brazilian Journal of Law & International Relations / Relações Internacionais No Mundo*, 2023, vol. 3, no. 41, 506. Available from <https://revista.unicuritiba.edu.br/index.php/RIMA/article/view/e-6403>

<sup>12</sup> ISHCENKO, Yevhenii, et al. The impact of immigration law and policy on crime rates in immigrant communities in the United States. *PJLSS*, 2024, vol. 22, no. 2, 368. <https://doi.org/10.57239/PJLSS-2024-22.2.00368>

<sup>13</sup> ONU MIGRACIÓN AMERICAS. 2024, November 20. Available from <https://lac.iom.int/en/blogs/why-does-discrimination-against-migrants-increase-during-crisis-and-how-can-its-impact-be-reduced>

<sup>14</sup> WOOLRYCH, Katharine. The EU Pact on Migration and Asylum explained. 2024, March 23. Available from <https://hias.org/news/eu-pact-migration-and-asylum-explained/>

<sup>15</sup> DUTCHAK, Svitlana, et al. International aspects of legal regulation of information relations in the global Internet Network. *Journal of Legal Ethical and Regulatory Issues*, 2020, vol. 23, no. 3. Available from <http://dspace.lvduvs.edu.ua/bitstream/1234567890/3645/1/%d1%88%d0%b5%d0%b2%d1%86%d1%96%d0%b2%20%d1%81%d1%82%d0%b0%d1%82%d1%82%d1%8f.pdf>

<sup>16</sup> BABYCH, Anzhelika. Adaptation of the Ukrainian administrative justice system to EU requirements: Transparency, efficiency and accessibility in public law disputes. *CERIDAP*. 2024. Available from <https://ceridap.eu/adaptation-of-the-ukrainian-administrative-justice-system-to-eu-requirements-transparency-efficiency-and-accessibility-in-public-law-disputes/?lng=en>

<sup>17</sup> SYNIAVSKYI, Petro. Post-COVID prospects for the development of the EU common migration policy. *Economic Processes Management*, 2021, vol. 8, no. 3, 4. <https://doi.org/10.46340/eppd.2021.8.3.4>

1. To examine the incorporation of international and regional instruments into national legal frameworks.
2. To assess the practical enforcement of these mechanisms through case law, expert perspectives, and empirical data.
3. To identify gaps and propose legal reforms aimed at ensuring more effective and equitable protection.

This research combines comparative legal analysis, qualitative interviews, and statistical methods to provide a transnational perspective on the problem. By highlighting both achievements and shortcomings, the study aims to contribute to doctrinal debates on labour law and to provide a normative basis for legal reform in host countries.

## 2. Literature Review

The legal protection of migrant workers' labour rights has been the subject of increasing scholarly attention, with research highlighting both the achievements and shortcomings of national and international regulatory frameworks. A key challenge is the fragmentation between international labour standards and their practical implementation at the national level. Antoshkina et al.<sup>18</sup> analyse judicial practice in Ukraine, showing that while national courts provide some protection for migrant workers, the lack of full harmonisation with international standards – such as the ILO Migration for Employment Convention (No. 97) and the Migrant Workers (Supplementary Provisions) Convention (No. 143) – limits the effectiveness of legal remedies.<sup>19</sup> Similar concerns are noted in the European Union, where Kortukova et al.<sup>20</sup> discuss the Temporary Protection Directive (2001/55/EC) in the context of the war in Ukraine. Although this framework provides humanitarian safeguards, it does not fully address the long-term protection of migrant labour rights.

Babych<sup>21</sup> highlights the adaptation of Ukrainian administrative justice to EU standards,

---

<sup>18</sup> ANTOSHKINA, Valeriya, et al. The practice of legal interpretation by judicial authorities in Ukraine: theoretical and organizational principles. *Brazilian Journal of Law & International Relations / Relações Internacionais No Mundo*, 2023, vol. 3, no. 41, 506. Available from <https://revista.unicuritiba.edu.br/index.php/RIMA/article/view/e-6403>

<sup>19</sup> INTERNATIONAL LABOUR ORGANISATION. Migration for Employment Convention (Revised), No. 97. 1949. Available from: [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO::p12100\\_instrument\\_id:312242](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::p12100_instrument_id:312242); INTERNATIONAL LABOUR ORGANISATION. Migrant Workers (Supplementary Provisions) Convention, No. 143. 1975. Available from: [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312288:NO](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312288:NO)

<sup>20</sup> KORTUKOVA, Tamara, et al. Peculiarities of the legal regulation of temporary protection in the European Union in the context of the aggressive war of the Russian Federation against Ukraine. *International Journal for the Semiotics of Law - Revue Internationale De Sémiotique Juridique*, 2022, vol. 36, no. 2, pp. 667–678. <https://doi.org/10.1007/s11196-022-09945-y>

<sup>21</sup> BABYCH, Anzhelika. Adaptation of the Ukrainian administrative justice system to EU requirements: Transparency, efficiency and accessibility in public law disputes. *CERIDAP*. 2024. Available from



underscoring the importance of transparent and efficient legal procedures for labour disputes. At the EU level, Galas<sup>22</sup> and Urdarevic<sup>23</sup> analyse selective labour migration policies and the implications of Directive 2011/98/EU (Single Permit Directive), stressing persistent discrimination and unequal treatment of third-country nationals. Weingler and Tratnik<sup>24</sup> similarly show that gaps remain in aligning the rights of third-country nationals with intra-EU migrants, pointing to the need for legislative reform.

Beyond Europe, Reda et al.<sup>25</sup> examine the Kafala system in Gulf States, illustrating structural restrictions on workers' mobility and access to justice. Hawkes et al.<sup>26</sup> analyse migrant workers' health rights in Pakistan and Qatar, demonstrating how inadequate legal safeguards produce negative consequences for both labour and health protection. Bauböck and Ruhs<sup>27</sup> emphasise representation and fairness in temporary labour migration programmes, but their analysis confirms that political considerations often prevail over legal guarantees.

Emerging scholarship also addresses the impact of digitalisation. Dutchak et al.<sup>28</sup> discuss the regulation of online platforms and cross-border employment, showing how digital economies create new vulnerabilities for migrant workers in the absence of clear legal protections. Nazarchuk et al.<sup>29</sup> explore migration in crisis contexts, linking socio-economic instability to limited access to education and labour rights, thereby exposing gaps in national legal systems.

The literature reveals three recurring shortcomings:

---

<https://ceridap.eu/adaptation-of-the-ukrainian-administrative-justice-system-to-eu-requirements-transparency-efficiency-and-accessibility-in-public-law-disputes/?lng=en>

<sup>22</sup> GALAS, Marina. The selectivity of attracting foreign nationals to work in recipient countries. *SHS Web of Conferences*, 2021, vol. 125, 06003. <https://doi.org/10.1051/shsconf/202112506003>

<sup>23</sup> URDAREVIC, Bojan. Implications of labor migration on the European labour market - Labor law aspects. *Stanovništvo*, 2023, vol. 61, no. 1, pp. 91–106. <https://doi.org/10.2298/stnv2301091u>

<sup>24</sup> WEINGERL, Petra and TRATNIK, Matjaž. Climbing the wall around EU citizenship: Has the time come to align third-country nationals with intra-EU migrants? *European Journal of International Law*, 2022. <https://doi.org/10.1093/ejil/chac008>

<sup>25</sup> REDA, Amir, FRASER, Nicholas and KHATTAB, Ahmed. Does social mobility matter? The Kafala system and Anti-Immigrant sentiment. *Political Studies Review*, 2023, vol. 21, no. 4, pp. 801–824. <https://doi.org/10.1177/14789299221130901>

<sup>26</sup> HAWKES, Sarah, et al. Protecting and promoting the rights of the 'reserve army of labour': A policy analysis of structural determinants of migrant worker health in Pakistan and Qatar. *Health Policy and Planning*, 2023, vol. 38, no. 6, pp. 665–680. <https://doi.org/10.1093/heapol/czad029>

<sup>27</sup> BAUBÖCK, Rainer and RUHS, Martin. The elusive triple win: addressing temporary labour migration dilemmas through fair representation. *Migration Studies*, 2022, vol. 10, no. 3, pp. 528–552. <https://doi.org/10.1093/migration/mnac021>

<sup>28</sup> DUTCHAK, Svitlana, et al. International aspects of legal regulation of information relations in the global Internet Network. *Journal of Legal Ethical and Regulatory Issues*, 2020, vol. 23, no. 3. Available from

<http://dspace.lvduvs.edu.ua/bitstream/1234567890/3645/1/%d1%88%d0%b5%d0%b2%d1%86%d1%96%d0%b2%20%d1%81%d1%82%d0%b0%d1%82%d1%82%d1%8f.pdf>

<sup>29</sup> NAZARCHUK, Anastasiia, et al. Juridification of grant support for higher education under martial law. *Revista Interdisciplinar De Ciência Aplicada*, 2024, vol. 8, no. 13. <https://doi.org/10.18226/25253824.v8.n13.03>



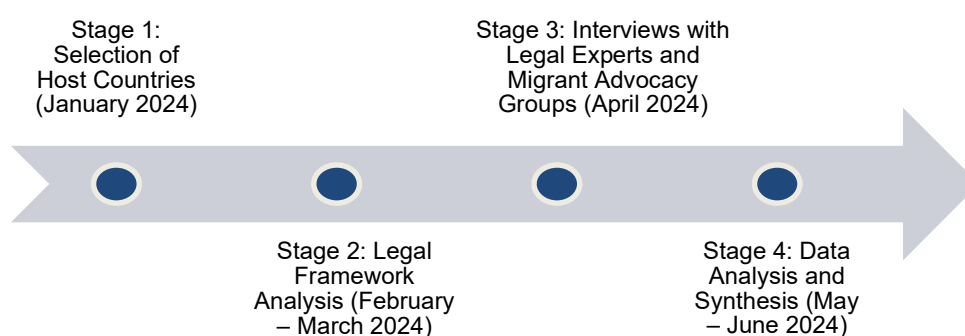
1. Limited incorporation of international standards into domestic labour law, particularly in relation to undocumented or informal-sector workers.
2. Weak enforcement mechanisms undermine the effectiveness of existing legislation.
3. Insufficient attention to emerging challenges, including climate-induced migration and digital labour platforms.

Addressing these gaps requires stronger reliance on binding international instruments, systematic incorporation of ILO conventions, UN treaties, and EU directives, and improved judicial and administrative enforcement. Future studies should prioritise longitudinal analyses of labour migration policies and assess their capacity to ensure equal protection of migrant workers across different legal systems.

### 3. Methods

#### 3.1. Research design

The study employed a four-stage design, conducted between January and June 2024. The stages included: (1) selection of host countries; (2) analysis of national and international legal frameworks; (3) semi-structured interviews with legal experts and migrant advocacy groups; and (4) synthesis of data through comparative and statistical analysis. This design ensured both normative and empirical coverage of the research problem, combining doctrinal legal analysis with empirical validation.



**Figure 1.** Research design

Source: developed by the author based on MiniTAB<sup>30</sup>

#### 3.2. Sampling

Five host countries – Germany, Italy, the United States, Brazil, and the United Arab Emirates – were selected to represent diverse legal traditions (civil law, common law, and

<sup>30</sup> MINITAB. Data analysis, statistical & process improvement tools. 2024. Available from <https://www.minitab.com/en-us/>

mixed systems) and migration contexts. The selection was guided by three criteria: (a) their role as major destinations for labour migration; (b) the existence of established legal frameworks regulating migrant labour; and (c) their varying degrees of compliance with international standards, particularly those of the International Labour Organization (ILO) and the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Two categories of data were analysed:

1. **Legal documents:** Fifteen primary instruments, including national labour codes, immigration laws, and international treaties (Appendix A). These texts were examined for substantive and procedural guarantees of migrant workers' rights.
2. **Interview respondents:** Thirty experts (legal scholars, judges, civil servants, ILO/UN representatives, and trade union members). Respondents were chosen for their direct involvement in labour law, migration policy, or rights protection. This sample ensured a balance between international and domestic perspectives.

### **3.3. Methods of data collection and analysis**

Three methodological approaches were combined:

1. **Comparative legal analysis:** Systematic comparison of national legislation with binding international instruments (ILO Conventions Nos. 97 and 143, EU Directive 2011/98/EU, and the UN Migrant Workers Convention). This method identified gaps in harmonisation and enforcement.
2. **Qualitative interviews:** Semi-structured interviews were conducted with experts to assess the functioning of legal mechanisms in practice. Respondents were assured anonymity, and ethical guidelines were strictly observed.
3. **Statistical analysis:** Labour market data from ILOSTAT and national institutions were examined to evaluate the relationship between legal frameworks and reported violations (e.g., wage disputes, workplace discrimination). Descriptive statistics and regression analysis were applied to test correlations.

### **3.4. Instruments**

The following tools supported the research process:

- NVivo for coding and analysing legal texts and interview transcripts.
- SPSS for statistical analysis of labour market data.
- Otter.ai for transcription of interviews.
- Microsoft Excel for data visualisation.

This mixed-methods approach – combining normative legal research, comparative

analysis, and empirical validation – enabled a comprehensive assessment of the effectiveness of legal mechanisms protecting migrants’ labour rights in host countries.

4. Results

4.1. Analysis of legal documents

A comparison of legal instruments revealed significant differences in the ways and means of protecting migrant workers’ labour rights across countries (Table 1).

Table 1. Overview of legal compliance with international standards in host countries

Category	Countries	Characteristics
Category A: High Compliance and Strong Enforcement	Germany	Fully complies with ILO standards, strong enforcement mechanisms, no significant legislative gaps.
Category B: Partial Compliance and Weak Enforcement	Italy, USA, Brazil	Partially complies with ILO standards, weak enforcement in certain sectors, specific legislative gaps persist.
Category C: Noncompliance and No Enforcement	United Arab Emirates (UAE)	Does not comply with ILO standards, enforcement mechanisms are weak or non-existent, significant gaps in migrant labour protections.

Source: developed by the author based on International Labour Organization<sup>31</sup>

The comparative analysis revealed significant variation in the scope and enforcement of migrant workers’ rights across the five host countries.

- Germany demonstrates high compliance with ILO Conventions Nos. 97 and 143, ensuring equal treatment of migrants and nationals under its labour code, supported by effective inspection mechanisms.
- Italy, the United States, and Brazil show partial compliance, particularly in relation to enforcement. Weak oversight in sectors such as agriculture and domestic work undermines protections formally recognised in legislation.
- The United Arab Emirates remains non-compliant with core ILO conventions, with the Kafala system restricting worker mobility and limiting access to remedies.

This analysis confirms that the incorporation of international norms into domestic law is not sufficient unless supported by enforcement structures and judicial remedies.

4.2. Results of qualitative interviews

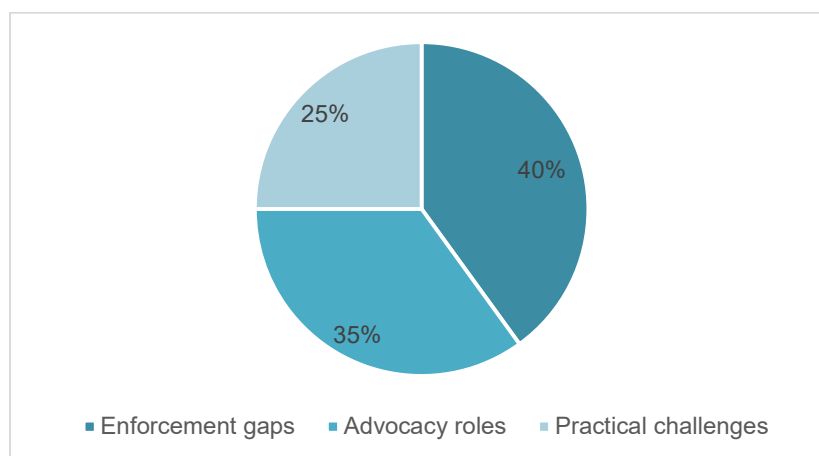
Interviews with legal experts and advocacy organisations highlighted three recurring

<sup>31</sup> INTERNATIONAL LABOUR ORGANIZATION. Research Manual for assessing the implementation of Fundamental Principles and Rights at Work in the workplace. 2023. Available from [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed\\_protect/%40protrav/%40safework/documents/instructionalmaterial/wcms\\_903176.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_protect/%40protrav/%40safework/documents/instructionalmaterial/wcms_903176.pdf)

themes:

- **Enforcement Gaps:** Over 40% of respondents emphasised systemic weaknesses in monitoring and enforcement, including corruption and institutional dependence on employers.
- **Role of Civil Society:** 35% identified advocacy groups as key actors in providing legal aid, raising awareness, and lobbying for legislative reform where state enforcement is inadequate.
- **Practical Barriers:** 25% pointed to language, fear of reprisals, and lack of knowledge of rights as major obstacles to effective legal protection. (Figure 2).

These findings indicate that even in countries with adequate legislation, structural and social barriers prevent migrants from accessing justice.



**Figure 2.** Distribution of identified themes in qualitative interviews

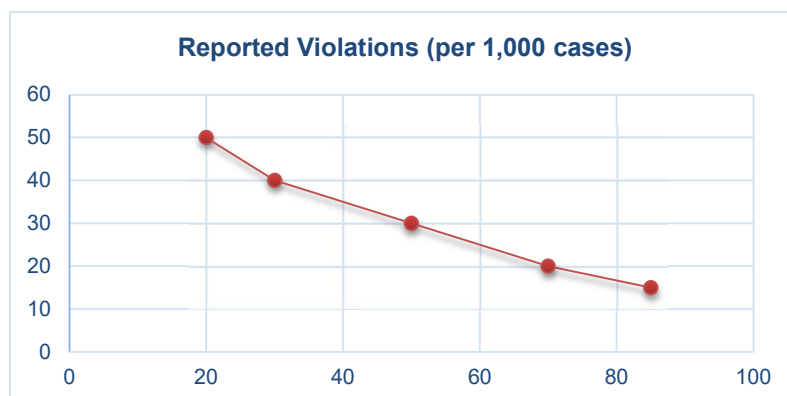
Source: developed by the author based on Nvivo,<sup>32</sup> Otter.ai<sup>33</sup>

#### 4.3. Statistical analysis of the labour market data

According to ILO and national sources, there is a discrepancy between the level of legal protection and labour market outcomes for migrants (Figure 3).

<sup>32</sup> NVIVO. Leading qualitative data analysis software (QDAS) by Lumivero. 2024, August 28. Available from <https://lumivero.com/products/nvivo/>

<sup>33</sup> OTTER.AI. Ai meeting notes taker & real-time ai transcription. 2024. Available from <https://otter.ai/>



**Figure 3.** Relationship between compliance with legislation and reports of labour rights violations  
Source: developed by the author based on ILOSTAT,<sup>34</sup> ILOSTAT<sup>35</sup>

The data presented in Table 2 clearly demonstrate the impact of the legislative framework on the protection of migrant workers' rights.

**Table 2:** Impact of legal protections on wage disputes and workplace discrimination among migrant workers in host countries

Variable	Strong Legal Protections	Weak Legal Protections	Difference (%)
Wage Disputes (per 1,000 cases)	20	31	-35%
Workplace Discrimination (%)	15%	25%	-40%

Source: developed by the author based on IBM SPSS Statistics,<sup>36</sup> Prohibiting discrimination against migrants in the workplace UCLA world<sup>37</sup>

Cross-national labour market data confirmed a correlation between stronger legal protection and improved outcomes:

- Countries with robust enforcement mechanisms reported 35% fewer wage disputes and 40% fewer cases of workplace discrimination compared to those with weak enforcement.
- For example, Germany's compliance with ILO standards correlates with the lowest incidence of labour rights violations, while the UAE shows the highest rate of disputes under restrictive legal frameworks.

Table 2 shows that there is a positive correlation between the level of legal protection for migrant workers and the reduction in violations of their rights, confirming the importance of

<sup>34</sup> ILOSTAT. Statistics on safety and health at work. 2024, June 8. Available from <https://ilostat.ilo.org/topics/safety-and-health-at-work/>

<sup>35</sup> ILOSTAT. Statistics on unemployment and labor underutilization. 2024, June 8. Available from <https://ilostat.ilo.org/topics/unemployment-and-labour-underutilization/>

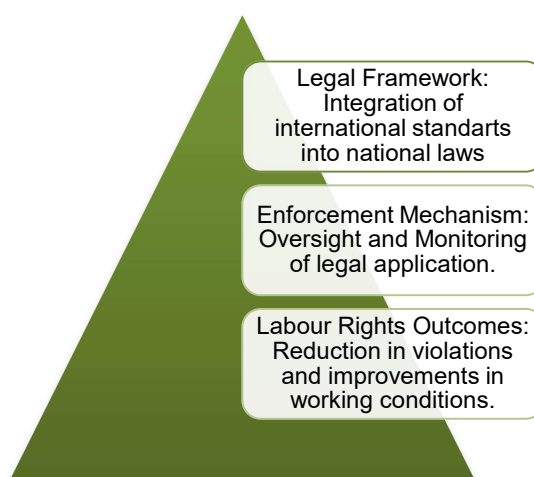
<sup>36</sup> IBM SPSS Statistics. 2024. Available from <https://www.ibm.com/products/spss-statistics>

<sup>37</sup> PROHIBITING DISCRIMINATION AGAINST MIGRANTS IN THE WORKPLACE UCLA WORLD. 2024. Available from <https://www.worldpolicycenter.org/prohibiting-discrimination-against-migrants-in-the-workplace>

legal mechanisms in ensuring fair working conditions for migrants. These results confirm that both substantive law and procedural enforcement are necessary to reduce rights violations.

#### 4.4. Integrated Findings

Figure 4 shows a close relationship among the three main components of migrant labour rights protection: the legal framework, enforcement mechanisms, and labour rights outcomes. It also helps to understand how these elements interact with each other and determine the effectiveness of labour protection for migrants in host countries.



**Figure 4.** Interaction between legal provisions and practical enforcement

Source: developed by the author based on Legal Framework of EU Data Protection,<sup>38</sup> Migration and discrimination - World conference against racism,<sup>39</sup> Satyen and Becerra<sup>40</sup>

The triangulation of legal, interview, and statistical evidence underscores three critical conclusions:

1. Legal frameworks aligned with international standards significantly reduce labour rights violations.
2. Effective enforcement mechanisms (labour inspections, independent courts, and access to legal aid) are decisive in translating law into practice.
3. Civil society and advocacy groups compensate for state deficiencies, but cannot substitute for comprehensive state enforcement.

Overall, the results demonstrate that migrant labour rights are best protected where international legal instruments are not only transposed into domestic law but are also

<sup>38</sup> LEGAL FRAMEWORK OF EU DATA PROTECTION. 2024. Available from [https://commission.europa.eu/law/law-topic/data-protection/legal-framework-eu-data-protection\\_en](https://commission.europa.eu/law/law-topic/data-protection/legal-framework-eu-data-protection_en)

<sup>39</sup> MIGRATION AND DISCRIMINATION - WORLD CONFERENCE AGAINST RACISM. 2024. Available from <https://www.un.org/WCAR/e-kit/backgrounder0.htm>

<sup>40</sup> SATYEN, Lata and BECERRA, Anggie. Discrimination, stress, and well-being in the workplace: A comparison of Australian migrant and nonmigrant workers. *Journal of Employment Counseling*, 2022, vol. 59, no. 3, pp. 156–166. <https://doi.org/10.1002/joec.12184>



supported by strong enforcement, accessible remedies, and social support structures.

## 5. Discussion

The findings of this study confirm that the protection of migrants' labour rights depends not only on the existence of legislative frameworks but also on the strength of enforcement and access to remedies. A clear divergence was observed between countries that fully integrate ILO Conventions Nos. 97 and 143 into domestic law with functioning monitoring systems (e.g., Germany) and those where international standards remain largely declarative (e.g., the UAE under the Kafala system).

### 5.1. Legal and doctrinal implications

The analysis demonstrates that international labour law provides a robust normative basis for migrant protection, but its effectiveness is undermined by weak incorporation into domestic legal systems. Doctrinal scholarship underscores that ratification of international treaties must be accompanied by enforceable domestic measures, including labour inspections, judicial remedies, and access to trade unions. This confirms the need for a dual focus on substantive rights and procedural guarantees.

The study also highlights the importance of EU secondary legislation, particularly the Single Permit Directive (2011/98/EU) and the Temporary Protection Directive (2001/55/EC). While these instruments offer migrants access to certain rights, they remain limited in scope. Scholars such as Weingerl and Tratnik<sup>41</sup> argue that third-country nationals remain disadvantaged compared to intra-EU migrants. Our findings support this position, indicating that without full legal alignment, discriminatory practices persist.

### 5.2. Comparison with existing scholarship

This research is consistent with Antoshkina et al., who stress the role of judicial interpretation in strengthening migrant protection.<sup>42</sup> Our interviews confirmed that courts can bridge normative gaps by applying international standards in cases where national law is silent.

---

<sup>41</sup> WEINGERL, Petra and TRATNIK, Matjaž. Climbing the wall around EU citizenship: Has the time come to align third-country nationals with intra-EU migrants? *European Journal of International Law*, 2022. <https://doi.org/10.1093/ejil/chac008>

<sup>42</sup> ANTOSHKINA, Valeriya, et al. The practice of legal interpretation by judicial authorities in Ukraine: theoretical and organizational principles. *Brazilian Journal of Law & International Relations / Relações Internacionais No Mundo*, 2023, vol. 3, no. 41, 506. Available from <https://revista.unicuritiba.edu.br/index.php/RIMA/article/view/e-6403>

However, Kortukova et al.<sup>43</sup> emphasise the effectiveness of temporary protection measures, while our findings suggest these frameworks provide short-term relief but lack the stability required for long-term labour market integration.

Bauböck and Ruhs highlight the issue of representation and fairness in temporary migration schemes.<sup>44</sup> Our study extends this analysis by showing that political compromises often dilute legal guarantees, leaving migrant workers exposed to exploitation. Similarly, Reda et al. criticise the Kafala system for institutionalising inequality, and our findings confirm that such restrictive regimes systematically undermine international standards.<sup>45</sup>

### 5.3. Broader legal challenges

Three key challenges emerge:

1. Fragmentation of legal frameworks: Migrant workers remain subject to overlapping immigration and labour law regimes, which often create conflicting obligations and gaps in protection.
2. Weak enforcement: Even where legal frameworks are aligned with international norms, insufficient labour inspections, corruption, and limited judicial access prevent effective application.
3. New forms of vulnerability: Digital labour platforms and climate-induced migration introduce risks that current legal frameworks have not adequately addressed.

### 5.4. Normative proposals

The results suggest several directions for legal reform:

- Strengthening the incorporation of international standards into domestic labour codes, with explicit reference to ILO Conventions Nos. 97 and 143, and the UN Migrant Workers Convention (1990).
- Enhancing enforcement mechanisms, including independent labour inspectorates, specialised labour courts, and guaranteed access to legal aid.
- Expanding EU directives and national legislation to address emerging vulnerabilities in digital labour and climate-related migration.

<sup>43</sup> KORTUKOVA, Tamara, et al. Peculiarities of the legal regulation of temporary protection in the European Union in the context of the aggressive war of the Russian Federation against Ukraine. *International Journal for the Semiotics of Law - Revue Internationale De Sémiotique Juridique*, 2022, vol. 36, no. 2, pp. 667–678. <https://doi.org/10.1007/s11196-022-09945-y>

<sup>44</sup> BAUBÖCK, Rainer and RUHS, Martin. The elusive triple win: addressing temporary labour migration dilemmas through fair representation. *Migration Studies*, 2022, vol. 10, no. 3, pp. 528–552. <https://doi.org/10.1093/migration/mnac021>

<sup>45</sup> REDA, Amir, FRASER, Nicholas and KHATTAB, Ahmed. Does social mobility matter? The Kafala system and Anti-Immigrant sentiment. *Political Studies Review*, 2023, vol. 21, no. 4, pp. 801–824. <https://doi.org/10.1177/14789299221130901>

- Promoting judicial harmonisation by encouraging courts to apply international standards directly when interpreting national law.

### **5.5. Limitations**

This study has several limitations. First, it relied on a sample of five host countries, which, although diverse in legal traditions, does not fully capture the global spectrum of migrant labour regimes. Second, the empirical analysis depended partly on secondary data, and in some jurisdictions (particularly in the informal sector), reliable statistics on migrant workers remain unavailable. Third, while qualitative interviews provided valuable insights into the functioning of legal mechanisms, the perspectives of migrants themselves were not directly incorporated, which may have limited the scope of experiential evidence. Finally, the study focused on labour law aspects; broader intersections with criminal, administrative, and human rights law warrant further investigation.

### **5.6. Recommendations**

To strengthen the legal protection of migrant workers, the following measures are proposed:

1. Domestic incorporation of international standards: States should explicitly integrate ILO Conventions Nos. 97 and 143, as well as the UN Migrant Workers Convention, into national labour codes to guarantee equal treatment and non-discrimination.
2. Enforcement and remedies: Host countries should establish specialised labour courts or chambers, enhance the independence of labour inspectorates, and ensure accessible legal aid for migrants.
3. Cross-border legal cooperation: Bilateral and multilateral agreements should provide binding commitments for monitoring, information exchange, and enforcement of migrant protections.
4. Regulation of new vulnerabilities: National and EU legislation must extend legal safeguards to digital labour platforms and address the risks associated with climate-induced migration.
5. Inclusion of vulnerable groups: Undocumented migrants and those in informal sectors should be granted minimum labour rights protections, supported by clear legal guarantees and access to remedies.

These recommendations provide a roadmap for legislators, courts, and international organisations to strengthen migrant labour protections through binding legal reforms rather than declarative commitments.

## 6. Conclusions

The study demonstrates that the protection of migrant workers' labour rights in host countries depends on the effective interaction between international standards, domestic legislation, and enforcement mechanisms. While international instruments such as ILO Conventions Nos. 97 and 143, the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), and EU directives provide a solid normative framework; their practical implementation remains uneven.

Three conclusions emerge from the findings:

1. Alignment with international law: States that directly incorporate ILO and UN standards into national labour codes and ensure their enforceability achieve better outcomes in protecting migrants' rights.
2. Institutional enforcement: Legal protection is only effective where labour inspections, courts, and administrative remedies function independently and are accessible to migrants.
3. Evolving vulnerabilities: Digitalisation and climate-induced migration create new forms of labour exploitation that existing legal frameworks are ill-equipped to address.

Based on these conclusions, several legal proposals are recommended:

- Mandatory incorporation of core ILO conventions into national legislation, ensuring explicit recognition of equal treatment and non-discrimination principles.
- Establishment of specialised labour courts or chambers within national judicial systems to handle migrant labour disputes efficiently and impartially.
- Strengthening of cross-border legal cooperation through bilateral and multilateral agreements that provide binding obligations for states to monitor and enforce migrant protections.
- Adaptation of EU and national frameworks to regulate digital labour platforms and extend protections to non-standard forms of employment.
- Legal guarantees for vulnerable groups, including undocumented migrants and informal-sector workers, remain excluded from many existing protections.

In conclusion, the effectiveness of migrant labour rights protection lies not in the mere existence of legal frameworks but in their enforceability and adaptability. Host countries must move from declarative commitments to binding legal obligations, backed by strong institutions and judicial oversight. Only by strengthening the normative and procedural guarantees of labour law can equal protection of migrant workers be achieved in practice.

## REFERENCES

- ANTOSHKINA, Valeriya, et al. The practice of legal interpretation by judicial authorities in Ukraine: theoretical and organizational principles. *Brazilian Journal of Law & International Relations / Relações Internacionais No Mundo*, 2023, vol. 3, no. 41, 506. Available from <https://revista.unicuritiba.edu.br/index.php/RIMA/article/view/e-6403>
- BABYCH, Anzhelika. Adaptation of the Ukrainian administrative justice system to EU requirements: Transparency, efficiency and accessibility in public law disputes. *CERIDAP*. 2024. Available from <https://ceridap.eu/adaptation-of-the-ukrainian-administrative-justice-system-to-eu-requirements-transparency-efficiency-and-accessibility-in-public-law-disputes/?lng=en>
- BAUBÖCK, Rainer and RUHS, Martin. The elusive triple win: addressing temporary labour migration dilemmas through fair representation. *Migration Studies*, 2022, vol. 10, no. 3, pp. 528–552. <https://doi.org/10.1093/migration/mnac021>
- BUSINESS & HUMAN RIGHTS NAVIGATOR. Migrant workers. 2024, May 30. Available from <https://bhr-navigator.unglobalcompact.org/issues/migrant-workers/>
- DUTCHAK, Svitlana, et al. International aspects of legal regulation of information relations in the global Internet Network. *Journal of Legal Ethical and Regulatory Issues*, 2020, vol. 23, no. 3. Available from <http://dspace.lvduvs.edu.ua/bitstream/1234567890/3645/1/%d1%88%d0%b5%d0%b2%d1%86%d1%96%d0%b2%20%d1%81%d1%82%d0%b0%d1%82%d1%82%d1%8f.pdf>
- GALAS, Marina. The selectivity of attracting foreign nationals to work in recipient countries. *SHS Web of Conferences*, 2021, vol. 125, 06003. <https://doi.org/10.1051/shsconf/202112506003>
- GLOBAL REFUGEE WORK RIGHTS REPORT 2022. 2019, March 17. Available from [https://migrant-integration.ec.europa.eu/library-document/global-refugee-work-rights-report-2022\\_en](https://migrant-integration.ec.europa.eu/library-document/global-refugee-work-rights-report-2022_en)
- HAWKES, Sarah, et al. Protecting and promoting the rights of the 'reserve army of labour': A policy analysis of structural determinants of migrant worker health in Pakistan and Qatar. *Health Policy and Planning*, 2023, vol. 38, no. 6, pp. 665–680. <https://doi.org/10.1093/heapol/czad029>
- IBM SPSS Statistics. 2024. Available from <https://www.ibm.com/products/spss-statistics>
- IHRB. Realizing rights and maximizing benefits: Improving development outcomes through the responsible recruitment of migrant workers. 2024, August 7. Available from <https://www.ihrb.org/resources/realising-rights-and-maximising-benefits-improving-development-outcomes-through-the-responsible-recruitment-of-migrant-workers>
- ILOSTAT. Statistics on safety and health at work. 2024, June 8. Available from <https://ilostat.ilo.org/topics/safety-and-health-at-work/>
- ILOSTAT. Statistics on unemployment and labor underutilization. 2024, June 8. Available from <https://ilostat.ilo.org/topics/unemployment-and-labor-underutilization/>
- IMPORTANT LEGAL DOCUMENTS RELATED TO THE PROTECTION OF MIGRANT WORKERS' RIGHTS. 2024. Appendix A. Available from [https://docs.google.com/document/d/1yMa0R\\_UVr9u1WpU6TVfLVQS52UP53KvG/edit?usp=share\\_link&ouid=106391255321826947239&rtopf=true&sd=true](https://docs.google.com/document/d/1yMa0R_UVr9u1WpU6TVfLVQS52UP53KvG/edit?usp=share_link&ouid=106391255321826947239&rtopf=true&sd=true)
- INTERNATIONAL LABOUR ORGANISATION. Migrant Workers (Supplementary Provisions) Convention, No. 143. 1975. Available from: [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312288:NO](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312288:NO)
- INTERNATIONAL LABOUR ORGANISATION. Migration for Employment Convention (Revised), No. 97. 1949. Available from: [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO::p12100\\_instrument\\_id:312242](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::p12100_instrument_id:312242)
- INTERNATIONAL LABOUR ORGANIZATION. Research Manual for assessing the implementation of Fundamental Principles and Rights at Work in the workplace. 2023. Available from [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed\\_protect/%40protrav/%40safework/documents/instructionalmaterial/wcms\\_903176.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_protect/%40protrav/%40safework/documents/instructionalmaterial/wcms_903176.pdf)
- ISHCHENKO, Yevhenii, et al. The impact of immigration law and policy on crime rates in immigrant communities in the United States. *PJLSS*, 2024, vol. 22, no. 2, 368. <https://doi.org/10.57239/PJLSS-2024-22.2.00368>
- KORTUKOVA, Tamara, et al. Peculiarities of the legal regulation of temporary protection in the European Union in the context of the aggressive war of the Russian Federation against Ukraine. *International Journal for the Semiotics of Law - Revue Internationale De Sémiotique Juridique*, 2022, vol. 36, no. 2, pp. 667–678. <https://doi.org/10.1007/s11196-022-09945-y>

- LEGAL FRAMEWORK OF EU DATA PROTECTION. 2024. Available from [https://commission.europa.eu/law/law-topic/data-protection/legal-framework-eu-data-protection\\_en](https://commission.europa.eu/law/law-topic/data-protection/legal-framework-eu-data-protection_en)
- MIGRATION AND DISCRIMINATION - WORLD CONFERENCE AGAINST RACISM. 2024. Available from <https://www.un.org/WCAR/e-kit/backgrounder0.htm>
- MINITAB. Data analysis, statistical & process improvement tools. 2024. Available from <https://www.minitab.com/en-us/>
- NAZARCHUK, Anastasiia, et al. Juridification of grant support for higher education under martial law. *Revista Interdisciplinar De Ciência Aplicada*, 2024, vol. 8, no. 13. <https://doi.org/10.18226/25253824.v8.n13.03>
- NVIVO. Leading qualitative data analysis software (QDAS) by Lumivero. 2024, August 28. Available from <https://lumivero.com/products/nvivo/>
- ONU MIGRACIÓN AMERICAS. 2024, November 20. Available from <https://lac.iom.int/en/blogs/why-does-discrimination-against-migrants-increase-during-crisis-and-how-can-its-impact-be-reduced>
- OTTER.AI. Ai meeting notes taker & real-time ai transcription. 2024. Available from <https://otter.ai/>
- PROHIBITING DISCRIMINATION AGAINST MIGRANTS IN THE WORKPLACE UCLA WORLD. 2024. Available from <https://www.worldpolicycenter.org/prohibiting-discrimination-against-migrants-in-the-workplace>
- REDA, Amir, FRASER, Nicholas and KHATTAB, Ahmed. Does social mobility matter? The Kafala system and Anti-Immigrant sentiment. *Political Studies Review*, 2023, vol. 21, no. 4, pp. 801–824. <https://doi.org/10.1177/14789299221130901>
- SATYEN, Lata and BECERRA, Anggie. Discrimination, stress, and well-being in the workplace: A comparison of Australian migrant and nonmigrant workers. *Journal of Employment Counseling*, 2022, vol. 59, no. 3, pp. 156–166. <https://doi.org/10.1002/joec.12184>
- SURVIO. Legal mechanisms for protection of migrants' labor rights in host countries. 2024. Available from <https://www.survio.com/survey/d/H6J1Z2X3S4X4M3U4M>
- SYNIAVSKYI, Petro. Post-COVID prospects for the development of the EU common migration policy. *Economic Processes Management*, 2021, vol. 8, no. 3, 4. <https://doi.org/10.46340/eppd.2021.8.3.4>
- THE RESOURCE: PART V. Persons with disabilities and multiple discrimination - Rights of special groups, 10/10. 2024. Available from <https://www.un.org/esa/socdev/enable/comp509.htm>
- URDAREVIC, Bojan. Implications of labor migration on the European labour market - Labor law aspects. *Stanovništvo*, 2023, vol. 61, no. 1, pp. 91–106. <https://doi.org/10.2298/stnv2301091u>
- WEINGERL, Petra and TRATNIK, Matjaž. Climbing the wall around EU citizenship: Has the time come to align third-country nationals with intra-EU migrants? *European Journal of International Law*, 2022. <https://doi.org/10.1093/ejil/chac008>
- WOOLRYCH, Katharine. The EU Pact on Migration and Asylum explained. 2024, March 23. Available from <https://hias.org/news/eu-pact-migration-and-asylum-explained/>

Data de submissão do artigo: 28/07/2025

Data de aprovação do artigo: 16/10/2025

Edição e propriedade:

**Universidade Portucalense Cooperativa de Ensino Superior, CRL**

Rua Dr. António Bernardino de Almeida, 541 - 4200-072 Porto

Email: [upt@upt.pt](mailto:upt@upt.pt)