The implementation process of the European Union law using the example of Polish and Irish labor laws

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Abstract

The article aims to compare the implementation process in Polish and Irish labor laws. The article discusses the concept of labor law, Europeanization and the implementation issues. It also analyzes the process of implementing European Union (EU) law into Irish and Polish labor laws. The article outlines research on the similarities and differences in the process of implementing EU labor law into the internal labor laws of Poland and Ireland. The issue is analyzed using the example of Irish, Polish and international views of legal doctrine. The article presents the views of such legal theorists as: K. Edwards, S. Robinson, C. Radaelli, L. Florek, L. Mitrus and F. von Prondzynski.

Keywords: *European labor law, internal labor laws of EU member states, law implementation process, Europeanization of law, Polish and Irish labor laws.*

JEL Classification: K31, K33

1. Introduction

The process of implementing European Union (EU) law into internal labor law is an interesting issue worth considering. Therefore, the premise of this article is to consider the process of implementing European labor law into Polish and Irish labor laws. Each of these countries has a different legal system. While Ireland belongs to the common law system, Poland uses the continental legal system. Therefore, it is interesting to show the differences, problems and elements common to the implementation process in these countries from a comparative perspective.

The article deals with the following issues: the concept of labor law, an explanation of the significance of the phenomenon of Europeanization using the example of labor law, a terminological explanation of the implementation process and a discussion of the process of the implementation of EU law into the Polish and Irish legal systems from the perspective of labor law.

The issue is analyzed using the example of Irish, Polish and international views of legal doctrine. The article presents views of eminent legal theoreticians: K. Edwards, S. Robinson, C. Radaelli, L. Florek, and F. von Prondzynski.

2. The concept of labor law

The labor law is a part of the law that covers all legal norms and formulates employment relationships and legally related social relations. According to W.

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Sanetra, labor law should be determined by indicating its subject: the unquestioned subject of labor law is the employment relationship, in relation to which employment law is sometimes mentioned. The subject of labor law also includes other relationships that are related to work, and there are wider or narrower approaches when it comes to the type and number of these relationships, as well as the scope and manner of identifying their individual types.[2]

Meanwhile, T. Liszcz defines the labor law as follows: the basic subject of labor law regulation is employment relationships, that is, social relations in which one entity, called an employee, as a result of concluding an employment contract or – with their consent – a legally equivalent act (appointment), is required (and has the right) to personally perform work for another entity, called an employer, under their supervision in return for remuneration (Article 22.1 of the Labor Code).[3]

However, B. M. Ćwiertniak believes that there are different views in the doctrine on how to define the concept of labor law and there is no single proper definition. In the Polish literature on the subject there are still large gaps in the research on the definition of labor law. This issue is very rarely the subject of scientific articles, and the concept of labor law is more often developed in teaching materials.[4]

The English-language doctrine shows a conceptual division into ‘labor law’ and ‘employment law’. This division also occurs in the Irish doctrine. In Ireland, this issue is examined by D. Inverarity and A. Dennehy, among others.

According to K. Edwards and S. Robinson of Harvard Law School: the labor law has traditionally encompassed the relationships among unions, employers, and employees. The labor laws grant employees in certain sectors the right to unionize and allow employers and employees to engage in certain workplace-related activities (for example, strikes and lockouts) in order to further their demands for changes in the employer-employee relationship. Employment law, on the other hand, is defined more broadly as the negotiated relationships between employers and employees.[5]

Trade union acts usually specify whether they are considered elements of labor law or employment law.

The problems with the correct understanding of this issue are the consequence of historical phenomena related to labor law. Earlier, the term ‘labor law’ was used to define relationships with trade unions and private employers. However, over time, labor law has been developed and issues such as minimum wages, discrimination in the workplace and safety and working conditions have been created. For this reason, the concept of employment law has been developed.

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[2] Leszek Florek, *Powszechne i szczególne prawo pracy w aspekcie jego pojmowania, dyferencjacji i systematyzacji* [Universal and Special Labor Law in the Aspects of its Comprehension, Differentiation and Systematization] (Warszawa: Wolters Kluwer, 2016 r), 37.

[3] Teresa Liszcz, *Prawo pracy* [Labor Law] (Warszawa: Wolters Kluwer, 2018), 21.

[4] Bolesław M. Ćwietniak, “Pojęcie i systematyka prawa pracy” [The Concept and Systematics of Labor Law], in *System prawa pracy* [Labor Law System], ed. Krzysztof W. Baran, Vol. I (Warszawa: Wolters Kluwer 2017), 25-27.

[5] Kyle Edwards and Sarah Robinson, *Labor and Employment Law: A Career Guide* (Cambridge, MA: President and Fellows of Harvard College, 2012), 4.

Despite this, labor law still covers the scope of the activities of trade unions and private employers.[6]

As can be seen from the analysis of the literature on the subject, the concept of labor law differs significantly not only in international doctrine, but also in the field of internal legal theory.

3. The concept of Europeanization in labor law

The concept of Europeanization is considered by many legal theorists and is connected with the process of the implementation of EU law. In a multi-disciplinary approach, Europeanization is considered a 'multi-directional and multi-level adaptive pressure exerted by the EU system on its current and potential subsystems and vice versa, as well as subsystems on one another.'[7]

According to R. Grzeszczak, the phenomenon of the Europeanization of law shows alternative possibilities that can be followed by the legal systems of member states in connection with their accession to the EU. The process of the Europeanization of law involves the direct introduction of European legal norms into the national orders of EU member states, and the implementation of directives into the internal systems, as well as standardization of national legal solutions to the common EU denominator.[8]

In the international doctrine, however, the issue of Europeanization has been described, among others, by C. Radaelli, who believes that: the Europeanization consists of processes of (a) construction, (b) diffusion and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and subnational) discourse, identities, political structures and public policies.[9]

The phenomenon of Europeanization shown in the above considerations affects many elements of EU integration. Europeanization for Europe is like globalization for the whole world.[10] However, it is worth considering how globalization affects labor law.

M. Arrignon often raises the subject of the process of Europeanization in the field of domestic employment policies. Firstly, EU countries manage their own public sectors. From the very beginning, promotion and cooperation in the social field was the basis for EU action. 'Member States agree upon the need to promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonization while the improvement is being

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[6] Michael E. Gold, *An Introduction to Labor Law* (Ithaca and London: Cornell University Press, 2014), 4.

[7] Anna Gąsior-Niemiec, "Traces of Europeanization: Poland," *Polish Sociological Review*, no. 141, (2003): 31.

[8] Ibid.

[9] Claudio Radaelli, "The domestic impact of European Union public policy: notes on concepts, methods and the challenge of empirical research," *Politique européenne*, no. 5, (2001): 107–42.

[10] Sefer Şener and Burcu K. Savrul, *Europeanization of Labour Markets in New Member and Candidate States* (Paris: Elsevier Ltd, 2011), 717.

maintained.'[11] Close cooperation was also allowed in the areas of employment, training, improvement of working conditions and pay, however, it was not specified what such cooperation would look like. Pursuant to Article 2 of the Treaty on the Functioning of the European Union (TFEU),[12] the EU aims to promote economic and social progress as well as a 'high level of employment' but the concept of a 'high level of employment' has not been precisely defined by the EU. The EU has not determined whether it relates to employment or activity rates or to unemployment in member states. Due to the intention to improve living and working conditions, a policy has been launched which has given the EU the power to examine the employment situation in EU countries and to make the results public in the annual report of the European Commission and the European Council (EC). However, recommendations are not formally binding on member states, which once a year are required to present the measures taken to implement employment policy. Whereas if member states do not comply with the recommendations addressed to them, the EC issues guidelines to the countries in accordance with the European Commission's proposals, but even these recommendations have no legal force.[13]

The EU must not exert pressure on internal employment policies in its member states but, nevertheless, significant social reform has been introduced by implementing the European Employment Strategy as part of the Europeanization of member states' labor laws. Member states must tackle unemployment and increase employment opportunities. The mechanisms used by the EU to carry out internal reforms in its member states were the cornerstone of the Europeanization process despite the fact that the recommendations and communications are not binding.

The EU action has been autonomous and effective as a result of the distinctive combination of instruments launched by the Commission. Four complementary instruments have succeeded in influencing national reforms in this sector: the Europeanization of actors, changing constraints and resources in internal political affairs, the organization of horizontal transfers, and fiscal incentives.[14]

The instruments presented have an impact on social reforms in member states.

S. Şener and B. K. Savrul have described research on the Europeanization of labor laws in former post-communist countries. Their research results show that EU structural funds allocated to candidate countries have a positive impact on market harmonization and the fight against unemployment. Despite prejudices regarding the consequences related to the labor force and the unemployment rate of new member states in the EU, negative indicators began to improve from the start of the accession process of these countries. It is therefore worth noting that accession to the EU does not totally eliminate unemployment, however, through the increase in economic activity, unemployment is significantly reduced in the

[11] Mehdi Arrignon, "Europeanisation in the Employment Sector: Effects and Instruments," *Sciences Po University Press*, No. 64(1), (2014): 29-32.
[12] Treaty on the Functioning of the European Union, OJ 2004.90.864/2.
[13] Arrignon, "Europeanisation," 29-32.
[14] Arrignon, "Europeanisation," 41-42.

new member states.[15]

To sum up, one can see how important the Europeanization process is for the internal laws of member states. However, Europeanization does not only affect EU member states. It applies to all countries and entities that want to cooperate with the EU. As the above considerations show, the process of Europeanization has had a positive impact on the development of the labor laws in new and old EU member states.

4. The issue of the implementation process

Pursuant to Article 4 of the European Union Treaty, member states are required to implement EU law into their internal laws. The Article requires EU countries to cooperate in achieving the goals set by the EU as well as to ensure the effectiveness of EU law. The implementation obligation itself results from Article 288.3 of TFEU. The final implementation requirement is made in each directive that imposes an obligation on member states to implement EU provisions in their internal laws.[16]

It is worth starting terminological considerations with the terms used in the doctrine. The following terms are commonly used: 'implementation', 'transposition', 'ensuring effect', 'adaptation' and 'execution'. These terms also appear in Irish and Polish literature on the subject.

The word 'implementation' is derived from the English language and is associated with EU membership.[17] Language studies show that not all EU countries have adopted a literal translation of this concept but the word 'implementation' is used in both countries under study. It is worth noting that the word 'implementation' has not only a legal nature, it is not clearly translated and is often replaced by the concept of transposition in the legal literature on the subject.[18]

There are several definitions of the phenomenon of implementation in the literature. According to M. Domańska: implementation is the term most often used to describe the process of implementing the provisions of EU directives into the national orders of member states. In Poland, the term is a copy of the English word 'implementation', which is translated in the legal language as 'execution, application or enactment'.[19]

S. Prechal believes that it is permissible to use the concept of implementation to describe transposition activities. However, the concept of transposition cannot be used for the purpose of determining the entire

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[15] Şener and Savrul, "Europeanization," 719-725.

[16] Ewa Galewska, *Implementacja dyrektyw telekomunikacyjnych* [Implementation of Telecommunications Directives] (Warszawa: Wolters Kluwer, 2007), 58.

[17] Janina Jaślan and Henryk Jaślan, *Słownik terminologii prawniczej i ekonomicznej* angielsko-polski [English-Polish Dictionary of Legal and Economic Terms] (Warszawa: Wiedza Powszechna 2009), 318.

[18] Jędrzej Maśnicki, "Koncepcje implementacji prawa pochodnego" [The Concepts of Implementing Secondary Law], *Studia Europejskie*, no. 4, (2012): 101-107.

[19] Monika Domańska. *Implementacja dyrektyw unijnych przez sądy krajowe* [Implementation of EU Directives by National Courts] (Warszawa: Wolters Kluwer, 2014), 15-17.

implementation process.[20]

The implementation process depends on the principles of assimilation and efficiency. In the case of the assimilation principle, it is important for EU countries to take sufficient measures to ensure that claims and acts based on EU law are protected in the same way as acts and claims based on national laws. This rule applies in particular to EU regulations. The efficiency principle, on the other hand, states that member states should take appropriate action to ensure that EU law is applied effectively and with a rigor equivalent to the effectiveness of national laws.

It is worth noting that EU directives have no equivalent in national laws and are binding on member states as to the goal to be achieved, but do not impose any implementation form. The assumed process of implementation of EU directives is not limited to their mere adoption, but also refers to the application and enforcement of adopted legal norms.[21]

Analyzing the implementation activity of EU countries in the field of European legislation, some recurring regularities can be observed despite the historical, political and systemic differences between member states. In a significant number of cases, the actions taken by individual bodies and authorities of EU countries at the preparatory stage of implementing EU law do not differ between directives and other secondary legislation. In a significant number of EU countries, the process of preparing directives for implementation begins in EU bodies, when reports on the benefits and potential problems of 'integrating' directives with current internal regulations are prepared in EU countries. The preparatory stage does not usually refer to the question of which state bodies are to issue provisions for implementing directives, since it is directly related to the choice of specific provisions and depends on constitutional conditions, although the choice of a complementary norm can already be made at this stage. Moreover, a significant number of EU member states create special units to generally coordinate activities in the field of EU law, which play a key role in harmonizing activities in the process of adopting and implementing directives. The division of competences between particular bodies depends on the constitutional and political conditions of a given country. However, two implementation models can be distinguished: the French and Italian model, which is characterized by a high degree of centralization and weak parliamentary control, and the British and Danish model, which has strong parliamentary control and no special coordination center for European affairs.[22]

In the Irish literature on the subject, there are opinions that reducing the gap between standards and practice, and thus preventing the legislative and democratic deficit during the implementation of EU law, can occur in the Italian and French model. In this model, legislative and executive powers are transferred

[20] Sacha Prechal, *Directives in EC Law* (Oxford: Oxford European Union Law Library, 2005), 6.

[21] Irena Boruta, "Źródła prawa pracy w Polsce po przystąpieniu do Unii Europejskiej" [Sources of Labor Law in Poland after Accession to the European Union], *Kwartalnik Prawa Publicznego*, no. 4(2), (2004): 142.

[22] Jonathan. Tomkin, "Implementing Community legislation into national law: the demands of a new legal order", *Judicial Studies Institute Journal,* no. 4(2) (2004): 150-151.

to the Houses of the Oireachtas so that directives of a legislative nature can be implemented, which at this time can only be implemented based on an act. However, the extension of the powers of the Houses of the Oireachtas would necessitate increased supervision. This type of implementation model allows the executive power to implement any type of directive, but such action would be effectively controlled by the legislator. The resulting provisions would have the status of primary law. However, much of the Irish doctrine is against this model, as it may lead to excessive erosion of the separation of powers. According to A. Whelan and J. Tomkin, the best solution would be to create a new model aimed at enabling the legislator to implement EU directives much faster and which would free the legislator from the obligation to rely on the executive power to implement the directives in a timely manner.[23]

However, as Irish law is historically derived from British law, Ireland uses the British type of implementation model. In this model, acts of parliament play a key role in the implementation of EU law.[24] As can be seen from the methods presented above, EU countries try to meet the challenge of the implementation process by delegating the powers of the legislative power to the executive power within strictly defined limits. In Ireland, the executive power has not received many legislative powers. As highlighted by the Supreme Court in Ireland, it is important to maintain a clear distinction between the role of the executive and legislative powers in order to ensure that separation of powers.[25] However, in Polish law, some elements of the executive power have been transferred to the legislative power. In both analyzed countries, the role of the executive power has slightly increased as it is related to the general tendency to implement EU law into national laws.[26]

Finishing the discussion on the implementation process in Poland and Ireland, it should be noted that both countries are overwhelmed by the excess of EU legislation that must be implemented into their internal laws within a specific period. This obligation may adversely affect democracy in both countries. It is therefore so important to adopt the correct implementation model for a given legal system.

5. The process of implementing EU law into Irish labor law

Ireland acceded to the then European Community in 1973, that is, 31 years earlier than Poland. The Irish legal system originates from the British one and still contains the framework of employment relationships inherited from Great Britain. This differs in many respects from what is called the model of continental Europe,

[23] Tomkin, "Implementing," 150-151.
[24] Ibid., 147.
[25] Ibid, 149-153.
[26] Ryszard Mojak and Artur Trubalski, *Rola ustrojowa i zadania Senatu w procesie integracji RP z Unią Europejską* [The Political Role and Tasks of the Senate in the Process of Poland's Integration with the European Union] in *Księga Jubileuszowa dedykowana prof. Andrzejowi Pułło* [A Jubilee Book Dedicated to Professor Andrzej Pułło], ed. Andrzej Szmyt, Vol. XXI (Gdańsk: Gdańskie Studia Prawnicze, 2014), 592-600.

also applied in Poland. The British legal system, whose elements are still visible in Irish law, is divided for two reasons. Firstly, the shape of industrial relations was partially developed during the reign of Great Britain in 1922. Secondly, despite gaining independence, British trends in many economic and social fields were still followed in Ireland. Moreover, many trade unions based in Great Britain are registered in Ireland, which results in practices and traditions from that country. The analysis should begin with a brief presentation of the most important historical factors related to Irish labor law, which was still dependent on British influence in the 1990s.

In the 1980s, gradual action was taken that led to reforms in Irish labor law. Prior to this period, Irish labor law had been considerably limited and had had no impact on all employment sectors. The rising level of unemployment in the 1970s reduced the number of members in trade unions. Governments at that time were not in favor of trade unions and employers took advantage of the weakening unions to push through changes in labor law.[27]

During that period, more and more companies with completely different personnel practices and industrial relations began to establish their headquarters in Ireland. These were mostly Japanese, American and German companies. These companies had different views on employment conditions. For example, they introduced flexible working hours.

The European Single Market was the last element that influenced the revolution in labor law. In the 1990s, most of the then member states supported the intention to move toward a single EU market. The new social, economic and industrial solutions led to the introduction of changes in European labor law.[28]

The implementation process in Ireland included several stages. Firstly, no project was developed to be implemented into internal law, but there were some issues in which EU membership imposed certain obligations. At the beginning, regulations concerning sex discrimination were changed. A number of directives were issued at that time. Directive 75/117[29] obliged member states to provide the same pay for equal work of equal value. At that time, the directive was implemented into Irish law through the Anti-Discrimination (Pay) Act of 1974.[30] The new legal act proved to be highly effective in terms of equal pay, defined equal value from the outset and set out realistic implementation procedures. Directive 76/207[31] obliged member states to ensure non-discrimination of women and men regarding access to employment, vocational training, promotion and working conditions. Ireland implemented this directive through the Employment Equality

[27] Ferdinand von Prondzynski, "Irish Labour Law and the European Community," Comparative *Labor Law Journal*, no. 11(4), (1990): 498-503.

[28] Ibid, 498-503.

[29] Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the member states relating to the application of the principle of equal pay for men and women, repealed, OJ L 45, 19.2.1975.

[30] Anti-Discrimination (Pay) Act, 1974, Number 15 of 1974.

[31] Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, repealed, OJ L 39, 14.2.1976.

Act 1977.[32] This legal act defined the scope and significance of indirect discrimination. New solutions regarding social security were also introduced.

The *Telecom Éireann* case[33] is worth quoting here as it concerned equal employment for women and men. An Irish court recognized that in this case the right to equal pay for men and women for work of equal value did not apply if a woman performed work of a higher value than a comparable man because then there was no equal value and so the employer could lawfully pay a lower wage to a woman who performed work of a higher value, but not to a woman who performed work of an equal value. This kind of logic would not be acceptable to lawyers from continental Europe because the social principle of remuneration does not require such detail in these countries. In this kind of situation, it would be considered important that the woman performed work of an equal value. The case was referred to the Court of Justice of the European Union (CJEU), which stated that, similarly to continental countries, the woman had the right to equal pay if her work was at least equal in value to a similar man's work.

Collective redundancies are another area of labor law that has undergone radical reform. The Directive 75/129[34] on the approximation of the laws of the member states relating to collective dismissals and the Directive 77/187[35] on the protection of employees in the event of the transfer of employment were introduced. Both legal acts are no longer in force. The implementing measures adopted by Ireland were not sufficiently effective. The Directive 75/129[36] was implemented into internal labor law through the Protection of Employment Act, No. 7[37] (1977). The Directive 77/187 was implemented through the European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) Regulations (1980).[38] In his article, F. von Prondzynski points out that the history of creating legal acts in a common law system is significantly different from that in a constitutional system. Therefore, Irish legal practitioners, especially at the initial stage of implementing European law, exhibited a reluctance to apply the EU legislative style. Such measures are not enforced by collective organizations or individual entities, but by a labor inspector. In retrospect, however, this technique of the Irish government proved to be insufficient.[39]

Analyzing the history of the process of implementing EU law into Ireland's internal law from the perspective of labor law, it is worth noting that it was decided to focus on the social dimension within the European Single Market. The European

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[32] Employment Equality Act, 1977, Number 16 of 1977.

[33] Judgment of the Court of 4 February 1988, Telecom Éireann, C-157/86, EU:C:1988:62.

[34] Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies, OJ L 48, 22.2.1975.

[35] Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses, OJ L 61, 5.3.1977.

[36] Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies, OJ L 48, 22.2.1975.

[37] Protection of Employment Act, 1977, Number 7 of 1977.

[38] S.I. No. 306/1980 – European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) Regulations, 1980.

[39] Von Prondzynski, "Irish Labour Law," 504-505.

Social Charter (ESC) was the basic assumption of the social dimension.[40] After numerous attempts, its content was finally adopted on 9 December 1989 by the EC. The ESC should be considered on an equal footing with the action program for the implementation of the Social Charter, which was announced by the European Commission on 29 November 1989. The ESC has had a significant impact on labor law in Ireland, primarily on the consultation and participation, information, remuneration, health and safety and protection of employees. The ESC led to internal discussions on working and employment conditions in Ireland.

In his publication, F. von Prondzynski shows the consequences of the implementation process through excessive codification of law. On the other hand, in his article published in 1974, John O'Connor claims that the implementation of EU legislation could initiate the codification process in Ireland, which would be a sign of modern Irish law. The new Irish law including labor law is associated with accession to EU membership.[41] 'Codification would seem to be the only satisfactory remedy for the present unwieldly bulk of Irish law and it has already been used in a limited form to improve the position in some areas.'[42]

When making an internal analysis, it is worth looking at later Irish legal doctrine. The legal acts that followed the implementation of EU labor law to Irish labor law include: Maternity Protection Act of 1994,[43] the Organisation of Working Time Act of 1997,[44] the Employment Equality Act of 1998,[45] the Paternal Leave Act of 1998[46] and the Carer's Leave Act of 2001.[47] According to A. Fay, the reforms introduced by the directives guaranteed basic protection of employees.[48]

Moreover, provisions that guaranteed protection of temporary and part-time employees were implemented in later years. In this regard, Europeanization played a key role in transforming Irish labor law. In the 1990s, part-time and fixed-term employees had minimal legal protection, and women constituted a large proportion of this type of employees.[49]

The need to introduce European assumptions into the internal system is the consequence of enforcing harmonization of working conditions in all member states and preventing individual EU countries from gaining a competitive commercial advantage.[50]

It follows from the above considerations that Ireland has correctly implemented the EU guidelines in some areas, while in others the measures used could technically mean implementation, but had insufficient results. In the 1970s

[40] European Social Charter of 18 October 1961, Journal of Laws 1999.8.67.
[41] J. O'Connor, "The Law Reform Commission and The Codification of Irish Law," *Irish Jurist*, no. 9(1) (1974): 27 and 41.
[42] O'Connor, "The Law Reform Commission," 27 and 41.
[43] Maternity Protection Act, 1994, Number 34 of 1994.
[44] Organisation of Working Time Act, 1997, Number 20 of 1997.
[45] Employment Equality Act, 1998, Number 21 of 1998.
[46] Parental Leave Act, 1998, Number 30 of 1998.
[47] Carer's Leave Act, 2001, Number 19 of 2001.
[48] A. Fay, "An overview of the European Union influence on employees' rights and industrial relations within Ireland," *Irish Law Times*, no. 18, (2004): 285-286.
[49] von Prondzynski, "Irish Labour Law," 509.
[50] Fay, "An overview," 286.

and 1980s, no general changes were made or considered in the Irish legal system except for the specific areas where action was required.[51]

EU guidelines on European labor law have been a challenge for Ireland because of its social and economic history. The development of European labor law over so many years has extended the social dimension to include increased employee protection in Irish internal labor law.[52]

6. Implementation of the EU law into Polish labor law

The result of Europeanization is the impact of EU regulations on Polish labor law. The largest amount of implementation work was done in the pre-accession period. The problem that has appeared over time is the correct application of existing and implemented legal regulations.[53]

As regards the implementation process of European labor law into Polish labor law, L. Mitrus points to certain dependencies and standards. Firstly, the process of implementing EU law resulted in repeated amendments to the Labor Code, which resulted in multiple numbering. Moreover, the existing structure of Polish labor law was used in the implementation process. The Labor Code still regulates the same subject matter. However, what was not regulated by the Labor Code,[54] for example collective dismissals, still remains outside the scope of its regulation.

Secondly, the implementation process has resulted in the excessive development of labor law. According to W. Muszalski, EU regulations are usually casuistic in relation to the common law system and Polish laws are synthetic. Moreover, the CJEU judgments specify labor law standards that should be implemented into the internal system. The implementation structure presented above is not conducive to the proper implementation of EU law into internal labor law.[55]

When analyzing international literature on the subject, one relationship can be observed. A large number of publications begin with considerations of the changes introduced in relation to gender equality in the workplace. This resulted from the fact that a significant number of member states had to introduce breakthrough solutions in their own legal systems under the influence of Europeanization. Gender equality was the subject of many legal acts. These included the following regulations: the Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions; the Directive 75/117/EEC on the approximation of the laws of the member states relating to the application of the principle of equal pay for men and women; the

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[51] von Prondzynski, "Irish Labour Law," 504.

[52] von Prondzynski, "Irish Labour Law," 505-510.

[53] Walerian Sanetra, "Kodeks pracy a prawo Unii europejskiej," [The Labor Code and European Union Law], *Studia iuridica Lublinensi*, no. 24(3), (2015): 90.

[54] Labor Code of 26 June 1974, Journal of Laws 2019.1040.

[55] Wojciech Muszalski, "Jawne wady ustawodawstwa pracy," [Explicit Defects in Labor Legislation] *Praca i zabezpieczenia społeczne*, no. 2 (2005): 9.

Directive 86/378/EEC[56] on the implementation of the principle of equal treatment for men and women in occupational social security schemes; and the Directive 97/80/EC[57] on the burden of proof in cases of discrimination based on sex. The above legal acts have been replaced by the Directive 2006/54/EC[58] on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. The prohibition of discrimination on other grounds is regulated by the Directive 2000/43/EC[59] implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and the Directive 2000/78/EC[60] establishing a general framework for equal treatment in employment and occupation.

All the aforementioned legal acts have been implemented into Polish internal law through the Labor Code. The implementation has led to the creation of a new chapter in Part One of the Labor Code. The Labor Code ensures equal treatment of employees and protection against discrimination in terms of employment conditions and working hours, for reasons specified in Articles 1 and 18^{3a} The Constitution and Labor Code also provided protection against discrimination, as did EU law. As L. Florek notes, the principle of equal treatment in Polish internal law is discussed in more detail than other principles. Therefore, the principle of non-discrimination may seem to be more important than working time, remuneration, and health and safety regulations.[61]

Another issue related to the implementation of regulations concerns temporary work. This issue was implemented through the Labor Code. However, these regulations were repealed by the Act of 9 July 2003 on the employment of temporary workers.[62] During the establishment of these acts, this issue was only partially regulated by the Directive 91/383/EC.[63]

Temporary work is another issue raised by the Polish doctrine. This issue has been regulated by the Directive 99/70/EC[64] regarding the framework agreement on fixed-term work concluded by the Union of Industrial and Employers' Confederations of Europe (UNICE), the European Centre of Employers and

[56] Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes.

[57] Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex, OJ L 14, 20.1.1998.

[58] Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, OJ L 204, 26.7.2006.

[59] Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L 180, 19.7.2000.

[60] Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303, 02.12.2000.

[61] Leszek Florek, "Problems of the Implementation of EU Labour Law in Poland," *Annales Universitatis Apulensis Series Jurisprudentia*, no. 16(1), (2013): 66-68.

[62] Sanetra, "Kodeks pracy," 94.

[63] Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed- duration employment relationship or a temporary employment relationship, OJ L 206, 29.7.1991.

[64] Council Directive 99/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, OJ L 175, 10.7.1999.

Enterprises (CEEP) and the European Trade Union Confederation (ETUC). This directive has been implemented through the Labor Code. In connection with the implementation of this regulation, employment contracts may be concluded in a variety of ways, that is, for a definite period of time, for an indefinite period of time or for a definite period necessary to perform a specific task. According to W. Sanetra, 'it should be stated that the implementation of relevant EU directives through the Labor Code is appropriate, but the interpretation of the relevant provisions of this legal act is incorrect as it omits Art. 18^{3b}.'[65]

In terms of content, adapting Polish labor law to EU requirements has resulted in the introduction of many modern legal solutions. The implementation process has made internal labor law more flexible.[66] Employee protection standards have been raised, for example, in the area of women's protection and occupational health and safety regulations.[67] Such substantive changes in Polish labor law have increased standards characterized by social progress.

A negative effect of the implementation process is the loss of technical and legislative values by the Labor Code, as well as its disrupted structure and degree of formal coherence. The praxeological and axiological aspects of the code have been impaired.[68]

Of course, labor law, under the influence of EU law, has undergone many substantive and technical changes. However, it still remains a field of labor law in which primarily internal law has an impact. Therefore, it can be undeniably stated that labor law has remained a legal field that shows the excessive dynamics and interactions between internal laws and European labor law.

7. Conclusions

Several conclusions can be drawn from the considerations on the process of implementing labor law into internal laws in Poland and Ireland.

Firstly, the concept of labor law differs in both international and domestic literature on the subject. Discrepancies in the understanding of the concept of labor law among EU member states may affect the reasoning associated with the implementation process, which in turn may affect the uniformity of the market in the field of European labor law. Therefore, comparative research regarding the scope of labor law in member states is very important.

Secondly, the notions of Europeanization and implementation affect one another. Implementation often results from the process of Europeanizing labor law. The desire to introduce similar standards in EU countries requires member states to take necessary measures to properly implement EU legislation.

The implementation process itself is an interesting issue that shows differences in these countries. As shown above, despite widespread tendencies, Ireland has not transferred some powers of the executive power to the legislative

[65] Sanetra, "Kodeks pracy," 92.
[66] Florek, "Problems of the Implementation," 73–74.
[67] Sanetra, "Kodeks pracy," 87.
[68] Ibid, 87.

power. Quite the contrary, Poland has transferred some elements of the executive power to the legislative authority. However, it is important to choose the right implementation model in the implementation process because only in this way can the correctness of the implementation process be ensured.

In conclusion, as can be seen from the presented considerations of the doctrine and the analysis of legal acts in both countries discussed, the implementation process has primarily enriched the internal labor laws of Poland and Ireland with new and improved issues. The doctrine of each state claims that, above all, protection of both full-time and part-time employees has increased.

However, it should be noted that EU law is a combination of the continental and common law systems. Therefore, both countries' concerns about casuistry and codification of internal labor laws were justified. Above all, Poland was afraid of excessive casuistry, which was related to the implementation process and the need to respect the judgments of the CJEU. However, looking back from the perspective of years, Polish labor law coped well with this challenge and there was no excessive casuistry of Polish labor law. Nor have Irish lawyers' fears come true. Ireland needs to implement directives into internal law, but this has not led to the loss of common law and excessive codification of internal labor law in Ireland.

To sum up, the internal labor laws of both countries have evolved over the years. First of all, the initial fears that the implementation of EU law would lead to the disappearance of the internal labor laws of the member states have not come true. The implementation process has enriched internal laws, thus ensuring competitiveness in the labor market of EU member states.

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