

## The impact of the relocation of enterprises in Ukraine and abroad on the realization of socio-economic, cultural and labour rights

### Olha Barabash\*

Doctor of Law, Professor  
Lviv State University of Internal Affairs  
79000, 26 Horodotska Str., Lviv, Ukraine  
<https://orcid.org/0000-0003-2666-9696>

### Marta Samchenko

PhD in Law, Associate Professor  
Lviv State University of Internal Affairs  
79000, 26 Horodotska Str., Lviv, Ukraine  
<https://orcid.org/0009-0009-9797-9190>

### Kateryna Dobkina

Doctor of Law, Professor  
State University of Infrastructure and Technologies  
04071, 9 Kyrylivska St., Kyiv, Ukraine  
<https://orcid.org/0000-0003-2627-8871>

### Olha Rozghon

PhD in Law, Associate Professor  
Scientific and Research Institute of Providing Legal Framework for the Innovative Development of National Academy of Legal Sciences of Ukraine  
61002, 80 Chernyshevska Str., Kharkiv, Ukraine  
<https://orcid.org/0000-0001-6739-3927>

### Vitalina Ozel

PhD in Law, Associate Professor  
State University of Infrastructure and Technologies  
04071, 9 Kyrylivska Street, Kyiv, Ukraine  
<https://orcid.org/0000-0002-4655-2869>

**Abstract.** The relevance of the article is determined by the fact that the consequences of the relocation of the company (enterprise) in Ukraine affect the realization of human rights and the activity of the enterprise as a whole. The purpose of the article is to study the current state of legal regulation of enterprise relocation, human rights (employee, family members, etc.). One of the main methodological techniques of research is a comparative approach. The legislation of different countries of the world, which regulates the issue of company relocation, is analysed in a comparative legal direction. The relationship between the norms of international law and the legislation of Ukraine regarding the implementation of international principles of human rights, enshrined in international legal acts, into the legal system of Ukraine, in particular regarding the relocation of the enterprise, was revealed. The practice was studied and the consequences of the relocation of the enterprise were revealed. The advantages and disadvantages of enterprise relocation are considered. Special attention is paid to the psychological consequences of the relocation of enterprises in Ukraine and abroad. The peculiarities of the impact of the relocation of enterprises on socio-economic, labour, and cultural aspects have been determined. It is noted that the value idea of “preserving their rights” is the foundation of the observance of human rights. It is emphasized that the implementation of outlined human rights must be considered in

### Suggested Citation

**Article's History:** Received: 01.09.2023 Revised: 01.12.2023 Accepted: 23.12.2023

Barabash, O., Samchenko, M., Dobkina, K., Rozghon, O., & Ozel, V. (2023). The impact of the relocation of enterprises in Ukraine and abroad on the realization of socio-economic, cultural and labour rights. *Social & Legal Studios*, 6(4), 28-37. doi: 10.32518/sals4.2023.28.

### \*Corresponding author



the process of strategic relocation planning. The practical significance of the study is that the conclusions and proposals formulated in the scientific article will contribute to the improvement of the mechanism of human rights protection due to the consequences of the relocation of the enterprise, the need to consider the needs of vulnerable segments of the population – employees of pre-retirement age, disabled people, children of employees. The generalization of the results of the work is designed to improve Ukrainian legislation in the field of human rights, as well as to implement into Ukrainian practice foreign norms and standards for the protection of human rights, such as socio-economic, cultural, and labour rights

**Keywords:** relocation; enterprise; company; human rights; Ukraine; EU; responsible business behaviour; business; incentives in law

## Introduction

With the growing importance of the international role of business in economic development, the issue of business's impact on society is becoming increasingly important. This has led to companies demanding responsible business behaviour from themselves. Responsible Business Conduct (RBC) expects all companies (businesses), regardless of their legal status, size, ownership, or sector, to avoid and address the negative impacts of their activities while contributing to sustainable development in the countries where they operate (Responsible Business Conduct..., n.d.).

Businesses can create jobs and livelihoods, provide products and services, support community development, and generate tax revenues for governments to invest in people's well-being (World Benchmarking Alliance, 2023). States are the primary bearers of human rights obligations. However, businesses have a responsibility to ensure respect for human rights in their operations, for example, in the context of business relocation. Accordingly, it is critical to study the consequences of enterprise relocation and their impact on the realization of human rights, considering the socio-economic and cultural rights that most affect the employee in the process of enterprise relocation.

The scientific literature (Lopatta *et al.*, 2023) analyses the current state and determinants of corporate human rights disclosure among the 500 largest business enterprises worldwide. Multivariate analysis shows that corporate visibility, sector sensitivity in terms of higher risk of litigation, and institutional pressure in the form of soft law are positively related to corporate human rights disclosure.

N. Kovalenko *et al.* (2022) theoretically substantiated and systematized the economic and legal aspects of relocation and doing business in the context of war in Ukraine. The works of I. Zapuhliak and O. Krasniak (2022), who studied in detail the features of each type of relocation, in particular the relocation of a person – community – employee – enterprise, outlined the benefits of relocation for both employees and enterprises, and provided problems and measures to facilitate the adaptation of employees in the process of relocation. I. Khymych *et al.* (2019) focused on relocation processes in relation to employees, identified certain factors that contribute to the support of relocation processes. V. Panchak and S. Hrabyskyi (2021) provide their thoughts on possible algorithms for responding to changes in the level of threats and critical risks to business operations, as well as consider the main algorithms for preparing a company for hibernation, relocation, and evacuation.

Foreign researchers have also been interested in relocation issues, in particular K. Tsubouchi *et al.* (2021) identified the prospects and limitations of community-based relocation planning, which requires a more profound understanding of its limitations to develop more practical discussions about

its potential. C. Lyu *et al.* (2022) investigated the mediating effect of cross-border knowledge seeking on the relationship between social capital and firm innovation performance, the consistent mediating effect of cross-border knowledge seeking and absorptive capacity between social capital and innovation performance. L. Korobka *et al.* (2019) in their monograph highlighted the results of a study of psychological strategies for community adaptation to the conditions and consequences of military conflict in various spheres of life, the content of which is determined on the basis of models of public health promotion and value understanding. M. Bahl *et al.* (2021) offered their vision of the trade-offs associated with the relationship between internationalization and innovation as two important factors in business growth and the efficiency of entrepreneurial firms.

However, given the topic of enterprise relocation and the need to stimulate competitiveness, it is worth noting the insufficient coverage of the analysis of the impact of enterprise relocation on socio-economic and cultural human rights. The purpose of the article is to study enterprise relocation in Ukraine and in foreign countries through the prism of protection of socio-economic and cultural human rights.

The main tasks of the study include: researching the approaches to understanding human rights in the context of enterprise relocation that have developed in the world practice; analysing the prerequisites for enterprise relocation; studying the consequences of enterprise relocation in Ukraine and in foreign countries, as well as their impact on the realization of socio-economic and cultural human rights. Most of the existing studies are conceptual in nature, and each of the scholars in their research uses their approaches to the problems of enterprise relocation and the consequences of its impact on the realization of human rights.

In carrying out scientific research, the author used a set of general scientific and special research methods. Based on the analysis of several publications relating to the peculiarities of enterprises as legal entities, the article uses the methods of analysis and synthesis to reveal the advantages and disadvantages of the process of their relocation and the prospects for the effective development of the economy of Ukraine and other countries.

The use of classification methods has become the basis for generalizing the current legislation of Ukraine and the legislation of foreign countries, considering the practice of legal regulation in the field of human rights protection. The methods of analysis and synthesis used in the study made it possible to critically assess the provisions of legal acts from the standpoint of human rights regulation and the status of enterprises (firm, company, corporation). The method of comparative legal analysis used helped to identify the main indicators by which it is advisable to continue the transformation

of regulation of an enterprise's activities when it is relocated in accordance with the standards established in the EU, including those relating to human rights regulation. At the same time, this method made it possible to distinguish between scientific approaches to the relocation of enterprises in certain foreign countries.

### **Organizational and economic aspects of the relocation of the enterprise in terms of ensuring socio-economic and cultural human rights**

In the area of responsible business behaviour, international documents have been developed that address business activities, for example: the 1976 Guidelines of the Organization for Economic Co-operation and Development for Multinational Enterprises operating in the countries that have joined the organization, calling on enterprises to voluntarily engage in expected responsible business behaviour (OECD, 2023); issued in 1977. The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy of the International Labour Organization, which is a direct guide for enterprises on social policy and inclusive, responsible, and sustainable practices in the workplace (ILO, 2022).

However, this extension of the international human rights regime to companies has not changed the state-centred nature of the regime. The analysis focuses on three recent United Nations initiatives: (1) the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises regarding Human Rights, (2) the Global Compact, and (3) the work of the UN special representative on business and human rights (Inter-Ministerial Committee for Japan's National Action Plan on Business and Human Rights, 2020). Despite these initiatives, states are the primary duty-bearers for human rights obligations and play a key role in decision-making and enforcement. As the impact of business on human rights has become recognized as part of its impact on society, attention to human rights in business operations has increased. The UN Global Compact called on businesses to respect ten universal principles in four areas, of which two areas (covering six principles) include human rights and labour (The Ten Principles..., n.d.). Every organization conducts business as a legal entity because its activities require legal personality to exercise certain rights and fulfil certain obligations. If a business is considered as an enterprise or a firm, it is an organization that is involved in the trade of goods or services to consumers.

Relocation processes in business are not uncommon. This phenomenon is widespread in the modern business environment. After all, well-organized business relocation by Ukrainian companies allows solving several problems with parallel imports, simplifying logistics schemes, as the opening of offices, representative offices, and recently production facilities contributes to the expansion of business in Ukraine and abroad. At the same time, large companies also carry out relocation actions in relation to employees hired for managerial positions (Khymych *et al.*, 2019). However, the process of planning, organizing, and implementing a relocation programme is much more complicated when it is implemented in international companies. Considering this, it is important to organize international relocation in a rational way to prevent high costs and to obtain the most favourable result of the staff relocation.

The most important reasons for relocating an enterprise are: reorganization, rationalization of products/services,

and other alternative aspects (factors) that lead to relocation, which have both internal and external aspects. Internal aspects are, for example, the expansion of a new range of services, the expansion of space for new equipment or the introduction of efficient shift work. External aspects that can lead to relocation are technological changes, new government restrictions and regulations that vary from industry to industry in a dynamic business world.

Considering the relocation of a company (enterprise) in the study, it is worth concluding that it is a certain shock for the enterprise. Relocation is a format of the level of external threat to business, which activates the processes of moving offices and/or activities from a dangerous area to a safer place, usually on a temporary basis and within the same country (Panchak & Hrabyski, 2021). The opinion of researchers who emphasize that relocation is always a manifestation of a company's response to external and internal challenges related to the success of its business is to be supported (Temel & Forsman, 2022).

Business relocation can be carried out without assessing various capitals, operational expenses, and business plans of the company. Reasons for the relocation of such companies may include government restrictions on development, business growth, labour shortages, etc. Other reasons could be a decline in GDP, worsening macroeconomic imbalances, destabilization of the banking system due to defaults of business entities and individuals – borrowers who are left unemployed, increased unemployment, and a rise in debtor and creditor indebtedness (Heiko, 2020). Thus, to ensure the continued operation of enterprises, if necessary, from areas where hostilities are taking place and/or there is a threat of hostilities, businesses (production capacities of economic entities) can relocate to a safe territory within Ukraine. Therefore, the situation is evident where, upon successful relocation of a business, it can become competitive again.

The actions of businesses can impact the realization of human rights both positively and negatively. Experience shows that businesses can violate human rights where they do not pay sufficient attention to this risk. Businesses can violate the rights of workers, clients, consumers of products or services, directly or indirectly affecting the entire spectrum of human rights.

Human rights are part of an individual's everyday life, encountered in one form or another at every step, regardless of whether it involves their recognition and guarantee, means of ensuring their realization, or violation, as well as actions related to such violations. Human rights are a legal institution, meaning that without regulation by law, they would not exist. Although this regulation and related mechanisms exist at the domestic level (in the legal systems of states), the focus of research is mainly on human rights as part of international law. Contemporary human rights encompass the entire range of internationally recognized rights, including civil and political, economic, social, and cultural rights. These include workers' rights, the right to privacy, equality and non-discrimination, freedom of expression, and the right to health. Other rights mentioned in the Charter of Fundamental Rights of the EU relate to consumers and the environment (European Union Agency for Fundamental Rights, 2019).

The UN Framework "Protect, Respect and Remedy" (Ruggie, 2008) classifies the relationship between businesses and human rights into three main principles: (1) the state's

duty to protect against human rights violations by third parties, including businesses; (2) corporate responsibility to respect human rights; and (3) access to remedies. Although the UN Framework clarifies the state's duty and corporate responsibility related to the impact of business activities on human rights, it also emphasizes the need for mechanisms ensuring access to effective remedies, listing specific areas and cases where relevant entities must fulfil their duties or be held accountable.

In 2011, ministers of OECD countries adopted updated Guidelines for Multinational Enterprises, including recommendations on human rights based on the UN Framework and Guiding Principles. The UN Human Rights Office has a mandate to manage business and human rights in the UN system, providing guidance on the implementation of the UN Guiding Principles on Business and Human Rights and updates on countries and human rights issues (OHCHR and business and human rights, n.d.).

Human rights are one of the fundamental principles of justice and equality in society. They define the basic freedoms that should be guaranteed to every individual without discrimination (Veprytskyi, 2008). Human rights are considered inalienable and fundamental, widely recognized as universal values that exist to ensure human dignity and meet basic human needs. They are characterized as universal and non-negotiable (everyone is entitled to them); indivisible (all human rights have equal status and cannot be ranked); and interdependent and interconnected (the realization of one right often depends on the realization of others) (Human Rights-Based Approaches Portal, n.d.). From the perspective of the modern development of society, human rights are inseparable from the economic foundation. Each state's budget includes special funds to meet people's needs, including the provision of guaranteed rights – the right to elections, education, culture, etc. The catalogue of human rights also includes special economic rights, such as the right to work, the right to earnings, and other rights within labour relations, the declaration of an adequate standard of living, the declaration of social security, etc. The importance of these rights is unquestionable. When there is an immediate threat to human existence, other rights, such as the right to privacy, minority rights, etc., take a back seat (van der Ploeg & Vanclay, 2017).

It is worth agreeing with Yu. Razmetaeva (2006) that human rights can be considered from a general, group, and individual perspective. Some rights belong to “all” (their holder is humanity), while others belong only to particularly vulnerable groups and their members. Additionally, compliance with fundamental human rights is considered an undeniable ethical imperative. Thus, only by considering all aspects of the legal dimension of human rights, along with other relevant factors, is it possible to understand the modern concept of human rights, its essence, advantages, disadvantages, and expected directions of development.

Social and economic rights are human rights aimed at ensuring a basic standard of living for all members of society in terms of satisfying their basic human needs. They differ from traditional civil and political rights, such as the right to equality, personal freedom, property, freedom of speech, etc. As R. Veprytskyi (2008) points out, “they are necessary for society to regulate relations between people and at the same time create the most favourable conditions for the development of each member of society”.

Social rights are normatively enshrined and state-recognized sets of rights and freedoms of a person and a citizen, enabling individuals to realize the norms of social law, possess a corresponding social status, claim the satisfaction of their needs necessary for normal existence and development through lawful methods and means.

Economic rights of humans include rights related to the production, distribution, and exchange of material values. Every individual is entitled to freely dispose of their abilities and property, including engaging in entrepreneurial activities. However, it is essential to remember that the right to private property is protected by law. Additionally, every individual is entitled to choose a profession and field of activity, and wage discrimination is prohibited by law (Turuta, 2014). O. Turuta (2014) emphasizes the significant role of socio-economic rights of humans in modern society. Every person is guaranteed the right to social security upon reaching a certain age, in case of illness, disability, loss of a breadwinner, raising children, etc. Special attention is given to the protection and material support of motherhood and childhood. The right to education is also of great importance.

Cultural rights constitute a set of human rights guaranteed by the Constitution and legislation of a particular country, allowing individuals to claim the realization of their cultural needs, such as acquiring education, the right to participate in the cultural life of society, use cultural institutions, and the right to access cultural values.

Therefore, constitutional human rights in the social and economic spheres are designed to guarantee freedom of personal development and a dignified standard of living. The realization of socio-economic and cultural rights is possible only if the state reliably guarantees the personal rights of citizens. In this regard, one of the main factors contributing to the realization of socio-economic rights is the presence of socio-economic policies aimed at creating equal opportunities for all members of society. Effective policies in the socio-economic sphere should include measures to reduce inequality in society, create jobs, ensure access to education and healthcare, etc.

It is worth noting that the unanimous adoption of the United Nations Guiding Principles on Business and Human Rights (UNGPR) by the United Nations Human Rights Council in 2011 (United Nations, 2011) led to an increase in awareness among businesses regarding human rights.

Modern businesses are facing increasing pressure to respect human rights in their everyday activities. Not only is the number of critical consumers growing, but also the number of legislative acts obliging businesses to act and report on their involvement in human rights (Lopatta *et al.*, 2023). These issues significantly affect the employees of companies as well. Participation in violations and abuses of workers' rights is now a business risk for companies. Many companies, especially multinational enterprises, acknowledge this, as evidenced by their adoption of policy statements and procedural guidelines, and sometimes instructions on human rights. Business contributes to the suppression of power and injustice in the law. J. Schrepff-Stirling and F. Wetstein (2017) note that these processes lead to a sharp increase in the number of potential human rights violations by large corporations. As a result, modern businesses are facing increasing pressure to respect human rights in their everyday activities. Not only is the number of critical consumers growing, but also the number of legislative acts obliging

businesses to act and report on their involvement in human rights (Lopatta *et al.*, 2023).

Protecting the rights of employees and encouraging them to work productively and creatively can be achieved by creating conditions for innovative development through digital transformation, investment, and the introduction of technology. With limited internal resources, many digital companies are starting to use social capital to access external resources. Corporate social capital is generally regarded as an effective guarantee for companies to gain knowledge, stimulate innovation, and increase productivity (Zhang *et al.*, 2020). Companies with higher social capital can acquire relevant knowledge by establishing close ties or reaching consensus with collaborative actors. Accordingly, if a company uses innovation, it increases its innovation efficiency and competitiveness because active interaction with stakeholders will increase social capital. Thus, innovation plays an important role in ensuring sustainable growth and competitive advantage of firms in emerging markets (Fu *et al.*, 2022). However, to maintain a sustainable competitive position, firms need to develop dynamic capabilities and acquire critical resources.

In this way, international companies can utilize their innovation potential. Among the advantages of such potential are: mobility and adaptation in crisis market conditions, focus on innovation to achieve effective results, etc. A. Priyono *et al.* (2020) recommend that such companies undergo digital transformation to cope with changes, in particular, during the pandemic. However, lack of resources has become a major obstacle for businesses to create social capital (Cruri *et al.*, 2021) and digital transformation (Chen & Tian, 2022). At the same time, the creation of social capital also requires the depletion of corporate resources, so not all enterprises will be able to innovate through the strengthening of social capital.

However, enterprises constantly interact with each other. Therefore, as noted in the foreign literature (Lyu *et al.*, 2022), social capital, as a link formed by the joint actions of all parties in a network of interests, helps stakeholders to exchange knowledge, information, and value. At the same time, cross-border knowledge spillovers are measured in two ways: cross-border technological knowledge spillovers and cross-border market knowledge spillovers. Hence, there are potentially strong interrelationships between social capital, cross-border knowledge seeking and innovation performance.

G. Santoro *et al.* (2020) found that heterogeneous knowledge sources and absorptive capacity can optimize collaboration patterns between firms to increase innovation productivity, and the quantity and quality of knowledge creation in international collaboration depends on these capabilities, such as absorptive capacity and managerial capacity.

A new trend in the labour market is smart work, a multitasking activity aimed at creating new technologies, products, services, and jobs in innovative areas. An analysis of current trends indicates that a significant number of current professions and even businesses are at risk of disappearing, while employment in smart enterprises will grow.

That is why, to prevent the enterprise from disappearing or falling into a stage of decline, the management implements a flexible enterprise strategy through digital transformation, technological improvement, production, and export of high-tech products with high added value and the introduction of technologies themselves, and carries out establishment relocation if necessary.

### The impact of enterprise relocation on socio-economic and cultural human rights: foreign experience

Given that the purpose of the study is to examine the impact of relocation on socio-economic human rights, the main subject in this process is the employee. Given this, it is advisable to analyse the positive and negative effects of the relocation process on the employee's socio-economic rights, in particular the right to work.

A person is entitled to earn a living by work that they freely choose or agree to, the right to fair remuneration and equal remuneration for work of equal value. That is why the process of enterprise relocation should ensure the protection of the right to private and family life. In this regard, UNICEF (2012) has developed a guide on children's rights and business principles to help businesses understand where and how their activities may affect children. All business activities should respect the right to protection and security of the child, as articulated in the Convention on the Rights of the Child.

Depending on the circumstances, businesses may need to consider additional standards. For example, according to foreign researchers G. Pachoud & S. Milatović (2022), businesses should respect the rights of persons belonging to certain groups or segments of the population that require special attention if they may have a negative impact on human rights.

The relocation of the enterprise in the context of martial law in Ukraine may exacerbate existing tensions, but this does not reduce the responsibility of the enterprise, as the aggravation of existing problems may have consequences that lead to a deterioration in the psychological state, anxiety, and instability of the enterprise. This is especially true for employees from certain (vulnerable) groups, such as disabled people, people with disabilities, people of pre-retirement age, whose needs may differ from those of employees from other groups. Employees should not only restore their socio-economic, cultural and labour rights, but also restore their social relations, psychological state and living conditions.

The consequences of the relocation of an enterprise should be consistent with respect for the right to work, which is established at the international level. A negative impact on the right to work can occur when access to existing jobs is denied or employment opportunities are hindered. Respecting this right means that people's access to jobs (e.g. in a nearby town), shops or other business activities should be restored in the new place of resettlement. Significantly increased transport expenses may prevent a person from going to work, to the market or seeking employment, which negatively affects the right to work. In addition, a person may lose their job due to stress or because of the time required to reorganize their life after resettlement, which negatively impacts the right to work. The impact on the right to work may lead to restricted access to adequate food and water, which may subsequently have a negative impact on other fundamental human rights, such as the right to health. Therefore, after relocation, the management of the enterprise should be able to establish effective budgeting of the enterprise through planning, accounting, and control of money and financial results.

The advantages of relocating businesses in the event of a crisis or unstable situation for the company are: the opportunity to obtain more favourable working conditions (workspace, modern equipment, high wages, changes in

work hours, etc.), simplified mechanisms for obtaining visas and new residence for employees, legal support, and state financial assistance.

The process of business relocation can be accompanied by many problems, such as construction delays, delayed delivery promises and schedule delays, staffing issues, e.g., qualified staff may not want to move to a new location, etc. Thus, the elements that impede relocation, which can be defined as disadvantages of relocation, may include: economic, transport, political, linguistic, cultural differences between regions. Accordingly, failure to relocate the company may result in the following risks for the company: business interruption, reduced demand for goods/services offered by the company and loss of both domestic and foreign markets, large-scale layoffs, etc.

Currently, there are five main factors that can influence the decision to relocate production abroad: costs, infrastructure, labour force characteristics, government and political factors, and economic factors. Ten key drivers have been identified as follows: quality of labour force, availability of transport, quality, and reliability of transport, availability of labour force, quality, and reliability of utilities, wage rates, employee motivation, telecommunication systems, government stability and industrial relations laws.

The current conditions of many enterprises are characterized by high levels of stiff competition, dynamic market conditions, significant changes in the macroenvironment represented by trends in scientific and technological progress, rapid knowledge growth, emergence of new economic sectors, changes in production methods, etc. For example, Germany can be termed a coordinated market economy, emphasizing coordination, collaboration, and explicit recognition of a broad range of stakeholders.

Business relocation to this country is quite common and significantly affects the level of highly skilled workers. However, when relocations and business transfers occur to Germany from other countries, only those employees belonging to the respective transferred organization automatically transition to the new employer.

In accordance with the EU Directive on acquired rights, in the case of asset agreements or changes in service conditions, employees must receive detailed written information before the transfer and can object to the transfer within a month of receiving the information (Council Directive 2001/23/EC..., 1977). There is an obligation to inform and consult the works' council. There are substantial restrictions on changing terms and conditions after relocation. Any dismissal related to relocation is considered unfair; other reasons for termination are possible. Section 613a of the German Civil Code (1986), BGB, broadly covers agreements related to changes in the entity responsible for the business (or part of the business), leading to a change in the employer (such as sales and transfer of assets), and applies in cases of mergers, divisions, and asset transfers under the German Transformation Act (Umwandlungsgesetz). Section 613a of the German Civil Code requires that the relevant business (or its part) be an "economic entity". In a broad sense, this requires resources (material and/or immaterial) intentionally organized to carry out any economic activity. Section 613a of the German Civil Code does not deviate from the provisions of the Directive in this regard.

Business transfer results in the legally mandatory transfer of all employment contracts from the former employer to

the new owner of the company. According to Section 613a (1) BGB, the new owner assumes the rights and obligations arising from employment relationships that existed at the time of the transfer. This generally means that employment relationships continue with the same rights and obligations as before the business transfer. Even rights and obligations in collective agreements and employment contracts fundamentally cannot be changed by the new owner to the detriment of employees until one year after the transfer of the business (Section 613a (1) sentence 2 BGB). However, such collective agreements and employment contracts can be replaced by existing or newly negotiated agreements within the same regulatory scope. Additionally, notice of termination of the transferred employment contracts provided by the new owner through the business transfer is void (Section 613a (4) BGB). After completing the business transfer, the former owner remains responsible for obligations towards transferred employees if the claim arose before the business transfer (Section 613a (2) BGB).

According to Section 613a (5) BGB, the former employer or the new owner must inform the affected employees in writing about the transfer of their work. This information should include the date or expected date of transfer, the reason for the transfer, legal, economic, and social consequences of the transfer for employees, and proposed measures to be taken concerning employees.

If the information provided to employees is complete and accurate, employees have one month to decide whether they want to transfer their work to the new owner or not. If an employee decides not to transfer, they are entitled to remain with the former employer. However, in such a case, the former employer may be allowed to terminate the employee if they cannot continue to employ their former employee (for example, because their entire business has been transferred). If the former employer ceases to exist, an employee who chooses not to work for the new owner is entitled to early termination.

On the other hand, the United Kingdom is characterized by a liberal market economy where firms coordinate their activities mainly through hierarchies and competitive market mechanisms. This doesn't imply that one system is better than the other, but rather that different types of companies may find advantages in different systems. In the UK, when an employer moves, employees with mobility clauses in their contracts must move unless they can prove that the request is unreasonable. If an employer changes the location of its business, employees must check their employment contracts for a "mobility clause". A mobility clause requires that employees move within certain limits. This means that employers can generally compel their employees to move to places allowed by the clause, if it is not absolutely unreasonable. There are different dispute resolution options (mediation, conciliation, and arbitration) regarding what is considered unreasonable. Employees without a mobility clause in their contract can choose whether to move or not. Employers can dismiss employees who decide not to move. All existing employee rights, including contractual rights and protection against unfair dismissal, remain unchanged. The fact that the relocation is carried out by a new owner does not make any difference (Employer relocation: Your rights, n.d.).

The importance of Mobility Provisions for Employers and Quebec (Canada). When it comes to the relocation of an employee's workplace, a significant change is defined by a

move that involves a relatively long distance and affects the daily life of the employee. Typically, courts assess this by calculating the time it would take for the employee to commute to and from work. They will try to determine whether a reasonable person would consider the relocation a substantial change. Employees subject to termination due to a workplace relocation have the right to advance notice or payment in lieu of notice. Employees can also file a complaint under Article 124 of the Act respecting labour standards (Quebec's Act Respecting..., 1980) to challenge the relocation if the conditions of the complaint under Article 124 of this Act are met.

However, employers can overcome the legal consequences mentioned above by including mobility provisions in the employment contracts of their workers. In such cases, an employer can introduce changes to the employee's workplace, provided that these changes align with the conditions set in the employment contract. For an employer to utilize this option, the mobility provisions must meet specific requirements to be valid. Precedent law has established, among other things, that the mobility provision must be communicated to the employee, who must voluntarily agree to it, and be sufficiently specific by providing examples of locations where the employee may be required to work.

Therefore, in most large companies, relocation processes are outlined in employee contracts, meaning that employees are aware of such potential changes. Moreover, relocation, in this case, serves as a motivating factor for self-development and the overall development of the employee as a competent professional who understands the intricacies of the company's operations from within. Such professionals have a better understanding and can provide more accurate improvements in various aspects of the company's development. They can identify weaknesses, foresee and mitigate risks, propose qualitatively new methodologies for improving both tactics and the company's overall strategy, develop more modern measures to maintain competitive positions in the market, and contribute to entering new market segments, among other things (Khymych *et al.*, 2019).

The conclusion of scientists that businesses should develop strategies for mitigating the consequences is entirely logical, as the suspension or cessation of economic activities often has significant effects on communities, including broader economic and social impacts. These strategies may involve providing advance notice to communities, suppliers, employees, and other partners who may be affected by future cessation of activities; ensuring that staff continues to receive income during a crisis, in case of temporary suspension of activities or training, and building capacity to mitigate the consequences of job loss; ensuring the safety of remaining staff who cannot be evacuated (Pachoud & Milatović, 2022).

However, there is currently no "one-size-fits-all" corporate governance system. Instead, two systems have different comparative advantages. British corporate governance systems better support companies in sectors that require quick entry and exit into new markets, demanding significant flexibility in workforce utilization. On the other hand, the German system better supports companies in sectors that require long-term commitments and investments from employees, suppliers, and other stakeholders.

Decisions on the relocation of companies depend on the sector, and the migration behaviour of firms in high-tech sectors noticeably differs from that in less high-tech sectors.

Predominantly low-tech and medium-low-tech manufacturing and less high-tech service firms that pay a high average wage are more likely to move from their current location. For less high-tech service companies, the average municipal wage negatively affects their propensity to relocate, while those located in municipalities with high wages for specific sectors have an increased likelihood of relocation. Companies that relocate typically attract densely populated municipalities with high wage levels, and service firms, in particular, are drawn to municipalities specializing in their industry and appealing to specific individuals. The wage level in specific industries can either attract or deter firms, indicating that this variable can reflect both the cost and quality of available labour at a location.

Regarding Ukraine, business relocation to parts of Ukraine where active hostilities are not taking place or are near foreign countries is a new measure to preserve assets and restore production, as well as maintain jobs. In mid-March 2022, the Cabinet of Ministers adopted a resolution titled "On the Peculiarities of the Work of the Joint-Stock Company "Ukrposhta" in the Conditions of Martial Law" (2022) regarding the free transportation of property for Ukrainian business entities according to a list compiled by the Ministry of Economy and transmitted to the Ministry of Infrastructure. To assist Ukrainian enterprises in resuming operations and enabling them to continue paying taxes and providing jobs, the Government launched a unified digital interaction platform to facilitate business relocation (Rozghon, 2022). The platform for business relocation assistance was launched on the SE "Prozorro.Prodazhi" at the initiative of the Ministry of Economy and with the support of the Ministry of Digital Transformation and Diia.Business.

Choosing a location for business relocation is the most challenging decision to make during the moving process, starting with the priorities of the company and its requirements for its operations. Human rights, which will be affected by the relocation process, should take precedence. Companies moving over long distances expect that the new region provides better (market) opportunities than the previous location.

The transitional period of corporate relocation is problematic because it requires setting priorities. For example, economic human rights may take precedence over social ones, and the resumption of business activities in the location where the business was relocated may be a long-term process, creating obstacles to guaranteeing economic and social rights.

Therefore, a conclusion can be drawn: to ensure conditions for the realization of human rights and the development of the enterprise after relocation, the following principles must be considered:

- the principle of priority of human rights – based on which attention should be focused on creating necessary conditions for the adaptation of individuals to the new location, identifying the material and non-material needs of employees, and creating conditions for social activity of employees;
- the principle of proportionality – based on which compensation for the harm caused to a person regarding the benefits of business relocation (flexible pay systems, more favourable and safe working conditions, etc.) should be provided;
- the principle of employee motivation – based on which there will be a stimulation of the effective activity of the relocated enterprise.

## Conclusions

Based on the analysis of national and foreign experience, the article examines the issue of human rights observance in the context of enterprise relocation. It is noted that relocation is a process that requires an enterprise not only to prioritize competitiveness in its activities, but also to respond to the restoration of the rights of employees and their families in cases of violation of their socio-economic and cultural rights.

Using the results of the theoretical analysis, the article examines the impact of the process and consequences of enterprise relocation on socio-economic and cultural human rights. The positive experience of Germany, the United Kingdom and Canada in this area is analysed. Based on several important international human rights documents, the article outlines an approach to enterprise relocation based on the need to respect human rights, in particular, socio-economic and cultural rights. The author defines human rights in the context of enterprise relocation in terms of their protection and implementation during the enterprise relocation procedure and in the context of negative consequences of impact on this process. It is emphasized that in the process of relocation, human rights risks may arise and that the management of an enterprise must fulfil its constitutional obligations to protect human rights. In addition, the process of enterprise relocation leads to a deterioration in the psychological state of a person, which, accordingly, requires the provision of technical, legal, psychological, and financial support.

In the case of relocation of an enterprise or its separate subdivision, care should be taken to ensure the proper implementation of human rights, legal regulation of all possible encroachments by other entities and, in fact, by the management itself. The company's management should take care of improving the living standards and working conditions of its employees, etc. To this end, companies should

create a strategy that includes: a decision on the need for the planned relocation of the company; preparation and development of a plan for the planned relocation of the company; prospects for minimizing adverse social and economic consequences during the relocation procedure, etc. The inability of an employee to perform his/her labour duties at the place of residence causes social and cultural displacement of a person and actual loss of attachment to the place of residence, which leads to psychological and cultural losses.

The novelty of the article lies in the author's view on the effective ensuring of socio-economic and cultural human rights in the process of relocation of enterprises. After all, the inability to ensure socio-economic and cultural rights in accordance with international standards leads to a violation of human security in general. The results obtained show that the relocation of an enterprise and employees can be a component of an employee development programme within the framework of international cooperation, as it stimulates the movement of innovations, creative activity of employees, cross-border knowledge search, creation of social capital, and has an impact on the achievement of the innovation productivity effect. Despite the existence of research in the field of business relocation, it is still necessary to study the interpretation of business relocation, identify the peculiarities and problems of human rights regulation due to the consequences of business relocation for a more complete understanding of their activities in terms of the pace of innovation development.

## Acknowledgements

None.

## Conflict of interest

None.

## Introduction

- [1] Bahl, M., Lahiri, S., & Mukherjee, D. (2021). Managing internationalization and innovation tradeoffs in entrepreneurial firms: Evidence from transition economies. *Journal of World Business*, 56(1), article number 101150. doi: 10.1016/j.jwb.2020.101150.
- [2] Chen, H., & Tian, Z. (2022). Environmental uncertainty, resource orchestration and digital transformation: A fuzzy-set QCA approach. *Journal of Business Research*, 139, 184-193. doi: 10.1016/j.jbusres.2021.09.048.
- [3] Council Directive 77/187/EEC 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. (1977, February). Retrieved from <http://data.europa.eu/eli/dir/1977/187/oj>.
- [4] Crupi, A., Liu, S., & Liu, W. (2021). The top-down pattern of social innovation and social entrepreneurship. Bricolage and agility in response to COVID-19: Cases from China. *R&D Management*, 52(2), 313-330. doi: 10.1111/radm.12499.
- [5] Employer relocation: Your rights. (n.d.). Retrieved from <https://www.gov.uk/employer-relocation-your-rights#:~:text=A%20mobility%20clause%20says%20employees,unless%20this%20is%20completely%20unreasonable.&text=It%20would%20be%20unreasonable%20to,with%20only%201%20day's%20notice>.
- [6] European Union Agency for Fundamental Rights. (2019). *Business-related human rights abuse reported in the EU and available remedies*. Retrieved from [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2019-business-and-human-rights-focus\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-business-and-human-rights-focus_en.pdf).
- [7] Fu, X., Fu, X.M., Ghauri, P., & Hou, J. (2022). International collaboration and innovation: Evidence from a leading Chinese multinational enterprise. *Journal of World Business*, 57(4), article number 101329. doi: 10.1016/j.jwb.2022.101329.
- [8] German Civil Code. (1896, August). Retrieved from [https://www.gesetze-im-internet.de/englisch\\_bgb](https://www.gesetze-im-internet.de/englisch_bgb).
- [9] Heiko, T.Yu. (2020). Priorities of entrepreneurship development in Ukraine in the conditions of the COVID-19 pandemic and in the post-quarantine period. *Socio-Economic Research Bulletin*, 2, 62-71. doi: 10.33987/vsed.2(73).2020.62-71.
- [10] Human Rights-Based Approaches Portal. (n.d.). *The human rights based approach to development cooperation: Towards a common understanding among UN Agencies*. Retrieved from <http://hrbaportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies>.
- [11] ILO. (2022). *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy*. Geneva: International Labour Organization.
- [12] Inter-Ministerial Committee for Japan's National Action Plan on Business and Human Rights. (2020). *National Action Plan on Business and Human Rights (2020-2025)*. Retrieved from <https://www.mofa.go.jp/files/100173319.pdf>.

- [13] Khymych, I.H., Tymoshyk, N.S., & Podvirna, T.V. (2019). [Relocation strategy: A feature of modern business](#). In *Modern trends in the development of the world economy: New challenges and problems: Proceedings of the VI International scientific and practical conference* (pp. 141-142). Odesa: International Humanitarian University.
- [14] Korobka, L.M., Vasiutynskiy, V.O., Vinkov, V.Yu., Hubeladze, H.I., Husiev, I.M., & Mialenko, V.V. (2019). [Community in conditions of military conflict: Psychological strategies of adaptation](#). Kropyvnytskyi: Imex-LTD.
- [15] Kovalenko, N.O., Havrylenko, O.E., & Grebinchuk, O.M. (2022). Economic-legal and psychological aspects of business management in the conditions of war. *Scientific Perspectives*, 12, 177-189. [doi: 10.52058/2708-7530-2022-12\(30\)-177-189](#).
- [16] Lopatta, K., Tideman, S.A., Scheil, C., & Makarem, N. (2023). The current state of corporate human rights disclosure of the global top 500 business enterprises: Measurement and determinants. *Critical Perspectives on Accounting*, 96, article number 102512. [doi: 10.1016/j.cpa.2022.102512](#).
- [17] Lyu, C., Peng, C., Yang, H., Li, H., & Gu, X. (2022). Social capital and innovation performance of digital firms: Serial mediation effect of cross-border knowledge search and absorptive capacity. *Journal of Innovation & Knowledge*, 7(2), article number 100187. [doi: 10.1016/j.jik.2022.100187](#).
- [18] OECD. (2023). *OECD guidelines for multinational enterprises on responsible business conduct*. Paris: OECD Publishing. [doi: 10.1787/81f92357-en](#).
- [19] OHCHR and business and human rights. (n.d.). Retrieved from <https://www.ohchr.org/en/business-and-human-rights>.
- [20] Pachoud, G., & Milatović, S. (2022). [Heightened human rights due diligence for business in conflictaffected contexts](#). New York: United Nations Development Programme.
- [21] Panchak, V., & Hrabyskiy, S. (2021). Business in the context of threats and risks. *Legal Newspaper*, 9. Retrieved from <https://yur-gazeta.com/publications/practice/inshe/biznes-u-konteksti-zagroz-i-rizikiv.html>.
- [22] Priyono, A., Moin, A., & Putri, V.N. (2020). Identifying digital transformation paths in the business model of SMEs during the COVID-19 pandemic. *Journal of Open Innovation: Technology, Market, and Complexity*, 6(4), article number 104. [doi: 10.3390/joitmc6040104](#).
- [23] Québec's Act Respecting Labour Standards. (1980, April). Retrieved from <https://www.legisquebec.gouv.qc.ca/en/document/cs/n-1.1>.
- [24] Razmetaeva, Yu. (2006). [Human rights as a fundamental value of civil society: Before posing the question](#). *Law Herald*, 1, 109-112.
- [25] Resolution of the Cabinet of Ministers of Ukraine No. 305 "On the Peculiarities of the Work of the Joint-Stock Company "Ukrposhta" in the Conditions of Martial Law". (2022, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/305-2022-%D0%BF#Text>.
- [26] Responsible Business Conduct, the new normal for a sustainable future. (n.d.). Retrieved from <https://mneguidelines.oecd.org>.
- [27] Rozghon, O. (2022). [Digital interaction between the state and business through relocation under martial law](#). In K.V. Yefremova (Ed.), *Digital transformations of Ukraine 2022: Challenges and realities: Materials of the III round table* (pp. 122-129). Kharkiv: Scientific and Research Institute of Providing Legal Framework for the Innovative Development of the National Academy of Sciences of Ukraine.
- [28] Ruggie, J.G. (2008). [Protect, respect and remedy: A framework for business and human rights: Report of the special representative of the secretary-general on the issue of human rights and transnational corporations and other business enterprises, John Ruggie](#). Geneva: UN.
- [29] Santoro, G., Bresciani, S., & Papa, A. (2020). Collaborative modes with cultural and creative industries and innovation performance: The moderating role of heterogeneous sources of knowledge and absorptive capacity. *Technovation*, 92-93, article number 102040. [doi: 10.1016/j.technovation.2018.06.003](#).
- [30] Schrempf-Stirling, J., & Wettstein, F. (2017). Beyond guilty verdicts: Human Rights litigation and its impact on corporations' human rights policies. *Journal of Business Ethics*, 145(3), 6, 545-562. [doi: 10.1007/s10551-015-2889-5](#).
- [31] Temel, S., & Forsman, H. (2022). Growth and innovation during economic shocks: A case study for characterising growing small firms. *Scandinavian Journal of Management*, 38(4), article number 101220. [doi: 10.1016/j.scaman.2022.101220](#).
- [32] The Ten Principles of the UN Global Compact. (n.d.). Retrieved from <https://unglobalcompact.org/what-is-gc/mission/principles>.
- [33] Tsubouchi, K., Okada, T., & Mori, S. (2021). Pathway of adaptation to community relocation: Prospects and limitations of community-centred planning. *International Journal of Disaster Risk Reduction*, 66, article number 102582. [doi: 10.1016/j.ijdrr.2021.102582](#).
- [34] Turuta, O.V. (2014). [Social rights in Ukraine](#). *Uzhhorod National University Herald. Series: Law*, 24(1), 112-115.
- [35] UNICEF. (2012). [Children's rights and business principles](#). Retrieved from <https://www.unicef.org/documents/childrens-rights-and-business-principles>.
- [36] United Nations. (2011). [The guiding principles on business and human rights: Implementing the United Nations "Respect, protect and remedy" framework](#). New York and Geneva: United Nations Human Rights Office of the High Commissioner.
- [37] van der Ploeg, L., & Vanclay, F. (2017). A human rights based approach to project induced displacement and resettlement. *Impact Assessment and Project Appraisal*, 35(1), 34-52. [doi: 10.1080/14615517.2016.1271538](#).
- [38] Veprytskyi, R.S. (2008). [Socio-economic rights: To the definition of legal nature](#). *Forum Prava*, 2, 32-37.
- [39] World Benchmarking Alliance. (2023). [Corporate human rights benchmark](#). Retrieved from <https://www.worldbenchmarkingalliance.org/corporate-human-rights-benchmark>.
- [40] Zapuhliak, I., & Krasniak, O. (2022). Relocation: Essence, types and problems. *Herald of Khmelnytskyi National University. Economic Sciences*, 6(2), 257-263. [doi: 10.31891/2307-5740-2022-312-6\(2\)-43](#).
- [41] Zhang, Q., Pan, J., Jiang, Y., & Feng, T. (2020). The impact of green supplier integration on firm performance: The mediating role of social capital accumulation. *Journal of Purchasing and Supply Management*, 26(2), article number 100579. [doi: 10.1016/j.pursup.2019.100579](#).

## Вплив релокації підприємства на реалізацію соціально-економічних прав людини: національні тенденції та зарубіжний досвід

### Ольга Олегівна Барабаш

Доктор юридичних наук, професор  
Львівський державний університет внутрішніх справ  
79000, вул. Городоцька, 26, м. Львів, Україна  
<https://orcid.org/0000-0003-2666-9696>

### Марта Юрїївна Самченко

Кандидат юридичних наук, доцент  
Львівський державний університет внутрішніх справ  
79000, вул. Городоцька, 26, м. Львів, Україна  
<https://orcid.org/0009-0009-9797-9190>

### Катерина Робертівна Добкіна

Доктор юридичних наук, професор  
Державний університет інфраструктури та технологій  
04071, вул. Кирилівська, 9, м. Київ, Україна  
<https://orcid.org/0000-0003-2627-8871>

### Ольга Володимирівна Розгон

Кандидат юридичних наук, доцент  
Науково-дослідний інститут правового забезпечення інноваційного розвитку Національної академії правових наук України  
61002, вул. Чернишевська, 80, м. Харків, Україна  
<https://orcid.org/0000-0001-6739-3927>

### Віталіна Іванівна Озель

Кандидат юридичних наук, доцент  
Державний університет інфраструктури та технологій  
04071, вул. Кирилівська, 9, м. Київ, Україна  
<https://orcid.org/0000-0002-4655-2869>

**Анотація.** Актуальність статті зумовлено тим, що наслідки релокації компанії (підприємства) в Україні впливають на реалізацію прав людини та на діяльність підприємства загалом. Мета роботи – вивчити сучасний стан нормативно-правового регулювання релокації підприємства а аспекти прав людини (працівника, членів його сім'ї тощо). Один з основних методологічних прийомів дослідження – компаративний підхід. Порівняльно-правовий метод дав змогу зіставити законодавство Німеччини, Великобританії та інших зарубіжних країн, яке регулює питання релокації підприємства. Досліджено проблему формування соціально-економічного та правового потенціалу інституту релокації. Виявлено співвідношення норм міжнародного права та законодавства України щодо імплементації міжнародних засад прав людини у правову систему України, зокрема щодо релокації підприємства. Досліджено практику та окреслено наслідки релокації підприємства. Розглянуто переваги та недоліки релокації підприємства. Особливу увагу приділено загрозливим наслідкам релокації підприємств в Україні та інших країнах. Визначено особливості впливу релокації підприємств на соціально-економічні та культурні права людини. Зазначено, що в основі дотримання прав людини – ціннісна ідея збереження їхніх прав. Підкреслено, що реалізація окреслених прав людини має бути врахована в процесі стратегічного планування релокації. Практичне значення дослідження полягає в тому, що сформульовані в ньому висновки і пропозиції сприятимуть покращенню механізму захисту прав людини в процесі релокації підприємства, тобто урахуванню потреб вразливих верств населення: працівників передпенсійного віку, людей з інвалідністю, дітей працівників тощо. Узагальнення результатів наукової роботи спроектовано на удосконалення законодавства України у сфері прав людини, а також на імплементацію в українську практику зарубіжних норм і стандартів щодо захисту прав людини, зокрема соціально-економічних та культурних

**Ключові слова:** права людини; бізнес; відповідальна бізнес-поведінка; працівник; соціальна політика; Україна; ЄС