

MOLDOVA STATE UNIVERSITY

Manuscript title  
C.Z.U.: 349.2+342.734-057.56

CEBOTARI MIHAIL

**THE LEGAL PROTECTION OF SOCIAL RIGHTS OF CITIZENS OF THE  
REPUBLIC OF MOLDOVA HOLDING THE STATUS OF MIGRANT  
WORKERS**

SPECIALTY – 553.05. LABOR LAW AND SOCIAL PROTECTION

SUMMARY OF THE PH.D., THESIS IN LAW

**CHIȘINĂU, 2023**

The thesis was elaborated within the Department of Private Law, Law Faculty of the Moldova State University.

**SCIENTIFIC ADVISER:**

SADOVEI NICOLAE, *doctor habilitus in law, associate professor, USM;*

**Official referents:**

- 1) BOIȘTEANU Eduard, *habilitus doctor in law, associate professor, USARB;*
- 2) CUCOȘ Diana, *doctor in law, research lecturer, USM.*

**Members of the Specialized Scientific Council:**

- 1) COJOCARU Violeta, President of SSC, *habilitus doctor in law, university professor, USM;*
- 2) CHISARI-RURAK Aliona, Scientific Secretary of the SSC, *doctor in law, university lecturer, USM;*
- 3) MOȘNEAGA Valeriu, SSC member, *habilitus doctor in political science, university professor, USM;*
- 4) DONOS Evlampie, SSC member, *doctor in law, associate professor, USCH;*
- 5) MACOVEI Tatiana, SSC member, *doctor in law, university lecturer, USM;*
- 6) PĂSCĂLUȚĂ Felicia, SSC member, *doctor in law, university lecturer, USM.*

The defense will take place on 23.06.2023, at 14:00, in the premises of the Faculty of Law, Chisinau municipality, M. Kogălniceanu str., no. 67, block 2, conference room 119.

The doctoral thesis and the summary can be consulted at the Central Library of the State University of Moldova, on the website of the Faculty of Law of the State University of Moldova (<http://drept.usm.md>) and on the website of the The National Agency for Quality Assurance in Education and Research (<http://www.anacec.md/>).

---

MOLDOVA STATE UNIVERSITY

---

The summary was sent on 19.05.2023

Scientific Secretary of the  
Specialized Scientific Council,

CHISARI-RURAK Aliona  
doctor in law, university lecturer

\_\_\_\_\_

Scientific Adviser

SADOVEI Nicolae,  
doctor habilitus in law, associate professor

\_\_\_\_\_

Author

CEBOTARI Mihail

\_\_\_\_\_

Copyright identifier  
(© Cebotari Mihail, 2023)

## CONTENTS

Conceptual milestones of the research.....	4
Thesis content.....	9
General conclusions and recommendations.....	24
Bibliography.....	30
List of the author's publications on the topic of the thesis.....	32
Annotations (in Romanian, Russian and English).....	35

## CONCEPTUAL MILESTONES OF THE RESEARCH

**The actuality and importance of the addressed problem.** The purpose of this research is to analyze the status quo and the legal status of migrant workers who are citizens of the Republic of Moldova and the protection of their social rights. The International Organization for Migration in its latest report on world migration carried out in 2022, estimates the number of people living in a country other than their own country of birth, at 281 million persons, for the year 2020 [20].

Regarding migration from the Republic of Moldova (RM), one of the biggest problems is the absence of accurate data. In the last Extended Migration Profile (2017 – 2021), the data of the General Inspectorate of the Border Police is cited, estimating that at the end of 2021, about 351 thousand people were outside the country for more than 12 months [12, p.11]. This data differs depending on the issuing institution, e.g., according to the so-called authorized emigration, the number of authorized emigrant Moldovan citizens in 2021 was of 2,297 persons, in total in 2021, 122,100 authorized emigrants were registered [12, p.11, 22]. According to the data provided by the diplomatic missions regarding the citizens of the Republic of Moldova who lived abroad at the end of 2021, their estimated number is at 417,504 persons [12, p.25].

The latest population estimates made by the National Bureau of Statistics (NBS), indicate that at the beginning of the year 2019, 2.68 million persons lived in the Republic of Moldova, a population decrease of almost 190,000 compared to 2014. The main reason for the population decrease is negative net migration, which increased from 24,600 persons in 2014 to 48,600 in 2018 [10, p.5]. The same NBS study mentions a level of migration that the authors describe as impressive, thus in 2017 almost 110,000 immigrants returned to Moldova and almost 160,000 emigrants left the country, forming a negative net migration of approximately 50,000 persons in that year only [10, p.8].

Migration from the Republic of Moldova is specific, being flexible and mobile, due to the liberalization of the visa regime with the EU and the CIS countries. However, the most significant factor driving migration is the fact that a large part of our country's citizens hold an EU citizenship. Regarding the holders of Romanian citizenship, public data with reference to the National Authority for Romanian Citizenship reveals that, from 2002 until March 30, 2018, a total of 521,025 citizens of the Republic of Moldova obtained the citizenship of this state, of which 251,886 have permanent residence in the Republic of Moldova [11]. A large number of citizens also hold EU residence permits, both temporary and permanent. For example, according to the information provided by the ex-ambassador of the Italian Republic in the Republic of Moldova, Valeria Biagiotti, there are about

130,000 Moldovan immigrants in Italy alone, to which we must also add citizens who have Romanian citizenship and are not registered as Moldovans [13]. We believe in this context, that we can realistically talk about the figure of approximately one million citizens of the Republic of Moldova to whom the regulations regarding intra-EU mobility can be applied.

It is important to mention in the context of the research the significant infringements or limitations of the social rights of migrant workers. These were highlighted, especially as a result of the Covid-19 pandemic, when migrant workers, especially vulnerable ones (irregular migrants, domestic workers, and employees in atypical forms of work) were amongst the most vulnerable to the economic and migration changes caused by the impact of the pandemic. In this case, were identified situations of short-term termination of employment contracts, the reduction of employment opportunities, the lack of social protection for vulnerable migrants, etc. These situations were reflected in the studies cited in the thesis, e.g., the study conducted by IOM Moldova regarding the impact of the pandemic [4]. The Covid-19 pandemic acted as a true "litmus paper", clearly demonstrating the need for in-depth research of the social rights of migrant workers to ensure increased legal protection for this category of legal subjects.

The present research is also important from the perspective of the amendments made in the recent period to some normative acts of significant importance: Law No. 105/2018, Law No. 140/2001, Government Decision (GD) No. 1276/2018, GD No. 894/2018, etc.

**The purpose and objectives of the thesis.** The purpose of the thesis is to study the current situation regarding the legal protection of the social rights of migrant workers who are citizens of the Republic of Moldova and to identify functional mechanisms to ensure effective protection in this regard. The research involves both the analysis of the theoretical aspects of the functioning of national and international mechanisms, as well as the practical moments stated by researchers in this field, or mentioned in the decisions and reports of high international authorities. The study intends to be a source of information in an under-researched field and a grounded scientific guide to assist specialists and decision-makers in the context of modern migration phenomena.

*To achieve the proposed goal, the following objectives were established:*

- Research of the legal mechanisms for the protection of the social rights of migrant workers used by states, international organizations, and the private sector;
- Study of the international situation in the field of social rights of migrant workers;
- Identification of problem areas in this field in national and international legislation and practice;
- Research of best practices implemented by public authorities and private law organizations

at national and international levels.

**Research hypothesis.** The social rights of migrant workers are a category of rights disregarded in the activity of international organizations, and states (especially states of destination), there is a reluctance to ratify international mechanisms for their protection and assurance. Such a situation contributes to the increased vulnerability of the citizens of the Republic of Moldova involved in labor migration.

Existing sources, materials, and data allow the identification of mechanisms and good practices that can ensure the protection of the social rights of these workers. In general terms, three protection approaches are identified: 1. measures that can be implemented by international organizations; 2. those that can be achieved by the state authorities; 3. measures and actions available to private law entities.

In the research, we aimed to identify the status quo in the field of the protection of the social rights of migrant workers, to enumerate and propose functional legal mechanisms for ensuring these rights, highlighting the legislative gaps, and formulating recommendations and proposals for projects of *lege ferenda* in this field.

**The important scientific problem solved in the thesis** consists in the elucidation of the legal and practical situation through the prism of the protection of the social rights of migrant workers, citizens of the Republic of Moldova, aiming to identify the situation in this field and mechanisms for the protection of these rights carried out by different actors (international organizations, state institutions, private law entities), aimed at protecting the social rights (labor and social security rights) of migrant workers citizens of the Republic of Moldova by identifying the effective mechanisms of law enforcement, in the context of the increase in the international migration flows.

**Synthesis of research methodology and justification of chosen research methods.** The used methodology is predominantly of a qualitative type, the normative acts, studies, and specialized literature in the field being researched. Among the methods used to achieve the research results, the logical method can be mentioned, in this case, deduction, and induction. The comparative method allowed the examination of the legislation and practice of other states, in this field. The historical method permitted us to understand the context of the adoption and application of modern labor migration regulatory mechanisms. The statistical method allowed the identification of essential quantitative data on the situation of migrant workers. It is necessary to mention the bivalent nature of the sources used in the research, the examined subject possessing a nature

belonging to both private and public law.

Comprehensive research on the protection of the social rights of migrant workers and labor migration is lacking in the domestic legal literature. Some aspects are examined in works on labor law, international law, and constitutional law, as well as in works in the field of economic or sociological sciences. In particular, the works of the following researchers were consulted: N. Romandaș, Ed. Boișteanu, E. Donos, A. Chisari-Rurak, Al. Buruian, D. Cucuș, Cr. Burian, I. Guceac, V. Cucerescu, M. Vremiș, V. Moșneaga, etc. It should also be mentioned that in our country several doctoral theses have been defended, that tangentially analyze international labor migration: C. Burian, *The phenomenon of migration and the legal status of the foreigner in public international law*, 2010 [1]; A. P. Larion, *Cooperation of states at the international level in realization of the fundamental rights to work*, 2016 [5], and A. Luca, *The regulation of labor migration at the international and national level*, 2016 [7]. We have to emphasize the fact that these theses were defended at the International and European Public Law (International Public Law) specialty, examining tangentially the protection of the social rights of migrant workers in the Republic of Moldova, without looking in detail at the national legislation and the individual situation of the migrant worker, as a research topic.

In Romanian specialty literature, the topic under discussion was addressed in the works of the researchers: S. Scăunaș, D. Țop, O. Stefan, A. Țiclea, N. Valerică, C. A. Moarcăș Costea, E. Vieriu, D. Vieriu, I. T. Ștefănescu et al.

However, the research foundation was based on the works of European, North American, and other Anglo-Saxon scholars, where this theme is researched in more detail: H. J. Stainer, P. Alston, T. Bruegental, K. D. Magliveras, P. A. Taran, J. S. Hainsfurther, A. Inghammar, S. Peers, J. Fudge, P. Herzfeld Olsson, R. Sabates-Wheeler, J. Koettl, J. Klabbers, A. Betts, M. E. Peters, V. Mantouvalou, K. H. Anderson, L. Barbone, S. Chaoui and others, mentioned in the bibliography of this study. The studies carried out under the auspices of international organizations, had an important role in the context of this research: (UN, International Organization for Migration (IOM), Council of Europe, etc.). Concomitantly, the state register of legal acts - ([www.legis.md](http://www.legis.md)), the databases of the Council of Europe (HUDOC), the UN, IOM, and the European Court of Justice - (CURIA) were consulted.

**Publications on the topic of the thesis.** The results of the conducted research found their reflection in 18 scientific works published by the author, namely in studies, articles, and scientific communications.

**Summary of the sections of the thesis:** The structure of the thesis consists of annotation in Romanian, Russian and English languages, an introduction, which provides a general characteristic of the examined problem and addresses labor migration and the social rights of migrant workers as an object of theoretical study, abbreviations, four chapters, conclusions, and general recommendations, the bibliography that includes 339 bibliographic sources, annexes, disclaimer, author's *CV*.



## THESIS CONTENT

*Chapter 1. Analysis of the situation in the field of legal protection of the social rights of migrant workers who are citizens of the Republic of Moldova.*

*Subchapter 1.1. Analysis of existing literature and research in the field of the legal protection of the social rights of migrant workers, citizens of the Republic of Moldova,* contains the analysis of specialized literature, studies, and existing research. After studying the various sources, in the specialized literature of our country, a small number of papers examining the given research topic can be found. In Romanian legal literature, high attention is paid to international labor migration, especially intra-EU labor mobility, mostly in the literature published after this country acceded to the European Union. At the same time, in more recent publications we observe a lower reflection of topics related to international labor migration and labor mobility within the EU. Regarding the literature on labor law and social security in the Russian Federation, even if the approaches related to international migration are missing, most studies contain sections dedicated to international labor law, in which the situation of migrants is also mentioned. Most of the authors analyze the functioning of the ILO and the UN, the ratified conventions, and their content. In more recent labor law studies in the Russian Federation, we notice greater attention paid to aspects of labor migration, especially immigration and labor regulation of immigrants on the territory of this country. In our view, this is explained by the fact that the Russian Federation is a destination country, and not one of origin of migration. Certain specialized research analyzes in more detail the aspects related to labor migration, e.g., the work of I. Kiseliiov, *Труд с иностранным участием*, published in 2003 [21]. We would also like to mention from the Ukrainian literature, the monograph of the researcher S. Y. Vavzhenciuk, *Охорона та захист трудових прав працівників* [22]. This research work focuses exclusively on defining and identifying the various forms of protection of labor rights, however, the focus is on their protection at the national level. In the same vein, we specify that the French doctrine of labor law has a very thorough approach, we could even say encyclopedic in some places. Another aspect of it is the focus on social aspects.

*In subchapter 1.2. The conceptual framework of the terms social law, migrant worker, legal protection of rights and social security,* the definition of the terms used during the research is given, the use of these terms in international and national legislation, as well as the opportunity of amendments to the normative acts in force regarding this aspect are examined. The delimitation of social rights from other categories of rights is difficult, the ECtHR in *Airey vs. Ireland* argues that many of the civil and political rights regulated in the ECHR also have implications of a social or

economic nature, and the simple fact that an interpretation of the Convention can extend into the scope of the social and economic rights should not be a decisive factor against such an interpretation. The Court mentions that there is no watertight division that separates the social and economic sphere from the area regulated by the Convention, i.e. civil and political rights [15]. Based on the above, we consider that the category of social rights includes the labor and also social security rights.

In addition to other definitions of this term mentioned in the thesis, we are of the opinion that, concerning the research object of this thesis, social rights represent the category of rights that human beings have in the context of their social interaction for the performance of work, the benefit of its result, as well as their social security in the event of the impossibility to maintain a dignified life. Regarding the definition of the term migrant worker, we can mention the definition from the national legislation: *emigrant worker* - citizen of the Republic of Moldova, with permanent residence or temporary residence on the territory of the country, who is employed, is to be employed or has been employed in order to perform a remunerated activity on the territory of the destination country [6].

The thesis also defines other terms relevant to the object of the research, for example, that of regular migrant and irregular migrant, present in the UN Convention on the protection of the rights of all migrant workers and members of their families (ICMW), but not in the national legislation, an aspect that must be corrected, and a proposal of *lege ferenda* has also been *made* to this end. The term legal protection of rights is another element of the research object that was reflected in the thesis, also specific forms of protection of social rights being analyzed (governmental and non-governmental; governmental ones including judicial and administrative protection), as well as the nature of the legal protection relationships (preventive-protective legal employment relationships, protective relationships and relationships related to legal liability in labor law).

*Subchapter 1.3. The approach to the legal protection of the social rights of migrant workers in the Republic of Moldova*, is dedicated to the analysis of the historical and recent developments of the national normative framework relevant to the object of research. A historical analysis of the adoption and changes in the normative acts in the period since the independence of the RM is carried out. We conclude that there is a lack of stability regarding the legal relations occurring in this field, thus from 1991 until now four framework laws have been adopted in the field of the labor migration of citizens of the RM, as well as a GD regulating relations regarding employment abroad. This analysis allows us to separate the drafting and amending the legislation on migration in four

distinct stages: 1990-2000, 2000-2008, 2008-2020, and 2020 to date. A real change in approach occurred with the amendment of the Law No. 105/2018, through the Law No. 137/2020, and the completion of GD No. 1276/2018, through the HG No. 78/2021. These changes clearly established the competencies of the Ministry of Labor and Social Protection (MLSP), as a coordinating body in the field of labor migration. Also, the new legal changes empower the State Labor Inspectorate (SLI), to carry out control functions in the field of activity of private employment agencies (PrEA), and informal intermediaries. In addition to the normative framework in force, the policy documents in this field were also examined (e.g. the National Strategy in the field of Migration and Asylum 2011-2020, the National Strategy "Diaspora 2025", etc.). It was established that even if these are not normative acts, in practice they create legal consequences, define new legal categories, and contribute to the adoption and modification of the normative framework [16, p.81].

Also in this subchapter, a forecast of the prospects of labor migration from the Republic of Moldova was made. We believe that it will not stop, but in the best case, it will continue at a stable pace or in an upward trend, the main causes being the visa-free regime with the EU and the increase in employment through seasonal or temporary migration programs; possibly the exodus of highly qualified specialists will increase, "brain-drain"; the large community of Moldovans abroad (diaspora) will have a decisive role in stimulating long-term migration processes; the numerical increase of holders of an EU citizenship or residence permits will contribute to the increase of the free movement within the community space and other regions; also, based on the data of some studies, we believe that the Covid-19 pandemic will have a limited impact on migration trends in the Republic of Moldova, but another external factor, namely the current war in Ukraine, will contribute to the intensification of emigration trends, especially if it will continue.

*Subchapter 1.4. The approach to the legal protection of the social rights of migrant workers abroad*, includes an analysis of the historical evolution of the regulation and protection of the social rights of migrant workers. As a result, three distinct historical periods are identified and analyzed. The post-war period (1945-1970), when took place the reconstruction of the international order and the creation of the current framework for the protection of human rights and the UN, as well as the reconstruction of the European continent as a result of the Second World War. In the second period, the years 1970-1990, certain economic crises took place, which slowed down economic development in the world and reduced the need for the labor force, contributing to the adoption of normative acts focused on limiting international migration and the integration of migrants already in the countries of destination. It is also then that some of the national mechanisms to control irregular

immigration are formed. In the recent period, 1990-2020, the last normative acts in the field of international labor migration were adopted, period which continues even now, as both international organizations and states have not established a clear direction for the management of human mobility, an aspect confirmed by the adoption of an increasing number of soft-law documents. Also here the prospects of labor migration at the international level are identified, in particular the trends to simplify the migration of highly qualified specialists, while the migration conditions for unskilled workers tighten or do not change significantly.

*Chapter 2. The institutional positioning of public authorities in ensuring the legal protection of the social rights of migrant workers, citizens of the Republic of Moldova.*

*In subchapter 2.1. The legal dimensions of the policies of the public authorities in the Republic of Moldova in the field of the legal protection of the social rights of migrant workers, citizens of the Republic of Moldova,* is examined the role of the national authorities in ensuring the social rights of this category of legal subjects. Thus, the national authorities have the main responsibility in ensuring the protection of the social rights of the citizens of the RM outside the country. However, in practice, the spectrum of measures and instruments at their disposal is largely limited by those that can be carried out on the territory of the Republic of Moldova.

Regarding the general responsibilities of the national authorities, they are mentioned in a study by the IOM which summarizes the following: "ratification of international standards; orientation and information before departure; regulating the operation of private employment agencies; providing appropriate consular support functions; negotiation of model employment contracts; conclusion of bilateral agreements and memoranda of understanding with destination countries; engaging social partners and civil society to provide support to migrant workers; provision of assistance funds and social assistance programs for families remaining in the country and help for the reintegration of those who have returned" [14, p.156]. The concept of a systemic approach in the field of labor migration is also analyzed here, this presupposes a clear cohesion between different institutions operating in this field, the efficient distribution of attributions, a clear functional hierarchy, and communication between the elements of this system. In this context, the thesis lists the specialized central public administration authorities involved in the protection of the social rights of migrant workers: the Government, the State Chancellery, (through the Bureau of Diaspora Relations (BRD)), the Ministry of Labor and Social Protection (MLSP), the National Employment Agency (NEA), State Labor Inspectorate (SLI), Ministry of Education and Research, Ministry of Foreign Affairs and European Integration (MFAEI), General Directorate of Consular

Affairs, Ministry of Internal Affairs, Public Services Agency and the General Inspectorate for Migration. A role of decisive importance is played by the Constitutional Court (CC) and the judicial courts.

The authority with the broadest attributions for managing labor migration in our country is the MLSP, which has an essential role in the development and implementation of normative acts and policy documents. The attributions related to its subordinated institutions are also examined: NEA, SLI, and the National Social Insurance Institution (CNAS). Thus, NEA implements bilateral agreements in the field of labor migration and assists in the reintegration of migrant workers. SLI is the control institution in the field of employment abroad through private employment agencies (PrEA) and unlicensed intermediaries, and CNAS is responsible for negotiating bilateral agreements in the field of social security, assisting migrant workers to obtain the benefits they are entitled to, based on these agreements and also other benefits to which they are entitled according to the legislation in force. BRD was established in 2012 within the State Chancellery, the creation of similar institutions regarding diaspora management being a recent trend, and at the moment most states have an authority with similar functions. BRD's role is, in particular, limited to the interaction with the diaspora on the aspects of culture, education, and economy, but it also has some attributions related to the social field (reintegration, information, assistance, etc.). We conclude that it is necessary to designate a single central authority to manage this area, and the multiple opinions about the relevant authority for this purpose reduce to: the Ministry of Internal Affairs (especially for destination countries) and the MLSP (in the countries of origin of labor migration).

The Constitutional Court (CC) has a defining role in this field, in the thesis several Judgments and Decisions of the CC and their impact on the social rights of migrant workers are examined. Regarding the role of judicial courts, the thesis examines a series of decisions and conclusions of national courts on civil and criminal cases. An important aspect that should be mentioned is the small number of legal disputes related to labor migration and the social rights of migrant workers. This is explained by the fact that the migrant worker usually does not have the necessary time to participate in a legal dispute and, on the other hand, the difficulties in the access to justice, encountered by migrant workers. Making us to conclude that administrative mechanisms could in some cases be more effective in protecting the social rights of migrant workers.

Regarding the national normative framework, the international conventions in this field to which the RM is a party are listed: 1. ILO No. 111/1958 Discrimination (Employment and Occupation) Convention; 2. ILO No. 97/1949 Migration for Employment Convention; 3. EC

Convention of 24.11.1977 regarding the status of migrant workers; 4. ILO No. 181/1997 Private Employment Agencies Convention. The relevant provisions of the association agreement between the Republic of Moldova and the EU are also examined. The national normative acts are analysed, in particular, the Labor Code, Law no. 105/2018 on the promotion of employment and unemployment insurance and GD no. 1276/2018 "For the approval of procedures regarding access to employment measures of the workforce", and their recent amendments, which have made the current regulatory framework more progressive and effective in ensuring the rights of migrant workers. Regarding the legislation in the field of social security, a series of normative acts are examined: Law No. 156/1998 on the public pension system; Law No. 489/1999 regarding the public social insurance system; Law No. 756/1999 regarding work accidents and occupational diseases; Law No. 289/2004 regarding allowances for temporary incapacity for work and other social insurance benefits; CNAS instruction regarding the method of insurance by contract in the public social insurance system of 15.03.2005. Being examined both the current provisions and the impact of recent amendments (in particular, as a result of the declaration of unconstitutionality of some provisions affecting the right to social security of migrants). Regarding the reintegration of Moldovan migrant workers, we conclude that the involvement of the national authorities in this process is low, and in some circumstances the attributions of the state authorities are not clearly divided.

*In subchapter 2.2. The granting by diplomatic missions of diplomatic and consular assistance and protection to migrant workers, and citizens of the Republic of Moldova, the activity of diplomatic missions, and the protection granted by them is examined. A distinction is made between the terms diplomatic protection and consular protection. We conclude that the analysis of consular protection is important for the research because this mechanism is intended for the direct protection of the migrant worker. Diplomatic protection, on the other hand, is invoked by the state in the case of mass violations, especially of civil and political rights, that are not the subject of the thesis. According to Burian A., consular protection has several distinct characteristics, it is applicable locally, in the consular district, unlike diplomatic protection that acts on a national level, being addressed to the government of the state of residence [2, p.95]. Also, a brief analysis of the way consular assistance is granted, is carried out, with reference to the opinions of researchers in the field, but also to the legislation in force (GD no. 368/2002 "Regarding the approval of the Consular Statute", point 53). Next, an analysis is made of the institution of the labor attaché, which is the diplomatic official who can assist migrant workers to apply for employment and work legally*

in the destination countries, and to ensure a certain level of protection of the rights of migrant workers can intervene in labor conflicts and disputes (within the limits allowed by the international normative acts). The thesis lists several states of origin of the workforce that have instituted such a position in their diplomatic missions and recommends that similar measures to be included in the national legislation. Other specific protection measures listed in the thesis include the support of temporary workers placed under bilateral agreements, practiced, for example, by El Salvador and Mexico.

*Within subchapter 2.3. The legal protection of the social rights of migrant workers, citizens of the Republic of Moldova through bilateral agreements, is researched.* The undoubted benefits of these agreements can be observed, they take into account the specific interests and the concrete situation of the signatory parties, they create a greater responsibility for the destination states, and they can include more individual and specific aspects than those of other international acts. In the field of labor migration, the Republic of Moldova signed several agreements, including with: the Russian Federation (1993), Ukraine (1993), the Republic of Belarus (1994), Azerbaijan (2005), Italy (2011), Israel (2012), Bulgaria (2018), Germany (2021). Among them, the agreements with Israel, Bulgaria, and Germany are active, being examined in detail in the thesis. In the field of social protection, the Republic of Moldova has signed around 20 bilateral agreements, 16 of which allow portability of a range of benefits: Romania, Portugal, Bulgaria, Luxembourg, Austria, Estonia, Czech Republic, Poland, Hungary, Belgium, Lithuania, Germany, Hellenic Republic, Turkey, Republic of Belarus and Spain. The principle of territoriality is applied to four others, which means that benefits are paid according to the rules of the person's country of residence: the Republic of Azerbaijan, the Russian Federation, Ukraine, and the Republic of Uzbekistan. The data from the CNAS annual reports, mentioned in the thesis, show a small number of beneficiaries of the social security benefits based on these agreements, which indicates certain deficiencies in their implementation. Bilateral agreements are among the most effective mechanisms for protecting the rights of migrant workers, even if in practice they also have certain disadvantages: often weak monitoring and enforcement; features similar to soft-law instruments; the weaker negotiating position of the states of origin.

*In subchapter 2.4. The exercise by the authorities of the destination states of the legal protection of the social rights of migrant workers citizens of the Republic of Moldova, the role of the authorities of the destination states in the legal protection of the social rights of migrant workers citizens of the Republic of Moldova is examined.* Some national protection institutions are

reviewed, including labor inspectorates and other similar authorities, e.g., Canada's advisory offices, the US Department of Justice Counsel for Immigration-Related Unfair Employment, the Irish Naturalization and Immigration Service, the French Office for Immigration and Integration, etc. In many states, information of migrants is perceived as an effective mechanism to protect workers' rights, so some states have introduced training courses for newly arrived migrants, eg South Korea, and Singapore.

Reports of irregular migrant workers in destination countries were subjected to a detailed analysis. Thus, three different approaches applied within different legal systems were identified. In the continental system, specifically, the EU states, employers who use the labor force of irregular migrants are sanctioned, but the irregular migrant is allowed to benefit from the results of his work. Under the common-law system, on the other hand, the irregular migrant who has infringed the law cannot benefit from the results of his violation, in some cases not even regarding the payment of wages. Concerning the Islamic legal system, the impact of the "Kafala" sponsorship system has been examined, both in limiting the social rights of migrant workers and in creating situations of irregularity for migrant workers. For this purpose, certain legal documents examining the social rights of irregular workers are cited: 1. *Consultative Opinion of the Inter-American Court of Human Rights ( OC-18/03 of 17.09.2003 )*; 2. *Report of the Inter-American Commission on Human Rights ( no. 50/16, on case 12,834 )*. These documents confirm the correctness of the separation of infringements related to the migration status from the workers' social rights and labor relations, recommending the granting of these rights on equal terms which other workers also enjoy.

Regarding the granting of access to social security, we can mention several distinct regimes which impact the situation of migrant workers: Regime I (portability) includes all legal migrants who have non-discriminatory access to social services in the host country, and the country of origin and the host country having concluded bilateral or multilateral social security agreements to guarantee the full transfer of accrued benefits. Regime II (exportability) includes legal migrants who have access to social and social security services in the host country, without a bilateral agreement being concluded between the host country and the country of origin. Regime III (exclusion of access) includes legal migrants without access to social security in the host country, either because they are excluded or because there is no social security system in the host country. Regime IV (informality), according to authors Robert Holzmann and Johannes Koettl, presupposes, in particular, the situation of irregular migrants with no access to social security [17, p.4-5]. In addition, in some countries, there are mixed social protection regimes, applicable to migrants.



**Chapter 3 .** *Legal protection of the social rights of migrant workers citizens of the Republic of Moldova carried out by private legal entities.*

*In subchapter 3.1. The functions of private employment agencies in the context of legal protection of the social rights of migrant workers, citizens of the Republic of Moldova,* the potential role of private employment agencies (PEAs) in ensuring the protection of the social rights of migrant workers is explored. The definition of employment mediation services by PrEAs provided by the International Labor Organization (ILO) 181/1997 "Private Employment Agencies Convention," is examined. In this context, the obligation of PrE to intervene in the labor disputes of the workers placed abroad is also examined, aspect regulated by the provisions of GD no. 1276/2018 (chap. XI). This subchapter also mentions the rights infringements committed by PrEAs and unlicensed intermediaries (requiring payments for employment, situations of servitude, fraud committed by unlicensed intermediaries, etc.). The employment intermediation contract is another important aspect, unlike the provisions of the Law on Labor Migration No. 180/2008 (repealed), the new Law No. 105/2018 and GD No. 1276/2018 define in detail this contract and regulate its content. The legal nature of this contract is analyzed: according to some researchers, this is a civil law contract, while others note that it is in a bigger part a labor law contract. We consider and argue in the thesis that this is an labor law contract. Also in the thesis, a retrospective analysis of six employment intermediation contracts is carried out. We note that the most recent contract (no. 6), which is based on the provisions of the Law No. 105/2018 and GD No. 1276/2018, includes a series of clauses that stipulate protection mechanisms for migrant workers that are missing from the previous contracts developed on the basis of the Law No. 180/2008.

The licensing requirement for this type of activity is interpreted as a form of monitoring and control by the state of the respective field of activity. Another element of monitoring and prevention is the prior verification mechanism, which requires for the PrEA to ensure that it does not collaborate with a beneficiary in bad faith. And for the intermediaries that provide employment placement services abroad without holding a license, the recent amendments to Law No. 105/2018 introduce the term unlicensed intermediary, defined as follows: "natural or legal person who carries out employment intermediation activities, similarly to a private agency, without holding an activity license" [6]. The inclusion of this term in the legal framework allows the creation of control and monitoring mechanisms for those who illegally offer jobs abroad. In terms of control and monitoring, for the first time, the Law No. 105/2018 establishes, in art. 63<sup>3</sup>, the authorities that perform the control of the activity of PrEAs and unlicensed intermediaries, and some aspects of

conducting the control procedures. The main control authority is SLI, which can request the participation, as the case may be, of the Center for Combating Human Trafficking, the Public Services Agency, and NEA. The grounds for suspension and withdrawal of licenses are also examined, it is established that these measures are the only direct sanctions that currently exist in case of infringements committed by PrEAs. Another protection mechanism examined in the thesis and which was introduced through the recent legal changes is the inclusion in the responsibility of PrEAs of the repatriation expenses, if they are not covered by insurance. Also, the procedure for submitting petitions by workers, after their placement for employment, is analyzed, and the new legal changes also regulate the communication with the use of e-mail that the PrEA must provide to the worker. The last mechanism to protect the social rights of migrant workers is the self-regulation of PrEAs, especially through associations of private agencies in this field and codes of ethics, using the internal control procedures adopted by them.

*In subchapter 3.2. The involvement of public associations and diaspora organizations in the legal protection of the social rights of migrant workers, citizens of the Republic of Moldova, the activity of Non Governmental Organisations (NGOs) and diaspora associations in other countries, assisting migrant workers is analyzed. We find that both national and international NGOs have significant competencies in certain fields that can have an impact on the protection of the social rights of migrant workers. They can engage in practical assistance actions, following the model of legal clinics, for some categories of migrants, but they can also monitor and carry out actions to support the protection of the rights of specific categories of migrant workers, e.g. the NGO Network PICUM for irregular workers. Also, these Associations can promote the ratification by states of certain international Conventions or other acts. The role of these entities is particularly important in the context of the functioning of international organizations. Thus, NGOs are often involved in the completion of so-called parallel reports (shadow reports) regarding the compliance by states with the provisions of certain international acts. Likewise, they are invited to participate in some working groups of international organizations or are direct members of them (eg the Council of Europe).*

Regarding diaspora associations, it is important to mention the ambiguous legal regime of diaspora as a concept or element in international law. The same is observed concerning research in the international field. Authors, such as Larissa van den Herik, a researcher in the field of public international law, mentions that this topic is generally absent from international legal studies [19, p.2]. In the Republic of Moldova, the concept of diaspora is defined within the National Strategy "Diaspora 2025", the field being regulated through policy documents. The thesis states that most

states in the region have adopted diaspora laws, however, the RM approach to managing the given area through policy documents has its advantages, being more flexible and informal. Regarding international regulations, there is currently no convention on the diaspora or conventions that would address the diaspora from a social aspect. The report of the Venice Commission on the preferential treatment of national minorities by the states of origin of these diasporas of 19-20 October 2001 is the first international document in this field. The report includes a long series of recommendations, from which we can summarize two essential ones: 1. the states of origin of the diasporas cannot affect the sovereignty of the states of residence of the diasporas through their actions; 2. the interaction of the states of origin of the diasporas with the diaspora communities in other states must be limited to cultural and educational rights, if there are no bilateral agreements that would allow otherwise.

*In subchapter 3.3. The competencies of trade union organizations in the matter of legal protection of the social rights of migrant workers citizens of the Republic of Moldova, the role of trade unions in granting the protection of social rights of migrant workers is examined. Thus, the role and potential impact of trade unions in the Republic of Moldova are analyzed, in particular the provisions of the Law on trade unions No. 1129/2000. A collaboration agreement between the National Confederation of Trade Unions of Moldova and the Italian Union of Labor (UIL) in Italy, was concluded on 16.05.2013, but it did not bring tangible results for the protection of the social rights of migrants [8].*

A separate analysis is carried out on the role of trade unions in the destination countries. We consider that the current relationship of trade unions with migrant workers is geared towards including them in trade union movement. Contracts and collective agreements play a special role, for example, in some EU countries where the minimum wage is not established by law, it is negotiated and included in these normative acts. Thus, in some states, being a member of a union also means benefiting from the provisions of these agreements, which do not extend in all cases to workers who are not part of the union. The categories of poorly unionized migrant workers are also analyzed, especially as a result of limitations in their legal status: irregular migrant workers, domestic workers, agricultural workers, and agency workers; as well as the right of migrants to form their trade unions and the opportunity to create them.

**Chapter 4 . *International mechanisms for the legal protection of the social rights of migrant workers.***

*In subchapter 4.1. The role of the International Labor Organization and other UN bodies in*

*the legal protection of the social rights of migrant workers* is analyzed. The UN is the core of the modern architecture of international law and from this point of view, its role in ensuring the rights of migrant workers is a decisive one. Thus, a comparative analysis of the impact of the two human rights covenants is carried out: the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). The significant difference between them is mentioned, ICCPR has much more efficient mechanisms for receiving and examining complaints regarding infringed rights, while within the ICESCR a mechanism for examining communications was created only starting from 2013 (UN Resolution 8/2 from June 18, 2008), being applied only if the states have accepted it.

By comparing these two international instruments we observe the different approach in relation to social rights, as they are practically reduced to second rank in comparison to civil and political rights. Also here, is analyzed the role and impact of the UN International Convention on the protection of the rights of all migrant workers and members of their families (ICMW), which is the most modern Convention in the field of international labor migration,. However, this instrument is not without implementation problems, encountering the opposition of states to ratify and promote it (in particular states of destination), mainly because it gives certain rights to irregular migrants, but also because of certain imperfections, critically examined by some researchers: deficiencies in the regulation of social protection rights, insufficient regulation of the rights of irregular migrant workers, etc. We reiterate the importance of the ICMW, and its provisions serving as a source of inspiration for the national regulatory framework (e.g., Law No. 105/2018). The last examined mechanism is the procedure of Universal Periodic Review, which is a cooperative process that permanently and globally assesses human rights data across all the UN member states. However, we find that it similarly focuses on civil and political rights and pays less attention to social rights.

Regarding the role of the ILO, the brief conclusion that can be formulated is that the Conventions in the field of international labor migration (ILO 97, ILO 143, ILO 181, ILO 198) have had a more tangible and effective impact regarding the provision and protection of social rights of migrant workers, than, for example, those in the field of social protection (ILO 118, ILO 102, ILO 157), which have been ratified by only a few states. Within the IOM, especially in the Constitution of this organization, a complex mechanism is set up to supervise and execute the obligations assumed by the states, including the regular reporting on the measures taken. These reports are reviewed by a committee of experts. Cases examined by IOM include reports on compliance with conventions and complaints about violations committed by states, approximately

10 such cases were examined in the thesis. These can be grouped into two categories: 1. cases regarding freedom of association; 2. general cases related to the application and operation of conventions. We conclude that the ILO, through its tools, intervenes directly and effectively in examining many problems and infringements of the social rights of migrant workers.

*In subchapter 4.2. Instruments of the legal protection of the social rights of migrant workers within regional organizations*, the analysis of legal protection instruments in the field of social rights of migrant workers within regional organizations is carried out: the Council of Europe, the EU, and the Commonwealth of Independent States (CIS). Regarding the Council of Europe, two essential instruments are the European Convention on Human Rights (ECHR) and the revised European Social Charter (ESC). The ECHR from the beginning did not have provisions for the social field. However, over time, ECtHR jurisprudence has evolved to include aspects from the social field, especially through the prism of the art.11. The right to free association (including joining unions); art. 1. Optional Protocol 1 – property rights, and art. 6 para 1 – the right of free access to justice.

Regarding the right to social security, several ECtHR Decisions are examined, in which we see the evolution of the Court's precedent, from a limited recognition of this right in the case of *X. vs. The Federal Republic of Germany*, until the broad recognition of the right to benefit from some benefits abroad, in one of the most recent Decisions, namely *Pichkur vs. Ukraine*. The role of the ESC, is equally important in the examined context. The European Committee for Social Rights is the supervisory authority for the implementation and compliance of the ESC by the member states. However, its decisions are not binding, like those of the European Court of Human Rights, so the ESC establishes, rather, a political and image responsibility on the states, in opposition to the jurisdictional mechanism of the ECHR.

Within the EU, there are progressive provisions in the examined field, but also particularly efficient institutions. However, the Romanian researcher Claudia-Ana Moarcă Costea mentions that, at the EU level, there is no migration policy, but only common policies regarding certain aspects of migration [9, p.3]. The Court of Justice of the European Union (CJEU) has exclusive competence in ensuring the correct and uniform application and interpretation of the EU Acquis, including the aspect of the social rights of migrant workers. Thus, in this subchapter, several Decisions of the CJEU on the matter, which are related to migration and the social rights of migrants, are analyzed. We note that the precedent of the CJEU fulfills an essential function at the EU level, namely that of ensuring the functioning of intra-EU mobility. The secondary legislation of

the EU has a direct impact on the protection and status of the social rights of migrant workers, the main categories of normative acts being the regulation and the directive, in this sub-chapter, their impact and applicability for the research field is analyzed. We note that the EU is currently in the process of profound structural reforms in area of labor migration, which is to be finalized with the adoption of the EU Pact on migration and asylum.

Concerning the situation of respecting the social rights of migrants in the CIS, we note that even if within the CIS there is an impressive number of normative acts related to labor migration, a lack of functionality of the human rights protection instruments of this regional organization is also attested. The situation is determined, in particular, by the absence of mechanisms to ensure the protection of rights (the Human Rights Commission within the CIS being inactive and non-functional), and the lack of a mechanism to enforce agreements.

*The subchapter 4.3. Soft-law instruments for the legal protection of the social rights of migrant workers*, contains an analysis of soft-law instruments, examining their non-standard and specific character for the field of international labor migration. We consider that "soft-law" instruments include a wide range of mechanisms: resolutions, recommendations, practice guides, codes of conduct, etc., they can function based on an already existing treaty or mechanism (guidelines, recommendations) or they can have an innovative character (resolutions, standards, declarations) [3, p.87]. In this subchapter we also examine the most recent and recognised soft-laws instruments, which are important for the management of international labor migration: the ILO's Multilateral Framework on Labor Migration, the Global Compact for Migration, the Open Method of Coordination (OMC) within the EU, etc. Also, the impact of these international instruments is examined, for example, two decisions of the CJEU are cited, which require states to take into account certain soft-law documents, practically implying that these documents can be binding in certain circumstances (see: *C-322/88, Salvatore Grimaldi vs. Fonds des maladies professionnelles*, *C-99/09, Polska Telefonia Cyfrowa sp. z o.o. vs. Prezes Urzędu Komunikacji Elektronicznej*). This transformation of the soft-law provisions having a recommendatory nature to a mandatory one is criticized by some legal researchers, e.g. Dr. Jan Klabbers notes the ambiguity and lack of a legal logic of these instruments, noting that a normative act exists or not, there can be no middle ground [18, p.388]. The positive impact of soft-law instruments is manifested in their use as provisional mechanisms, for testing certain concepts, based on which new international legal acts, e.g. conventions, can later be developed. They also act as provisional instruments, for some areas where states or international organizations are unable to assume legal obligations.

*In subchapter 4.4. The main problems and infringements of the social rights of migrant workers internationally*, an analysis is carried out regarding the main types and forms of infringements and limitations of the social rights of migrant workers. Concerning the infringements identified in the Republic of Moldova, we mention in particular the following: at the pre-migration stage - fraud committed by unlicensed intermediaries, requiring exaggerated fees for employment, etc.; at the post-migration stage - migrants face reintegration difficulties, they do not use (or do not trust) the services created for this purpose by the state authorities.

Regarding the migration process, a first finding is that migrant workers are in most situations subject to certain general limitations of their rights, the least affected being highly skilled migrant workers. Another important aspect is the sponsorship requirements for migrant workers, requested by several states (USA, UK, Canada, Gulf States, etc.). In this context, relevant case law on the sponsorship of migrant workers in the US is analyzed (see the precedents: *Lin vs. Siebel Systems; Inc and Global Horizons Manpower*). In general, the significant impact of rights limitations for migrants who are subject to sponsorship requirements is found, both due to the high dependence on the employer (sometimes he can request the cancellation of residence permits, or refuse to issue a new one), and due to the limitations of access to justice, especially for seasonal workers who do not stay in the country after the end of the employment relationship, if they do not have a sponsor.

In the continuation of this subchapter, the categories of particularly vulnerable workers are analyzed. The first category are the irregular migrants, an important aspect that affects the protection of their social rights is caused by their exclusion, directly or tacitly, by most international organizations from their field of action. Also, because of their residence status, in many cases, they are limited in accessing virtually all social rights. Domestic workers are another vulnerable category, because their place of work is in the homes of individuals, making it difficult to verify their working conditions and potential abuses committed against them. The situation of domestic workers is also aggravated by the fact that in many countries they do not benefit from the protection of labor laws or it only partially applies to them. These workers are often unable to unionize, and their status is not regulated by an appropriate regulatory framework. Migrant agricultural workers face similar difficulties, notably non-application of national labor laws or collective agreements, high employer dependency, and limited access to justice due to sponsorship requirements.

## GENERAL CONCLUSIONS AND RECOMMENDATIONS

### *The main conclusions realised during research*

1. The Republic of Moldova is affected by the massive emigration of population, with the number of emigrants reaching about 500-600 thousand people, a significant number of Moldovan citizens have the EU citizenship or residence permits, their number being of about 800,000 - 1,000,000 persons.
2. Regarding migration trends, we consider that emigration from the Republic of Moldova will continue, being stimulated by the demographic crisis in the EU countries and the existence of the already-formed Moldovan diaspora; regarding international trends, we can mention the liberalization of the international movement of highly qualified workers, which can also affect the Republic of Moldova; the economic consequences of the war in Ukraine can have the most significant potential impact on migration processes, the worsening of the economic situation in the region can stimulate the emigration of citizens of our country; the impact of the Covid-19 pandemic was reduced, however, other similar epidemiological crises may impact human mobility and labor migration in the future.
3. The national authorities have implemented a migration policy specific for the countries of origin of migration, modern conventions regulating labor migration have not been ratified, especially the ILO Conventions No. 143, No. 189, and the ICMW of the UN. Within the ratified instruments, reservations have been introduced regarding the provisions on the rights of migrants (e.g., ESC).
4. The national legislation in this field does not regulate certain important aspects (irregular migrant workers, returned migrant workers, highly qualified migrant workers, diaspora issues, and the activity of private employment agencies).
5. A significant problem is also the lack of a single management and coordination authority, these attributions being distributed between several institutions (MLSP, State Chancellery (BRD), etc.), thus creating duplication of attributions. The lack of an inter-institutional communication channel contributes to the insufficient information of some state bodies about the functions and results obtained by the counterpart institutions.
6. Public policy documents *de jure* are not legal norms, but *de facto* they create legal consequences, and, in the case of the Republic of Moldova, they can even define and regulate new legal categories, e.g.: diaspora, returned migrant, highly skilled migration. They play an important role in migration management and are flexible, easier to adopt, and



to implement.

7. Regarding the legal nature of economic, social, and cultural rights, they are recognised as second-generation rights, in this context, the international practice demonstrates the focus of the UN and other international organizations on the first-generation rights – civil and political, while the social rights do not benefit from the same level of monitoring and protection.
8. The data identified in the research allows us to conclude that at the international level, there is a general reluctance of the states (especially those of destination) to adopt the core Conventions in the field of international labor migration: ILO 97, ILO 143, and ICMW, a situation that contributes to the increased vulnerability of migrant workers at the international level, including the citizens of our country who hold this status.
9. Several vulnerable categories of migrant workers have been identified: 1. domestic and agricultural migrant workers, to whom the labor legislation of the destination country is often not applied, or certain labor rights are limited (e.g. the right to join a trade union, the right to benefit from collective agreements, etc.); 2. migrant workers temporarily employed within an PrEA (short-term employment, limitations of labor and trade union rights); 3. irregular migrants – the most vulnerable category, a status often held by our citizens.
10. Regarding the good practices and actions to protect the social rights of migrant workers, some highly effective approaches and mechanisms have been identified:
  - negotiation of bilateral agreements between states;
  - the adoption and promotion of international standards for the protection of the social rights of migrant workers: ILO No.97, ILO No.143, ILO No.111, ILO No. 189, and ICMW;
  - consular protection and the establishment of the job attache position within diplomatic missions;
  - the development at the national level of an effective regulatory framework for the protection and information of migrant workers in the pre-migration stage and assistance upon return;
  - the creation of a single authority for the management and control of the field of international labor migration and the establishment of effective communication channels with other central and local public administration bodies for the effective management of this activity sector;
  - the development of more effective administrative petitioning mechanisms, for the examination of situations of infringements of the social rights of migrant workers,

mechanisms that would allow for the rapid investigation of such infringements.

*The main recommendations proposed in the research*

- Amending the legislation of the Republic of Moldova to harmonize it with international acts in the field of labor migration, especially with the three core conventions in the field of international labor migration: ILO No.97, ILO No.143, and ICMW.
- The creation or empowerment of an authority, to hold management functions in this field (ex., MLSP), which will contribute to a more efficient coordination in the process of enforcement of the normative framework for the protection of the migrant workers' rights and a more effective interaction between national authorities.
- In the context of the elaboration of the new public policy documents, the adoption of a specialized program in the field of labor migration, in which the aspect of the protection of the social rights of migrant workers will be reflected in detail.
- The more active involvement of the MFAEI in the protection and assistance of Moldovan workers abroad, in particular by establishing the position of work attaché, which can initially be tested on a pilot basis in several destination countries.
- Consolidated and continuous activities for the negotiation and implementation of bilateral agreements by the national authorities and the main destination countries for Moldovan migrant workers.
- National authorities must make attractive for migrants the option of private insurance in the public social insurance system, and exclude any bans on access to individual or private forms of insurance, regardless of the person's employment status.

*De Lege Ferenda proposals and concepts to improve the current regulatory framework*

- The amendment and completion of the Law No. 105/2018 for: adjusting notions to international standards; ensuring equal access to certain rights for irregular migrant workers; ensuring the application of the protection mechanisms existing in the labor legislation towards the beneficiaries of the PrEA services; ensuring the worker's right to notify the SLI and other authorities from abroad through electronic mail, without the obligation to have an authorized electronic signature.
- The amendment of the Law No. 761/2001, for the introduction of the position of the labor attaché in diplomatic missions, to ensure a higher level of protection of the social rights of migrant workers.

- Amendment of GD No. 1276/2018 by repealing the provisions (Annex 11<sup>2</sup>, pt. 21, 22, 23, 24) that allow the collection of payments for additional services to those of labor intermediation, provided by PrEAs that place workforce abroad, aspect prohibited by the ILO Convention No. 181.
- To improve access to social security, it is proposed to amend and supplement the Instruction regarding contract insurance in the public social insurance system, approved by the Decision No. 1 from 15.03.2005 of the Administrative Council of CNAS. In particular, regarding the exclusion of any applicable limitations in the access to this mechanism (eg, in the case of irregular migrants); extending the retroactive contribution period from 5 years to 10 years; creating electronic options for opening, accessing, and managing the pension account with the use of an authorized electronic signature, including through the MPay payment system, for the possibility of paying contributions and submitting the necessary documents from outside the RM, without the need to delegate to someone a power of attorney.

*The obtained result that contributes to the solution of an important scientific problem* consists in establishing the current status regarding the protection of the social rights of migrant workers (labor rights and social security rights), the main infringements and limitations of these rights as well as the most important protection mechanisms implemented by different actors (international organizations, governmental institutions, private law entities), which assisted in determining the status quo in this field, identified the intervention limits available to the national authorities, and also the reduced efficiency of the international regulatory framework, the findings allow the initiation of proposals *de lege ferenda* and the elaboration or amendment by national authorities of relevant policy documents, as well as the preparation of other practical tools to assist the migrant workers who are citizens of the Republic of Moldova (guides and other sources of information).

*Perspective research topics and themes*

- The migration of highly skilled migrant workers and the regulation of this form of international mobility of persons.
- Analysis of the impact of PrEAs and other private actors on international labor migration and the prospects of the international labor recruitment market.
- The impact of atypical forms of work on international labor migration.
- Digitalization, automation, evolution of work processes and their impact on international labor migration.

**LAW**  
**for the modification of some legislative acts**

No. \_\_\_ of \_\_\_\_\_

\*\*\*

**Parliament adopts the present organic law.**

**Art. 1.** Law No. 105/2018 regarding the promotion of employment and unemployment insurance (Official Gazette of the Republic of Moldova, 2018, No. 295-308, art. 448), is amended as follows:

**Article 3 is supplemented with a new notion:**

" *irregular migrant worker* – a citizen of the Republic of Moldova, with permanent residence or temporary residence on the territory of the country, who due to certain circumstances, is present in the country of destination in violation of the administrative rules of stay for foreigners";

**Article 54 is supplemented with paragraph (5), with the following content:**

"(5) Irregular migrant workers have the same rights to access social security services, based on the contributions they made, and to the same reintegration services and assistance, as any other category of migrant workers.";

**Article 61 is supplemented with paragraphs (8) and (9), with the following content:**

"(8) The employment intermediation contract provides to the job applicant the protection, ensured in this sense by the Labor Code of the Republic of Moldova, collecting of compensations or penalties or any other payments for the worker's dismissal, resignation, or refusal to work at the workplace abroad is prohibited.

(9) In the labor intermediation relations, as well as in judicial disputes, the provisions regarding labor jurisdiction, indicated in the Labor Code of the Republic of Moldova, will be applied, within the limit established by law.";

**Article 63 is supplemented with paragraph (4), with the following content:**

"(4) The migrant worker can contact, in the case of being abroad and having his rights infringed the State Labor Inspectorate, the police or law enforcement bodies, using electronic means of communication, without the need to use a digital signature, with the mandatory attachment of copies of identity documents and indication of contact details.".

**Art. 2.** Law No. 761 of 27.12.2001 regarding the diplomatic service, is amended as follows:

**Article 6 is supplemented by paragraph (6<sup>1</sup>), with the following content:**

"(6<sup>1</sup>) To represent and defend the interests of workers who are citizens of the Republic of Moldova in the accredited state, the position of labor attaché can be established within the diplomatic missions, the criteria for establishment and the method of activity, will be detailed by the Ministry of Foreign Affairs and European Integration ".

**THE PRESIDENT OF THE PARLIAMENT**

**No. \_\_\_\_\_ Chisinau \_\_\_\_\_**

## BIBLIOGRAPHY

### 1. Bibliographic sources in Romanian

1. BURIAN, C. *Fenomenul migrației și statutul juridic al străinului în dreptul internațional public*: tz de doct. în drept. Chișinău, 2010. 217 p.
2. BURIAN, A., VORNICOV, M. *Protecția consulară a persoanelor fizice și a persoanelor juridice în străinătate*. Chișinău: Ed. Poligr al USM, 2004, 216 p. ISBN 9975-70-463-8.
3. CEBOTARI, M. *Practicile soft-law în calitate de mecanism de protecție a muncitorilor migranți, un aspect puțin cercetat dar esențial pentru o imagine de ansamblu asupra problemei*. În: Integrare prin Cercetare și Inovare, Conferință Științifică cu Participare Internațională, 10-11 noiembrie 2014. Chișinău: Ed. CEP USM, 2014, pp. 87-89. ISBN 978-9975-71-570-6.
4. *Evaluarea rapidă a OIM privind impactul COVID-19 asupra bunăstării migranților moldoveni: date empirice privind strategiile și contribuțiile migranților* [online]. Chișinău: OIM-Agenția ONU pentru migrație, 2020. [citat 10.05.2022]. Disponibil: [https://moldova.iom.int/sites/moldova/files/documents/IOM%20Diaspora%20Survey%20Report-RO\\_FINAL.pdf](https://moldova.iom.int/sites/moldova/files/documents/IOM%20Diaspora%20Survey%20Report-RO_FINAL.pdf)
5. LARION, A-P. *Cooperarea statelor la nivel internațional în vederea realizării drepturilor fundamentale la muncă*: tz. de doct. în drept. Chișinău, 2016. 151 p.
6. *Lege cu privire la promovarea ocupării forței de muncă și asigurarea de șomaj Nr. 105 din 14.06.2018*, În: Monitorul Oficial Nr. 295-308, 10.08.2018, art. 448. [citat 10.05.2022]. Disponibil: [https://www.legis.md/cautare/getResults?doc\\_id=130921&ro#](https://www.legis.md/cautare/getResults?doc_id=130921&ro#).
7. LUCA, A. *Reglementarea migrației forței de muncă la nivel internațional și național*: tz. de doct. în drept, Chișinău, 2016. 197 p.
8. *Migranții moldoveni aflați la muncă în Italia vor fi protejați de sindicate*. [online]. [citat 30.01.2017]. Disponibil: <http://dev2.cnsm.md/migrantii-moldoveni-aflati-la-munca-in-italia-vor-fi-protejati-desindicat/>.
9. MOARCĂȘ COSTEA, C-A. *Drepturile sociale ale lucrătorilor migranți*, București. Ed. C.H.Beck, 2011, 298 p. ISBN 978-973-115-971-3.
10. *Notă informativă Cu privire la numărul revizuit al populației Republicii Moldova, inclusiv datele despre migrația internațională* [online]. [citat 11.09.2019], Disponibil: <http://statistica.gov.md/newsview.php?l=ro&idc=30&id=6409>.
11. *Oficial // Câți cetățeni care locuiesc în R. Moldova au și cetățenia României: Sute de mii de*

*persoane* [online]. [citat 15.05.2022], Disponibil: <https://www.ziarulnational.md/oficial-cati-cetateni-care-locuiesc-in-r-moldova-au-si-cetatenia-romaniei-sute-de-mii-de-persoane/>.

12. *Profilul Migrațional Extins al Republicii Moldova 2017-2021*. [online]. Raport analitic, Chișinău, 2022 [citat 01.04.2023]. Disponibil: <http://bma.gov.md/ro/content/profilul-migra%C8%9Bional-extins-al-republicii-moldova-2017-2021>.
13. Valeria Biagiotti: „Drepturile cetățenilor moldoveni în Italia sunt garantate”, ©2022. [citat 11.09.2019], Disponibil: <https://moldova.europalibera.org/a/valeria-biagiotti-drepturile-cet%C4%83%C8%9Benilor-moldoveni-%C3%AEn-italia-sunt-garantate-/29656396.html>.

## 2. Bibliographic sources in English

14. AWAD, I., WICKRAMASEKARA, P., TARAN, P., *International labour migration. A rights-based approach*, Geneva: International Labour Office, 2010, 303 p. ISBN 978-92-2-119120-9.
15. *Case of Airey v. Ireland, no. 6289/73 din 09.10.1979*, [online]. [citat 10.08.2020]. Disponibil: <http://hudoc.echr.coe.int>.
16. CEBOTARI, M. *Legislative issues regarding public policy documents in the management of labor migration. The case of the Republic of Moldova*. În: *Revista Națională de Drept*, nr 3 (245), 2021, pp.75 - 82. ISSN 1811-0770.
17. HOLZMANN, R., KOETTL, J. *Portability of pension, health, and other social benefits: facts, concepts, issues*. În: Discussion Paper N. 5715, Bonn, 2011, 58 p.
18. KLABBERS, J. *The undesirability of soft law*. În: *Nordic Journal of International Law*, 1998, nr 67, pp. 381–391. ISSN 1571-8107.
19. LARISSA VAN DEN H. *Diasporas and International Law*. În: *ESIL Reflections*, 7:6 (2018), p.2, [online]. [citat 07.05.2022]. Disponibil: <https://esil-sedi.eu/esil-reflectiondiasporas-and-international-law/>.
20. *World Migration Report 2022*, [online]. [citat 01.04.2023]. Disponibil: <https://worldmigrationreport.iom.int/wmr-2022-interactive/>.

## 3. Bibliographic sources in Russian

21. КИСЕЛЕВ, И. Я. *Труд с иностранным участием*. Moscova: Ed. МЦФЭР, 2003, 301 p. ISBN 5-7709-0228-0.

## 4. Bibliographic sources in Ukrainian

22. ВАВЖЕНЧУК, С. Я. *Охорона та захист трудових прав працівників: підручник*. Харків: Право, 2018, 560 p. ISBN 978-966-937-033-4.

## LIST OF PUBLICATIONS OF THE AUTHOR ON THE TOPIC OF THE THESIS

### *Articles in recognized foreign journals.*

1. CEBOTARI M., SADOVEI N. Accesul lucrătorilor migranți cu statut iregular fără forme la dreptul la muncă. În: *Analele Universității din București - Seria Drept.* 2021, Vol 2021, pp. 112-123. ISSN: 1011- 0623.

### *Articles in the journals included in the National Register of profile journals*

2. CEBOTARI, M. Probleme actuale ale legislației Republicii Moldova cu privire la definirea termenului de „muncitor migrant”. În: *Revista Națională de Drept.* 2014, nr 6, pp.71-74. ISSN 1811- 0770. Category C.
3. CEBOTARI, M. Analiza evoluției mecanismelor internaționale de protecție a drepturilor muncitorilor migranți la mijl. Sec.XIX - mijl anilor 1950. În: *Revista Națională de Drept.* 2014, nr 9, pp. 68-72. ISSN 1811-0770. Category C.
4. CEBOTARI, M. Analiza în plan istoric a evoluției mecanismelor internaționale de protecție a drepturilor muncitorilor migranți la (mijl an. 1950 - an. 2000). În: *Revista Națională de Drept.* 2014, nr 10, pp. 76-82. ISSN 1811-0770. Category C.
5. CEBOTARI, M. Legislative issues regarding public policy documents in the management of labor migration. The case of the Republic of Moldova. În: *Revista Națională de Drept,* nr 3 (245), 2021, pp.75-82. ISSN 1811-0770. Category B.
6. CEBOTARI, M. O analiză a practicilor de sponsorizare a lucrătorilor migranți și limitările drepturilor sociale cauzate de acestea. În: *MOLDOSCOPIE.* 2018, nr. 3, pp. 24-33. ISSN 1812-2566. Category C.
7. CEBOTARI, M. Influența și rolul „soft-law” în reglementarea migrației internaționale a muncii. În: *MOLDOSCOPIE.* 2018, nr 1, pp.19-27. ISSN 1812-2566. Category C.
8. CEBOTARI, M. The impact of high skilled migration (brain drain) on Republic of Moldova, an analysis of possible consequences and approaches to manage this phenomenon Decembrie 2018. În: *CSEI Working Paper Series,* N. 10, pp. 6 - 16. ISSN 2537-6187.

### *Articles in the proceedings of international scientific conferences (Republic of Moldova)*

9. CEBOTARI, M. Implicarea migranților vârstnici, cetățeni ai Republicii Moldova în dezvoltarea țării de origine: obstacole și oportunități: Politici și practici ale reglementării migrației în contextul provocărilor moderne. În: *Conferința științifică internațională, politici și*



- practici ale reglementării migrației în contextul provocărilor moderne, Tiraspol, 27 ianuarie 2017. Chișinău: Organizația Internațională pentru Migrație, Misiunea în Moldova, 2016. pp. 272-277.*
10. CEBOTARI, M. Rolul asociațiilor diasporei în protecția drepturilor migranților. În: *Conferința științifică internațională diaspora în lumea modernă: contextul regional și potentialul pentru o dezvoltare durabilă a țărilor de origine, 21 decembrie 2017. Chișinău; Organizația Internațională pentru Migrație, Misiunea în Moldova, 2018. pp. 197-204.*
  11. CEBOTARI, M. Diaspora institutions, an analysis of international practices and of the situation in Republic of Moldova, În: *Conferința științifică internațională diaspora în lumea modernă: contextul regional și potentialul pentru o dezvoltare durabilă a țărilor de origine, 21 decembrie 2017. Chișinău: Organizația Internațională pentru Migrație, Misiunea în Moldova, 2018, pp.577-582.*
  12. CEBOTARI, M. Instrumentele Consiliului Europei și ale Uniunii Europene de asigurare a protecției drepturilor sociale ale muncitorilor migranți. În: *Culegerea comunicărilor participanților la conferința științifică internațională „Interacțiunea dreptului intern cu dreptul internațional: provocări și soluții”, 14 noiembrie 2014. Chișinău: F.E-P. „Tipografia Centrală”, 2015, Vol. 3, pp.160-167. ISBN 978-9975-53-556-4.*
  13. CEBOTARI, M. O analiză a contractului de mediere pentru angajarea peste hotare și impactul său asupra drepturilor sociale ale lucrătorilor migranți. În: *Rolul științei și educației în implementarea acordului de asociere la Uniunea Europeană, materialele conferinței științifice internaționale, din 05 februarie 2015. Chișinău: Ed., Vasiliana 98, 2015. pp. 541-543. ISBN 978-973-116-404-5.*

*In other collections of scientific works published abroad*

14. CEBOTARI, M. Regulation of labor intermediation services provided by private employment agencies: a comparative analysis of legislation in the eastern Europe region. In the: *Materials of the round table with international participation: Дежравна политика у сфери трудової міграції: правові, економічні, демографічні, обласні аспекти*, November 18, 2019. Kyiv: Ed. ФОП Маслаков, 2020, pp. 206-221. ISBN 978-617-7625-74-1.

*In other collections of scientific works published in the Republic of Moldova*

15. CEBOTARI, M. Acordurile bilaterale în domeniul migrației de muncă și rolul lor în asigurarea drepturilor sociale ale muncitorilor migranți. În: *Materiale ale mesei rotunde cu*

participare internațională consacrată zilei internaționale a drepturilor omului, *Interacțiunea dreptului național și internațional în realizarea protecției drepturilor și libertăților fundamentale ale omului*, 10 decembrie 2014. Ed. Chișinău: Garomont — Studio, 2015. pp. 174-183. ISBN: 978-9975-115-68-1.

*Theses in the proceedings of national scientific conferences with international participation*

16. CEBOTARI, M. Protecția drepturilor sociale ale lucrătorilor migranți cetățeni ai Republicii Moldova în cadrul CSI. În: Conferința științifică națională cu participare internațională, "Integrare prin cercetare și inovare", 10-11 noiembrie 2020. Chișinău: Ed. CEP USM, Vol.2, 2020, pp.329-332. ISBN: 978- 9975-152-48-8.
17. CEBOTARI, M. Practicile soft-law în calitate de mecanism de protecție a muncitorilor migranți, un aspect puțin cercetat dar esențial pentru o imagine de ansamblu asupra problemei. În: Integrare prin cercetare și inovare, Conferința științifică cu participare internațională, 10-11 noiembrie 2014. Chișinău: Ed. CEP USM, 2014, pp. 87-89. ISBN 978-9975-71-570-6.

*Other scientific works*

18. CEBOTARI, M. Recrutarea forței de muncă peste hotarele Republicii Moldova cu intermedierea agențiilor private de plasare în câmpul muncii: bariere, provocări și oportunități, [online]. Chișinău: 2015, Disponibil: <http://nexusnet.mclipic/uploaded/NEXUS%20Recruitment%20study%20OROM.pdf>.

## ANNOTATION

**Cebotari Mihail, "The legal protection of social rights of citizens of the Republic of Moldova holding the status of migrant workers". Ph.D., thesis in law. Chişinău, 2023.**

**Structure of the thesis:** Introduction, four chapters, general conclusions, and recommendations, bibliography with 339 titles, five annexes, 158 main pages of text. The results of the thesis were presented in 18 studies, articles, and scientific communications.

**Keywords:** labor migration, migrant worker, protection of migrant workers' social rights, international labor migration.

**Purpose of thesis:** to study the current situation regarding the legal protection of the social rights of migrant workers who are citizens of the Republic of Moldova and to identify functional mechanisms to ensure effective protection in this regard. The research involves both the analysis of the theoretical aspects of the functioning of national and international mechanisms, as well as the practical moments stated by researchers in this field, or mentioned in the decisions and reports of high international authorities. The study intends to be a source of information in an under-researched field and a grounded scientific guide to assist specialists and decision-makers in the context of modern migration phenomena.

**Thesis goals:**

- Research of the legal mechanisms for the protection of the social rights of migrant workers used by states, international organizations, and the private sector;
- Study of the international situation in the field of social rights of migrant workers;
- Identification of problem areas in this field in national and international legislation and practice;
- Research of best practices implemented by public authorities and private law organizations at national and international levels.

**Scientific novelty and originality:** There is a lack of materials or studies in national literature, that examine the situation of the social rights of Moldovan migrant workers, the infringements of their rights, and how they could be remedied. At the international level, these issues are largely researched by international organizations, few monographs exist regarding this topic. The research on the protection of the social rights of migrant workers is largely carried out through scientific articles in specialized journals. In this context, this research presents itself as an innovative study for our country as well as a research that could be of international interest.

**The obtained results, that contribute to solving an important scientific problem:** consist in establishing the current status of the protection of the social rights of migrant workers (labor rights and social protection rights), the main infringements and limitations of these rights as well as the most important protection mechanisms implemented by different actors (international organizations, governmental institutions, private law entities), which assisted in determining the *status quo* in this field, the identification of intervention limits available to the national authorities, but also the reduced efficiency of the international regulatory framework, the findings allow the initiation of proposals *de lege ferenda* and the elaboration or modification by the national authorities of relevant policy documents, as well as the preparation of other practical tools to assist the migrant workers who are citizens of the Republic of Moldova (guides and other sources of information).

**Theoretical and applicative value of the research:** The impact of infringements on the social rights of Moldovan migrant workers raises the necessity for comprehensive research and the

identification of effective solutions to address them. The research results can serve as teaching material for the disciplines: labor law, social protection law, etc. They can also be used in the context of amendment of legislation in this field, especially law no. 105/2018 on the promotion of employment and unemployment insurance, the adoption of new bylaws and public policy documents, but also, eventually, for the development of practical sources of information that would assist migrant workers, citizens of the Republic of Moldova, to take measures to protect their social rights (e.g., Informational guide for migrant workers).

**Implementation of scientific results:** The thesis results and findings have been discussed at several conferences and published in several articles and studies. During the research on the thesis, I worked as an independent expert within the Ministry of Labor and Social Protection and the International Organization for Migration, for the elaboration of amendments to law N.105/2018, as well as the adoption of bylaws for the regulation of the employment of migrant workers, citizens of Moldova abroad.

## ADNOTARE

**Cebotari Mihail, „Protecția juridică a drepturilor sociale ale cetățenilor Republicii Moldova cu statut de lucrători migranți”. Teză de doctor în drept. Chișinău, 2023.**

**Structura tezei:** introducere, patru capitole, concluzii generale și recomandări, bibliografia din 339 titluri, cinci anexe, 158 de pagini text de bază. Rezultatele tezei au fost prezentate în 18 studii, articole și comunicări științifice.

**Cuvinte-cheie:** migrația de muncă, lucrător migrant, drepturi sociale, protecția drepturilor sociale ale lucrătorilor migranți, migrație internațională a muncii.

**Scopul tezei:** constă în studierea situației actuale cu privire la protecția juridică a drepturilor sociale ale lucrătorilor migranți cetățeni ai RM și identificarea unor mecanisme funcționale pentru asigurarea unei protecții eficiente în acest sens. Cercetarea implică atât analiza aspectelor teoretice de funcționare a mecanismelor naționale și internaționale, cât și momentele practice enunțate de cercetătorii din acest domeniu, sau menționate în deciziile și rapoartele unor înalte autorități internaționale. Studiul intenționează să fie o sursă de informație într-un domeniu puțin cercetat și un ghid științific fundamentat, pentru a asista specialiștii în materie și factorii de decizie în contextul fenomenelor migraționale moderne.

### **Obiectivele tezei:**

- cercetarea mecanismelor juridice de protecție a drepturilor sociale ale lucrătorilor migranți pe care le au la dispoziție și le utilizează statele, organizațiile internaționale și sectorul privat;
- cercetarea contextului internațional în domeniul drepturilor sociale ale lucrătorilor migranți;
- identificarea ariilor de probleme în acest domeniu în legislația și practica națională și cea internațională;
- studiul bunelor practici implementate de autoritățile publice și de organizațiile de drept privat la nivel național și internațional.

**Noutatea și originalitatea științifică:** În literatura națională lipsesc studii care ar evalua situația drepturilor sociale ale lucrătorilor migranți moldoveni, încălcarea drepturilor și cum acestea ar putea fi remediate. Pe plan internațional, aceste aspecte sunt cercetate în mare parte de organizațiile internaționale și există puține monografii la această tematică. Studiul protecției drepturilor sociale ale lucrătorilor migranți este în mare parte efectuată prin articole științifice. În acest context, prezenta cercetare este un studiu inovațional pentru țara noastră, cât și prezentând un potențial interes de studiu pe plan internațional.

**Rezultatele obținute care contribuie la soluționarea unei probleme științifice importante:** constau în identificarea situației cu privire la protecția drepturilor sociale ale lucrătorilor migranți (drepturilor de muncă și celor din domeniul protecției sociale), principalelor încălcări și limitări ale acestor drepturi cât și celor mai importante mecanisme de protecție realizate de către diferiți actori (organizații internaționale, instituții de stat, entități de drept privat), ceea ce a contribuit la stabilirea *statu-quo-ului* în domeniul dat, identificând limitele de intervenție de care dispun autoritățile naționale, dar și eficiența redusă a cadrului internațional de reglementare, cele constatate permit inițierea unor propuneri *de lege ferenda* și elaborarea sau modificarea de către autoritățile naționale a documentelor de politici relevante, cât și pregătirea unor alte mijloace practice de asistență a lucrătorilor migranți cetățeni ai Republicii Moldova (ghiduri și alte surse de informare).

**Semnificația teoretică și valoarea aplicativă a lucrării:** Impactul încălcărilor drepturilor sociale ale lucrătorilor migranți cetățeni moldoveni impune nevoia unei cercetări de ansamblu și identificarea unor soluții eficiente pentru soluționarea acestora. Rezultatele cercetării pot servi ca material didactic la suporturile de curs la disciplinele: dreptul muncii, dreptul protecției sociale ș.a. De asemenea, ele pot fi utilizate în contextul modificării legislației în domeniu, în special a Legii nr.

105/2018 cu privire la promovarea ocupării forței de muncă și asigurarea de șomaj, adoptării unor noi acte subordonate legii și documente de politici publice, dar, și eventual, pentru elaborarea unor surse practice de informație ce ar asista lucrătorii migranți cetățeni ai RM să ia măsuri pentru protecția drepturilor sale sociale (ex., Ghid informativ pentru lucrătorii migranți).

**Implementarea rezultatelor științifice:** Rezultatele și constatările din prezenta teză au fost discutate în cadrul mai multor conferințe și publicate într-un șir de articole și studii. În perioada realizării cercetărilor asupra tezei am activat în calitate de expert în cadrul Ministerului Muncii și Protecției Sociale și Organizației Internaționale Migrație, pentru elaborarea modificărilor la Legea nr. 105/2018, cât și adoptarea unor acte subordonate legii pentru reglementarea domeniului plasării lucrătorilor migranți cetățeni ai RM în străinătate.

## АННОТАЦИЯ

**Чеботарь Михаил, «Юридическая защита социальных прав граждан Республики Молдова со статусом трудящихся-мигрантов». Диссертация на соискание ученой степени кандидата юридических наук. Кишинёв, 2023 год.**

**Структура диссертации:** Введение, четыре главы, общие выводы и рекомендации, библиография, состоящая из 339 названий, пять приложений, 158 основных страниц текста. Результаты диссертации были представлены в 18 исследованиях, статьях и научных докладах.

**Ключевые слова:** работа мигрантов, трудящийся-мигрант, защита социальных прав трудящихся-мигрантов, международная трудовая миграция.

**Целью диссертации:** является изучение текущей ситуации в области правовой защиты социальных прав трудящихся-мигрантов, являющихся гражданами Республики Молдова, и определение функциональных механизмов, для обеспечения эффективной защиты в этом отношении. Исследование предполагает как анализ теоретических аспектов функционирования национальных и международных механизмов, так и практические моменты, изложенные исследователями в данной области, либо упомянутые в решениях и докладах высших международных инстанции. Исследование призвано стать источником информации в малоизученной области и обоснованным научным руководством в помощь профильным специалистам и лицам, принимающим решения, в контексте современных миграционных явлений.

**Задачи диссертации:**

- Исследование правовых механизмов защиты социальных прав трудящихся-мигрантов, используемых государствами, международными организациями и частным сектором;
- Исследование международной ситуации в сфере социальных прав трудящихся-мигрантов;
- Выявление проблемных зон в данной сфере в национальном и международном законодательстве и практике;
- Изучение передовой практики, применяемой государственными органами и частными правовыми организациями на национальном и международном уровне.

**Научная новизна и оригинальность:** В национальной литературе нет исследований оценивающих положение в области социальных прав трудящихся-мигрантов из Молдовы, а также нарушение этих прав и способы их устранения. На международном уровне эти вопросы в значительной степени изучаются международными организациями, а по данной тематике существует мало монографий. Исследования по этой теме в основном осуществляются в научных статьях. В этом контексте, данное исследование является инновационным для нашей страны, а также представляет потенциальный интерес для изучения на международном уровне.

**Полученные результаты, которые способствуют решению важной научной проблемы:** заключаются в выявлении ситуации в сфере защиты социальных прав трудящихся-мигрантов (трудовых прав и прав социальной защиты), основных нарушений и ограничений этих прав, а также наиболее важных механизмов защиты, реализуемых различными субъектами (международными организациями, государственными учреждениями, субъектами частного права), что способствовало установлению статус-кво в данной сфере, выявляя пределы вмешательства доступные национальным органам, а также сниженную эффективности международной нормативно-правовой базы, данные выводы позволяют инициировать предложения *de lege ferenda* и разработку или изменение национальными властями соответствующих документов политик, а также подготовку других практических средств защиты трудящихся-мигрантов, являющихся гражданами Республики

Молдова (руководства и другие источники информации).

**Теоретическая значимость и прикладное значение исследования:** Последствия нарушений социальных прав молдавских трудящихся-мигрантов требуют исследования и определения эффективных решений для их устранения. Результаты могут использоваться в качестве учебного материала по дисциплинам: трудовое право, право социальной защиты и др. Их можно использовать в контексте поправок в законодательство, особенно в Закон № 105/2018 года о содействии занятости и страхованию по безработице, принятие новых подзаконных актов и документов публичных политик, но и, возможно, для разработки практических источников информации, которые помогли бы трудящимся-мигрантам, гражданам Республики Молдова, принять меры по защите своих социальных прав (например, Информационное руководство для трудящихся-мигрантов).

**Внедрение научных результатов:** Результаты и выводы, содержащиеся в этой диссертации, обсуждались на нескольких конференциях и были опубликованы в серии статей и исследований. Во время работы над диссертацией я сотрудничал в качестве эксперта с Министерством труда и социальной защиты и Международной организацией по миграции, над разработкой поправок к Закону № 105/2018 г, а также над принятием подзаконных актов для регулирования сферы трудоустройства мигрантов-граждан Республики Молдова за рубежом.



STATE UNIVERSITY OF MOLDOVA

Manuscript title

CEBOTARI MIHAIL

**THE LEGAL PROTECTION OF SOCIAL RIGHTS OF CITIZENS OF THE  
REPUBLIC OF MOLDOVA HOLDING THE STATUS OF MIGRANT  
WORKERS**

SPECIALTY – 553.05. LABOR LAW AND SOCIAL PROTECTION

SUMMARY OF THE PH.D. THESIS IN LAW

---

Approved for printing: 19.05.2023

Paper format 60x84 1/16

Offset paper. Digital print

Print run of 30 copies

Pattern sheets: 2,5

---

Centrul Editorial-Poligrafic al USM  
Al. Mateevici str., 60, Chisinau, MD-2009  
e-mail: cep1usm@mail.ru