

Labor rights as legal constitutional category – Kosovo in relation to international labor organization

MSc. Muhamet Vokrii

University of Pristina

Abstract

The purpose of this study paper is the analyzing of the processes that followed the labor relations, its historical development respectively, since its first concrete efforts from the representatives of the workers (unions) till the establishment of the International Labor Organization (1919). As it is known the labor law presents one of the fundamental rights of the human being, thus such rights (right to work, freedom of work) are constitutional category and protected in whole legal systems of the present time.

The efforts to install such positive spirit were not easy. Genuinely is known that bearers of progressive developments in this field (end of XIX century) were organized groups of workers (unions), then initiatives from various statesmen and later to be materialized from the governments of present time followed by the addressing and protecting of these rights in international aspect.

Practice has proved that creation, purpose and activity of International Labor Organization has provided its benefits in achieving the primary principles of work, such rights proclaimed by the majority of world states and embedded in their highest legal act (Constitution) of the organization in question (ILO).

We consider that bearers of government politics of Kosovo, responsible sectors of this field respectively, shall regard these rules set and implemented by this international body and at the same time make maximal efforts towards advancing the current legislation in this field as well as to utilize all necessary resources in order to achieve the vital goal which is the adherence in ILO. This would certainly have an impact on minimizing the occurrence of eventual discontent from the organized groups (Unions) as well as other classes and naturally the progress and positive effects in this field would be visible and useful for the society.

Keywords: International Labor Organization, Kosovo, Constitution, Convents, Unions.

Introduction

Viewing from the historical aspect, the issues of enhancing the rights of work was a continuous subject of demands from various social stratum (employer organizations) not well organized in the beginning and then later at the level of Unions¹, who at that time addressed their concern to the politician elites of the government, but unfortunately the desired level of protecting these rights into a better level they achieved far later. In the beginning, the idea that labor is a principal right for whole society was a demand that initially was addressed during the time of French-Bourgeois

¹The first union actions were held in England, 1851.

Revolution but it was the Industrial Revolution that caused the appearance of the working class, a social group which depended on its work salary due to the lack of production tools. The impoverishment of workers created a kind of solidarity amongst them and they began to get organized. Thanks to the pressures from the first unions, a number of states passed laws on reforms related to the working hours and conditions (Ismalji, 2014, 19).

Being continuously faced by awkward situations, the workers gradually commenced to develop their movement within their states towards advancing their rights and at the same time guarantying some of the elementary rights that were considered at that time². Normally, the latest developments were not expected and were not welcomed by the authorities at that time, on the contrary in some certain states, the workers suffered various punishments. The viewpoints are natural from various authors, which conclude that as long as one rule does not foresee the sanction, the same rule will remain within moral norms and in this context of expectance for such rule to be enforced is very small, if at all. Given these arguments, at the beginning of evidencing the rights of labor and the need for an adjustment of such rules would remain only at the mercy of the employers and their free will to implement them. Considering the fact that a situation like this created uncertainty of workers towards the appropriate conduct of these relations, it was highlighted the necessity that these categories of rights shall be foreseen in the legislation and same time to have adequate legal protection. Such reality began emerging in the beginning of XX century in Continental Europe, in France more accurately where in 1910 the first labor code was adopted and was so called "Code du travail" (Ismajli, 2014, 19). The modality created by this state derived in the future a number of laws in this field in other states of the continent and wide. Undoubtedly that Kosovo, within the framework of legal regulation, in the past had different labor laws, depending on constitutional regulations, which historically followed the above country. This new reality was further strengthened by the cooperation of the labor organizations in various states, which later commenced their concrete actions towards establishing the International Association for Legal Protection of Labors.

Under the influence of these rising measures and necessary needs for change, the governments not only started legislative reforms towards enhancing labor conditions but at the same time commenced the change of previous concept which was protected with determination that in certain fields "fields from labor too" are matters of exclusive competence of national states. Thus the progressive spirit of development as well as being aware of new movements that are advancing more and more, governments of that time began concretely to establish a legislation field to enable the possibility for international law in the field of labor relations. Upon establishing the national labor legislation, the insurance for labor protection has not only remained within interior of the state. In years to come they were accompanied by the internationalization of the equity and its breakthrough outside the national borders, causing the interconnection of the employers in various states. The role of the social justice and

² International Labor Congress held in Brussels in 1884 and International congress for legal protections of employees held in Paris 1900, were of very high importance.

good working conditions towards the development and peace shall not be underestimated. Recognition of the fact that appropriate work is a precondition for human dignity, in many cases is a result of labor combat for their rights. Therefore, the labor rights since 1919 are merged into the legislation of the International Labor Organization (ILO) and standard regulation of the United Nations (UN) in contemporary time³. Actually, ILO is one of the most successful international organizations in the history of its operation. Genuinely is known the extraordinary role and contribution of the organization in terms of the development of labor relations in global terms. Goals, activities and operations of ILO are determined in its Constitution which was adopted in 1919 as well as in Declaration of Philadelphia (1944) which led to some constitutional amendments made in certain periods of time. At the same time this declaration is the integral part of the current Constitution of the ILO, or its annex to be more precise⁴. Except the ILO, UN is exercising an important activity through the social-economic council⁵. The primary task of this body is to organize the cooperation in the social and economic level as well as to coordinate the work between specialized institutions of the United Nations.

International Labor Organization (ILO) – Its main features

As it was mentioned in the beginning of this worksheet, International Labor Organization was established in 1919 in the Peace Conference in Paris⁶. As such, the existence of ILO is longer than 10 decades and is part of the oldest group of international organizations. ILO is a specific organization and is important in the system of international organization. It is unique and was established with a goal towards treating the issues on permanent basis related to labor as well as social field. Additionally, the ILO could undertake measures towards solving the issues in this field as well as enhancing the work conditions and labor lives (Ismajli, 2005, 55). The main feature that singles out this organization is its three parity or with other words equal level of representation of three subjects that are permanently part of processes carried out regarding the labor relations: government, employer organizations and employee organizations (unions). It is quite understandable that best practices of developed states helped and supported the development of labor legislation in global terms but in the same time the satisfied cooperation of this organization between states and bodies within ILO has had a great impact and merits towards the development of labor relations as well as social matters. Another positive aspect established for a century of its existence is singled out with its universality where part of this important organization, are majority of member states of United Nation Organization. Another key feature stands for a fact that within the organization all member states are equal in decision making procedures as well as other issues

³ International Labor Law Constitution (1919), Charter of the United Nations Organization, 1944.

⁴ Declaration of Philadelphia 1944, with its declared principles it represents the main basis on which the amendments of ILO Constitution 1946 were made.

⁵ Practice has shown some cases when Economic-social council proposed convents to ILO which deal with hygienic protection, annual leaves, night shifts and other field regarding labor protection.

⁶Treaty of Versailles, 1919.

part of organization work.

Considering the above noted features, they supported the functioning of the organization on permanent basis, which is one of the main features of this organization, thus resisting the challenges raising up not too rare but challenges you could expect when you have in mind the aspiration of great countries and their strength to lay its roots in this domain, but the overall organization interest had its primary role which was preserved by the organization in a perfect way so far. The purpose of establishing ILO was to continuously study the issues form the work relation domain as well as social politics and propose necessary measures in solving this issues in best possible way. We can conclude that this role was carried out very successfully by the organization during whole time of its existence despite all the challenges faced along this road. International Labor Organization carries out its activities through three main bodies (and some auxiliary committees) which review and decide matters regarding the nature of labor and social, depending on its competencies. From the development point of view, advancing international labor rights respectively by the functionality of this organization raises the question of what is the benefit of member states and why there is a great interest for states to be part of this organization. It's obvious that decision making grounds taken in democratic way and in full accordance with international legislation regarding work relation by the national bodies of one state are exactly products of recommendation and convents (will discuss about this in particular) that are issued during the General Assembly of ILO as the higher legislative body and the same shall be ratified by the respective national parliaments of those states voted that convent or recommendation. The ILO Constitution has explained precisely all the rules and procedures that need to be followed from the participated parties (states) since the beginning of proposing a convent until its adoption. Internal functioning control of the organization by the respective institutions regarding the implementation of adopted convents has made the states to be more aware and harmonize national legislation taking into account the ratified convention and obligations arising from it. Therefore, the positive results of ILO functionality will be visible only when states are going to be interested that during the regular reports that are handed over to relevant mechanism within the organization shall be content and in harmony with what they agreed on, in contrary those states that were not able to apply the certain convention will bring headache regarding the reports with other states as well as displaying a bad image in front of almost all world states. It's known from the practice that in the beginning ILO scope was issuance of convents and evidencing the problems of various natures which followed the working process in global terms but this raised a question that was it enough only to evidence the problems? Of course not, and in this regard, especially in modern time they started with higher intensity and engagement towards solving a number of other issues during the global development⁷. So the integral part of these developments as well as facing different challenges arising more and more was the contribution of participating states,

⁷ In this respect, the International Labor Organization (ILO), has increased the number of the Conventions with the Universally character.

respectively the employer organization and employee organizations under the umbrella they worked on within the organization. It is obvious that like in any other organization, identification and objections was and is still present when reviewing or discussing a certain issues or issuance of any convention but it is understandable that within this working environment you deal with matters of very high importance in context of global social welfare. Rule enforcement instruments of acts issued by ILO against states which adopted the convents were shown to be very effective and provided sufficient guarantees that states adopting the convents but fail to obey them will face legal action as per the ILO legislation as well as regulation adopted within the legislation which are consistent with those determined in the Constitution of this organization in 1919⁸. Considering the role and contribution given in global terms for public awareness and achieving the great results in terms of work relations, in 1969 ILO received the Nobel Peace Prize. This reward served like a further pattern to continue activities and achieving other important positive results.

Applicable legislation: Convents and Recommendations (Analysis)

Sources of international law mainly could be found in the recommendation and convents that are issued within the ILO but in other international instruments as well that are issued within the international organizations such as: United Nation Organization and regional organizations which deal with work relation issues for protection of human rights (Jenks, 1935, 448). These instruments differ regarding their legal character, where some of them are ILO Convents, UN Convents that deal with human rights, Europe Social Card which are dedicated to create obligations for states adopting them, whilst the recommendation are not mandatory but they serve like good rules for respective states for their implementation (Cordova, 1993, 14). Like international law instruments, convents even though do not have permanent character (absolute) of their enforcement, however its long practice of enforcement in different states has had an impact for those states to establish precedent implementation which created operational standards for certain issues that are solved by those convents⁹. For years an important number of cases were progressively build by selected bodies in order to monitor the implementation of these standards. Additionally, a great number of bilateral agreements regarding work conditions and other issues related to this activity are linked between different states. Therefore, we can conclude that sources of international labor law are based on the ILO Constitution (Recommendations and Convention) as well as other international UN instruments and regional organizations. Except above mentioned documents, as a reference of international labor law sources are to be found in the interpretation of the Constitution that are known as “**case law**”.

Regarding the nature of the recommendations and convents there were different theories and debates from various states since the beginning of their implementation.

⁸Articles 22 - 26 of the ILO Constitution.

⁹Example: Convents No. 87 and 98 regarding union of freedom and collective negotiations, long practice of implementation, have been incorporated into the national legislations of majority world democratic states.

Connoisseur and expert of convents Georges Scelle said that “convents cannot be qualified and contractual reports between states but they are treated as specific sources of international labor law and in this case he is referred to the general conference as a legislation body for their issuance (Scelle, 1920, 574). As for this opinion, the convents are legislative instruments possessing international character but their entering into force as carried out when such convents its being ratified by states previously agreeing on their implementation. In fact author George Scelle describes the convents like compromises between notions with these words “contract enables agreement, whilst law creates the agreement”. Since its establishment, ILO had adopted 182 convents and 190 recommendations (Morelett, 1938, 25). This fact creates a conclusion that international legislation on labor law is being included in a code of legal labor norms.

Incorporation of convents in national legislation of member states of ILO

The implementation of recommendations and convents is a subject of two basic principles and are mandatory to all member states of ILO and those principles are:

- principle of the obligation of implementing conventions and
- principle of minimum protection of rights.

The first principle means that whole member states of ILO, are obliged that upon ratification of the convents to carry out its implementation or incorporating it into the national legislation. The competent bodies of ILO member states are obliged to perform this depending on how this procedure is regulated (ismajli, 2005, 64). Taking certain measures for the implementation of the ratified convent is subject to the controlling system as it is defined in the articles 22 and 26 of ILO Constitution. Choosing the method of measures to ensure the implementation of the convent depends on the content of the convent as well as practices of the certain issues that are subject of the convent. ILO member states having ratified the convent will proceed taking these measures with dedication on issuance of new provisions and acts or harmonization of old acts with provisions of the ratified convent. Second principle (principle of minimum protection of rights) which deals with ratified convents will guide member states of ILO which ratified the convent on limitation of conventional minimum rights. We are dealing here with the lower limit of rights, the level which has to be respected because this is the principle criteria on which the assessment is being made whether the member state of ILO has fulfilled the obligation arising from the ratified convention.

During the procedure for ratifying the convent, member state does not have limitations due to the fact that it could foresee greater rights than minimum rights foreseen in the convent and of course not violating the minimum criteria. The incorporation of the ratified convent into the national legislation of ILO member states is being carried out through promulgation of laws, bylaws, autonomous general acts or collective contracts. All of the above shall aim the harmonization with the provisions of the ratified convent. It is worth to emphasize that ILO Constitution outlines the obligation of member states towards these ratified recommendations and convents. Thus, state government members of ILO are obliged that each convent or recommendation adopted by the ILO Conference shall be presented to the competent body for decision

or ratification no later than a year or 18 months upon its adoption by the ILO Conference¹⁰. ILO member states are also obliged to inform the Director if International Labor Bureau on measures taken to implement the convent, measures taken towards presentation of the convent to the competent state bodies as well as to inform the director regarding the measures taken by these bodies on this matter.

Implementation control of recommendations and convents

Obviously the adoption and ratification of one convent will be valueless if its implementation will not be within the national legislation of those states which signed it. On this matter, ILO in its constitutional provisions has foreseen the certain procedure through which the implementation of these international ratified instruments will be monitored and controlled¹¹. When we talk about such control, we shall bear in mind that this is not a direct control carried out to an ILO member state since the direct control of one state is against the principles territorial sovereignty in some areas as well as violation of international relations. Despite all these arguments, ILO has established a mechanism in order to exercise the implementation control of recommendations and convents.

Reports: ILO Constitution, pursuant to article 22 foresees the proceeding form of relations that are established within the International Labor Bureau. Each ILO member state is obliged to present the annual report regarding the implementation of ratified convent to the ILB (Ismajli, 2001, 32). Form and content of the report shall be drafted as requested by the Administrative Council. Based on the report presented by the ILO member state, General Director of International Labor Bureau (ILB) is obliged to present the report resume in the first Conference in accordance with article 19 and 22 of ILO Constitution.

Reclamation: This legal remedy can be exercised by the professional organizations of employers and employees, in case they consider that any ILO member state failed to fulfill the obligations arising from the ratified convent. The reclamation is addressed to International Labor Bureau. ILB through the Administrative Council could present the reclamation to the government of the state against which the reclamation has been filed¹².

The demand could be preceded to the government of that state to make a statement regarding the subject of the reclamation. The statement shall be made within the time limit. If the state fails to make the statement within the time frame or the statement does not meet the reclamation criteria, then the Administrative Council has a right to publish the reclamation or if it deems appropriate could also publish the response of the state government. The announcement is carried out with information means that ILO has at its disposal and the intention of the announcement is to make public disclosure of the member state which failed to execute the provisions of the ratified

¹⁰Article 19 of ILO Constitution.

¹¹Article 22, 24, 26 and 31 of ILO Constitution, referred to the procedures regarding the controlling tools.

¹²(http://www.ilo.org/wcmsp5/groups/public/-ed_norm/-relconf/documents/meetingdocument/wcms_357363.pdf. Report of the International Labor Office (GB.323/INS/11/6), dated on 27 March 2015, concluded the violations by the Republic of Moldova for failing to implement the Convent Nr 81 of 1947 on Work Inspections).

convent¹³. It is obvious that taking these measures by the ILO to make public disclosure of the certain member state for failing to meet the obligation arising from the signed convent has its consequences for the future of that state and for the survival of that government in particular on whether its governing mandate will be confirmed for the forthcoming period¹⁴.

Lawsuit: Could be exercised by any ILO member state when it considers that another ILO member state failed to meet the obligations taken from the ratified convent. But the rule is that the lawsuit against a state can be made only from that state which ratified that convent. The proceedings by the Administrative Council are the same as it was in the reclamation procedure. The council shall assess if it's necessary to contact the government state against which the lawsuit is made or not. If the council does not receive the appropriate response by the certain state government then the Administrative Council could appoint a commission to review the lawsuit and after the review is being carried out to present the report. When the detailed review of the lawsuit is carried out, the review commission will present the report which shall contain the real general information that is mandatory for the verification of the dispute and also giving guidance in terms of taking measures which should provide an objective review of the claim within the deadlines for realizing the demands and which arise from the claim.

General Director of International Labor Bureau will then present the commission report to the Administrative Council and to the member state governments interested for that particular case as well as shall ensure the publication of this report. Each ILO member state government interested in this regard, within 3 months shall inform the General Director of International Labor Bureau on whether it accepts the recommendations presented in the commission report of the Administrative Council. If any ILO member state government disagrees with the recommendations presented in the report is obliged to declare whether that state wishes the matter to be solved by the International Court of Justice. Pursuant to article 29 of ILO Constitution, the Decision of the International Court on that particular matter is final. International Court of Justice could verify, change or modify any conclusion or recommendation of the Administrative Council commission. If any of the members fails to obey the recommendations of the International Court, in this case the Administrative Council will propose the measures in the General Conference that will be adequate in order to fulfill the recommendation of the Administrative Council or the decision taken by the International Court of Justice (See convent 33 and 34 of ILO). It is worth to emphasize that within the competences of the International Court of Justice is the interpretation of the Constitution as well as it was mentioned earlier the interpretation of other International ILO instruments¹⁵.

¹³(http://www.ilo.org/wcmsp5/groups/public/-ed_mas/-eval/documents/publication/wcms_315637.pdf Cluster case study: Caucasus (Armenia, Georgia, Azerbaijan).

¹⁴(http://www.ilo.org/wcmsp5/groups/public/-ed_norm/-relconf/documents/meetingdocument/wcms_357362.pdf. Report of the International Labor Office (GB.323/INS/11/5), dated on 27 March 2015, concluded the violations by the state of Chile for failing to implement the convents nr 35 and 37 1933 on Insurance of aged individuals, respectively Disability Insurance).

¹⁵ During the period 1922-1932 for cases for interpretation were present in front of this body, three of them had to do with ILO Competences, whilst the other one for providing the opinion in reference with convents Nr. 4 for night shifts for women.

Kosovo in relation to the International Labor Organization

As it is known, the Constitution of the Republic of Kosovo¹⁶ which entered into force on June 15, 2008, in principle accepts the incorporation of the international conventions adopted by the international organizations. In this matter we shall be aware that legal tools adopted by ILO in the field of labor and social rights are mandatory for the institutions of our state. Undoubtedly, what encourages greater interest in dealing with this subject is the fact of where our country stands in relation to the ILO and in this regard the evaluation of efforts by the holders of government policy to be part of this very important international mechanism. Being part of an international organization such as ILO means that except the benefits we would have as a state at the same time we could have an increased work and responsibility of government politics in terms of labor relation processes and social issues. In this regard we shall bear in mind some of the basic conditions that are to be met by a state to be part of this organization. Amongst the issues that are presented for review is the scale of compliance with international labor standards by the applying country, implementation practices of international law, necessary legal infrastructure that is based on social work and welfare and many other issues of technical nature. It shall be explained that these factors do not have determining role on deciding the admission but clearly present an overview for a particular country. When I qualify these terms as technical, I bear in mind that political factors belong to another criteria and which shall be explained later on.

From practical aspect, the above noted criteria are a good basis for awareness of countries to advance the rights and reforms in this field. When we talk about the compliance with international standards, this issue could be presented as a self-test on whether a state is able to meet the obligation arising from either bilateral-multilateral tracts as well as other mandatory reports subject to international law. We shall bear in mind that as a state we did not have any experience that we could use like a favor in practical aspect of view when we are talking about the compliance with international standards. Reasons are well known. Actually, Kosovo is not member of UN as well as many other important international mechanisms, therefore this fact is an obstacle in terms of establishing international relations at the organizations level. This adverse situation is contributed by the fact of continuous objections (as expected) from the Russian Federation and People's Republic of China as permanent members of the Security Council (SC), as the highest instance of deciding the admission of new states in the bay of this Organization. As a result of the above mentioned issues, have produced situations when such documents could not be ratified and of course could not be implemented, but in the aspect of bilateral agreements with states recognizing Kosovo is a different situation due to the fact that those bilateral agreements achieved for issues of different natures, statistics show that our governments were watchful and at the same time they had shown willingness to implement them accordingly.

Legal Infrastructure This is a strong basement in aspect of evaluating the legitimacy

¹⁶Article 22 of the Constitution of the Republic of Kosovo 2008.

of the state. The question is where do we stand in this matter? Despite the measures for establishing and advancing the legislation, the reality shows that there is still a lot of work to do. It is mandatory to take necessary measures towards reforms and concrete steps in order to adopt adequate and sustainable legislation which corresponds with international standards proclaimed and adopted in ILO.

Before we start elaborating the benefits of our country if we were the part of the organization in question, in legal terms, it is necessary to deal with obstacles that Republic of Kosovo could be facing in order to be member of ILO. As it was mentioned in the beginning of this work, the basis of International Labor Organization operation lays in its fundamental act and the highest legal act – its Constitution, adopted in 1919. In this act it is precisely described who can become its member, respectively the criteria that must be met in order to have the opportunity of inclusion of relevant countries in this organization. Pursuant to article 1, paragraph 3 and 4 of ILO Constitution, which specify the procedural form of admission, there is a gap for interpretation regarding the issue of admission of our new state, Kosovo, but still without a seat in General Assembly of the United Nations for already known reasons. Paragraph 3 precisely says the following:

“Any original member of the United Nations and any State admitted to membership of the United Nations by a decision of the General Assembly in accordance with the provisions of the Charter may become a Member of the International Labor Organization by communicating to the Director-General of the International Labor Office its formal acceptance of the obligations of the Constitution of the International Labor Organization.”¹⁷

Whilst paragraph 4 says: *“The General Conference of the International Labor Organization may also admit Members to the Organization by a vote concurred in by two-thirds of the delegates attending the session, including two-thirds of the Government delegates present and voting. Such admission shall take effect on the communication to the Director-General of the International Labor Office by the government of the new Member of its formal acceptance of the obligations of the Constitution of the Organization.”*

By reading these two legal norms is implied the possibility of interpretation in different ways. Whilst article 1, paragraph 3 specifies that “ILO member may become states admitted to membership of UN” [...] ... the paragraph 4 provides references of the Conference where it explicitly states the following:

The General Conference of the International Labor Organization may also admit Members to the Organization by a vote concurred in by two-thirds of the delegates attending the session [...]...

From this we can understand that ILO member may become even those countries that are not member of UN. Interpretation of article 1, paragraph (4) leads us to the conclusion that decision making for admission of one state that has applied (but is not UN member) is General Conference. Certainly the drafters of the ILO Constitution were cautious to situations or difficulties that could face certain countries willing to become UN member (typical case of Kosovo). Therefore, avoiding every obstacle of this nature, it is important that countries will not be deprived of the possibility of

¹⁷Article 1, paragraph 3 and 4 of the ILO Constitution.

membership in this organization despite the fact that they are not members of the United Nations (UN). Membership practices has proven the success in the acceptance of a certain number of countries that at the time of admission were not (and are still not) a member of the UN¹⁸.

Certainly, placing two alternative forms of membership within the ILO was not coincidentally, especially if we refer to the time when the ILO Constitution was amended (1946) when majority of world countries were facing the problems after the second World War the creation of new states, efforts to divide the world into ideological basis and other issues which preoccupied the world of humanity. But the important thing was that the compromise achieved between the main protagonists for the creation of an international organization that would care for the protection and promotion of labor rights and improve social welfare should not be politicized in global terms, but serve to increase these values in general terms.

Conclusions

From this we understood how positive was this attitude for the leaders of that time and at the same time to reach the conclusion of how successful this organization was and still remains to be, despite the difficulties faced in certain period of times. This attitude of the government leaders of that time can be explained reasoning that all states in one way or another had faced similar problems in the field of labor and social nature. But when it comes to this issue, a necessary question is why the Kosovo government has not taken concrete initiatives for the ILO membership? Clearly, it was concluded that regarding the legal procedures for membership and based on legal documents of the organization, it is allowed to apply for membership in ILO without being a UN member. Although it is not stated explicitly that states not UN members can be members of the ILO, interpretation of article 4 enables the possibility for application even for countries that are not UN members. Thus this procedure, General Conference of the ILO, is competent and takes the decision by a majority of two thirds and decides on admission of a state without being a member of UN.

From our perspective we think that perhaps the matter lies in other circumstances, which currently finds us unprepared in some fields, especially in legislative matters. Earlier on we took as reference the criteria, (including the national legislation) and was concluded that they are not deterministic to decide the admission or not, but their role and importance shows a clear picture of the goals that government were having into consideration in setting the standards and regulations regarding the labor and social matters. But the reality we are in, what Government of Kosovo should exploit as its primary key would be the fact that the Kosovo Constitution (entered into force of 15 June 2008) has accepted the implementation of all international legal documents (including conventions) adopted by international bodies. Therefore, the needs for acquiring documents with international character in its national ranks are permanent, considering the goals and aspirations of the state of Kosovo to be part of

¹⁸ Such examples of admission of states are as follows: Andorra, Bhutan, Lichtenstein, Micronesia, Monaco, North Korea, Nauru and Togo.

international mechanisms. When we referred to the legislative field of labor relations in Kosovo, we expressed the need for progress and reform in this area, so in this context, taking experiences from other countries which operate within the organization, of course that would have helped greatly towards the development in this sector and particularly the practice of implementation of conventions and recommendations by these countries would be a great asset. The fact of the principles proclaimed by ILO on the occasion of the establishment, among which the most important were: commitment to the protection and development of labor relations, the establishment of social welfare and all those issues which are related to these categories, as well as our essential need to make progress in these areas, shows how important is our commitment (Republic of Kosovo) to become member of this credible organization and undoubtedly efficient.

Continuous diplomatic pressures, clear identification of needs for proper and acceptable legislation in international terms, establishing permanent contacts with friendly countries which have an impact on the global aspect would certainly help our cause to be part of this very important international mechanism and the benefits would soon be seen in all aspects that are subject to the regulation of this specialized organization. In this regard, more than ever is needed readiness and concrete actions by the competent authorities of the Government of Kosovo to be part of this international mechanism. The findings lead to it that adequate regulation of law and protection of these rights at national level as well as implementation of conventions and other international documents represents one of the main basements and at the same time a backbone of the operation of a sustainable legal and economic state which is ready to demonstrate international cooperation in this very significant segment of society-state of Kosovo.

References

- Jenks, W.(1935), *Some characteristics of International Labor Conventions*, Toronto, Canada.
- Scelle, G.(1920), *Are International Labor Conventions Agreement between Governments*, Paris.
- Morelett, R.(1938), *Un type original de traits, les Conventions*, Paris.
- Cordova, G.(1993), *Reflections on International Labor Standards*, *Comparative Labor Journal*.
- Brunstein, A.(2009), *International and Comperative labour law, Current challengies*, ILO.
- Bodansky,(2004), "The Use of International Sources in Constitutional Opinion", 32 *Georgia Journal of International and Comparative Law*, 421 - 428.
- Bercusson, B.(2009), *European Labor Law (Law in Context)*, Cambridge.
- Craig and De Burca(2008), *EU Law: Text, Cases and Materials*, OUP, Oxford.
- Keneth G. DAU- Shmidt, 2000, *Law and Industrial Peace*, Indiana, U.S.A.
- Ismajli, H.(2014) *Labor Law, Pristina.International Labor Standards*, Extract from the report of the International Labor Conference, 70th sesion, 1984, ILO. ILC 29th Session, Montreal, 1946, *Constitutional questions, Part I Reports of the Conference Delegation on Constitutional qestions (Report II (1), ILO 1946*.
- Servais, J.(2005), *International Labour Law*, Kluwer Law International. Modena, Italy.

Industrial relations, labour disputes and labour utilation in foreign owned firms in United Kingdom, London Gennoerd, J.(1998) .

- Alston, P.(2005), Labour Rights and Human Rights, Oxford.

Labor Laws in Eastern European and Central Asians Countries. Minimum norms and practices.

LeBel and Chao, "The Rise of International Law in Canadian Constitutional Litigation: Fugue or Fusion. Recent Developments and Challenges in Internalizing International Law", (2002) 16 *Supreme Court Law Review* (2d) 23, Kudo, A.(2009).

- International Comparative Employment Law, Cases and Materials, Blonpein, R. (2009),.

- Philadelphia Declaration of 1944.

- Basic Social Card for Employments, 9 December 1989.

- European Convent for Human Rights, 1950.

International Labor Organization Constitution (ILO) of 1919, amanded on the years 1946, 1948, 1953, 1972.

- Constitution of the Republic of Kosovo, 15 June 2008.

International Labor Convents in regard to the Trade Unions and Collective Agreements; Nr. 11, 87 dhe 98.

- International Labor Convent, Nr. 29, in regard to the Obliged Work, 1930.