

Review Article

DECENT PAY AND ACCESS TO JUSTICE FOR LABOUR MIGRANTS IN THE EAEU: COMPARATIVE LEGAL PERSPECTIVES

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ABSTRACT

Background: Labour migration remains a key driver of socio-economic development in the Eurasian Economic Union (EAEU), yet ensuring decent wages and access to justice for migrant workers is an under-addressed challenge. This gap in protection persists despite its direct relevance to international labour standards and the UN Sustainable Development Goal 8 on decent work.

Methods: The study employs a comparative legal analysis of the EAEU Treaty and national labour legislations of the EAEU countries against international standards (ILO, UN, EU). Empirical data include official wage statistics, government reports, and international publications. The analysis also incorporates case studies from Ireland, Finland, Poland, and the United Kingdom under the ILO “decent work” framework, with special emphasis on judicial mechanisms for rights protection.

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Results and conclusions: *The findings reveal that statutory minimum wages in EAEU countries are very low (only 20–30% of the average wage, and around 10% in Kyrgyzstan) and are often not indexed to inflation. As a result, migrant workers consequently face high rates of in-work poverty and significant barriers to justice (linguistic, financial, and procedural), limiting their ability to claim rights. By contrast, European practices demonstrate the critical role of judicial enforcement: for example, case law of the European Court of Human Rights shows that access to courts can transform formal labour guarantees into effective rights.*

The study concludes that, to meet international decent work standards, the EAEU must combine strengthened minimum wage guarantees with enhanced judicial protection. Key recommendations include linking minimum wages to median income, introducing automatic indexation, and expanding the EAEU Court's jurisdiction over labour disputes. Such measures would bolster migrants' socio-economic security, ensure real access to justice, and align EAEU labour policy with global decent work commitments.

1 INTRODUCTION

Labour migration within the framework of the EAEU represents the active movement of the workforce between the Union's member states in search of employment and better living conditions. One of the primary motivations for migrants is the aspiration to obtain decent remuneration sufficient to meet their own needs and ensure the well-being of their families. Fundamental legal norms affirm the necessity of fair pay: for instance, the Universal Declaration of Human Rights (1948) proclaims the right of every person, without discrimination, to equal pay for equal work.¹

Similar guarantees are also enshrined in the national legal systems of the EAEU member states. For example, Article 24 of the Constitution of the Republic of Kazakhstan establishes the right of every person to remuneration for work without any discrimination, to working conditions that meet safety and hygiene requirements, as well as to protection against unemployment.²

This constitutional principle is also reaffirmed in the political and legal discourse. In his Address to the Nation, President of the Republic of Kazakhstan Kassym-Jomart Tokayev emphasised that the value of diligence and conscientious performance of duties must be preserved in society, and that honest labour should be fairly rewarded.

Decent remuneration implies not only covering the migrant's daily expenses, but also enabling them to save, invest in the education and health of their children, and support

1 Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> accessed 10 August 2025.

2 Constitution of the Republic of Kazakhstan (adopted 30 August 1995) <https://adilet.zan.kz/eng/docs/K950001000_> accessed 10 August 2025.

their family back home. Wages perform a crucial socio-economic function: they are the worker's primary source of income, ensuring the reproduction of labour power and stimulating productivity. In a market economy, earnings form the population's effective demand, influencing both the pace and the direction of economic growth.

Wages rank among the most significant economic categories and possess a multifaceted nature, encompassing both economic, social, and political aspects. The state, therefore, plays a key role in regulating remuneration, building a system of guarantees designed to ensure fair standards of labour compensation.

The combination of the above-mentioned factors determines the relevance of studying the remuneration of labour migrants in the EAEU. The EAEU countries are striving for deeper integration of labour markets, which implies the convergence of conditions and guarantees of remuneration. In practice, migrants often face challenges such as low wages, a lack of social guarantees, and inadequate legal protection in the host country. They are frequently employed in low-paid jobs without formal employment contracts, leaving them vulnerable to exploitation by employers.³

Addressing these challenges requires coordinated efforts by states, international organisations, and NGOs: ensuring that labour migrants have access to minimum social standards (e.g., guaranteed minimum wage levels, social insurance) and adherence to the principles of decent work can significantly improve their working and living conditions.

In academic literature, considerable attention is devoted to the organisation and regulation of remuneration. Classical works (e.g., F. Taylor and others) laid the foundation for the theory of wage systems, while contemporary research explores issues of labour incentives and the regulation of wages for employees.⁴

The remuneration and incentive systems specifically for labour migrants in the EAEU have received virtually no scholarly attention in recent years. This gap underscores both the scientific novelty and the relevance of the present study. International research, including the works of D. Card (1990),⁵ J.M. Abowd and R.B. Freeman (1991),⁶ D. Card and A.B. Krueger (1995),⁷ shows that the impact of migration and minimum wage policies on the labour market is often less significant than commonly assumed in public discourse.

3 Reema Nanavaty and others, '7 Experts Explain Why It's Important to Pay Fairer Wages and How to Do It' (*World Economic Forum*, 3 June 2025) <https://www.weforum.org/stories/2022/06/seven-experts-explain-how-to-create-fairer-wages/?utm_source=chatgpt.com> accessed 10 August 2025.

4 Frederick W Taylor, *The Principles of Scientific Management* (Harper & Brothers 1911); 'The 5 Principles of Scientific Management Theory' (*TheMBains*, 22 July 2023) <<https://thembains.com/principles-of-scientific-management-theory/>> accessed 10 August 2025.

5 David Card, 'The Impact of the Mariel Boatlift on the Miami Labor Market' (1990) 43(2) *ILR Review* 245. doi:10.2307/2523702.

6 John M Abowd and Richard B Freeman (eds), *Immigration, Trade, and the Labor Market* (NBER 1991).

7 David Card and Alan B Krueger, *Myth and Measurement: The New Economics of the Minimum Wage* (20th-anniversary edn, Princeton UP 2015).

These findings are particularly important for the EAEU countries, where the development of minimum wage guarantees requires consideration of international experience and reliance on empirically grounded approaches.

Research Objective

The objective of this study is to conduct a comprehensive comparative legal analysis of wage regulation and labour migrant remuneration in the EAEU member states, taking into account international experience (EU, Ireland, Finland, and Poland). The aim is to identify key disparities and develop recommendations for shaping a unified model of decent remuneration and strengthening the socio-legal guarantees of migrants within the Union.

2 METHODOLOGY

The study employs a comparative legal analysis, encompassing both the provisions of the EAEU Treaty and the national legislation of its member states, as well as international standards established by the ILO, the UN, and the EU. The empirical basis includes official statistical data on minimum and average wages, government reports, and publications of international organisations.

The analysis employed systemic and structural-functional approaches, which enabled the identification of the relationship between formal guarantees of remuneration and their practical implementation. A comparison with foreign case studies (Ireland, Finland, Poland, and the United Kingdom) was conducted within the framework of the ILO's "decent work" concept, which enabled an assessment of the applicability of international practices in the EAEU context. In addition, an institutional-legal approach was used to examine judicial mechanisms for the protection of migrant rights (ECtHR, EAEU Court), along with elements of law and economics to assess the impact of minimum wage levels on labour markets and the social position of migrants.

3 RESEARCH FINDINGS: WAGE GUARANTEES AND MINIMUM WAGE IN THE EAEU

In all EAEU member states, national legislation establishes a comprehensive framework of wage guarantees, including the establishment of a statutory minimum wage, the obligation to make timely payments, enhanced remuneration for overtime work, requirements for transparency of employment contracts, and mechanisms for safeguarding workers' rights. Taken together, these provisions are intended to promote fair labour conditions consistent with internationally recognised standards of decent work, while also serving as an important indicator of socio-economic development and overall social welfare.

Nevertheless, wage regulation remains predominantly within the competence of individual member states, reflecting their specific socio-economic contexts.

The regulation and organisation of remuneration in the EAEU countries have their own specific features, shaped by both the general principles of the Union and the socio-economic conditions of each member state. Wage regulation is primarily governed by national legislation, reflecting the economic capacity and living standards of the population in each country. Employers are generally granted considerable discretion in selecting forms and systems of remuneration (such as wage scales, fixed salaries, or performance-based bonuses), provided that statutory minimum standards are respected. The fundamental prohibition is the payment of wages below the established minimum wage threshold.⁸

At the same time, significant disparities in living standards and levels of economic development among EAEU member states hinder the establishment of a unified minimum wage indicator for the Union as a whole. Each country determines the statutory minimum monthly wage through its national legislation. Despite gradual increases, minimum wages often remain substantially below the average wage level. As of 2025, for instance, the statutory minimum monthly wage in the Republic of Armenia is 75,000 Armenian drams, effective from 1 January 2023.⁹ In the Republic of Belarus, the minimum monthly wage was increased to 726 new Belarusian rubles by a resolution of the Council of Ministers, effective 1 January 2025.¹⁰ In the Republic of Kazakhstan, the statutory minimum wage was set at 85,000 tenge under the Law on the Republican Budget, effective 1 January 2025.¹¹ In the Kyrgyz Republic, the minimum monthly wage was set at 2,865 soms under the 2025 Budget Law, effective 1 January 2025.¹² In the Russian Federation, Federal Law No. 365-FZ of 29 October 2024 established the minimum wage at 22,440 rubles, effective 1 January 2025.¹³

In several EAEU countries, the statutory minimum wage remains significantly below the subsistence level, fueling ongoing debates about raising it to align more closely with the living wage. At the same time, it is important to recognise that a sharp increase in the minimum wage, if not accompanied by appropriate indexation mechanisms, may generate

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- 8 Muslim Khassenov, 'Legal Regulation of the Labour Market of Kazakhstan: Problems and Solutions' in Konrad Adenauer Foundation, *Transformation of the Economy of Kazakhstan* (IndigoPrint 2019) 231.
 - 9 Law of the Republic of Armenia HO-66-N 'On the Minimum Monthly Wage' (amended 7 December 2022 NO-501-N) art 1 <<https://www.arlis.am/hy/acts/172160>> accessed 10 August 2025.
 - 10 Resolution of the Council of Ministers of the Republic of Belarus No 935 'On Establishing the Amount of the Monthly Minimum Wage' (10 December 2024) <<https://pravo.by/document/?guid=12551&p0=C22400935>> accessed 10 August 2025.
 - 11 Law of the Republic of Kazakhstan No 141-VIII ZRK 'On the Republican Budget for 2025–2027' (4 December 2024) art 9(1) <<https://adilet.zan.kz/kaz/docs/Z2400000141>> accessed 10 August 2025.
 - 12 Law of the Kyrgyz Republic No 10 'On the Republican Budget of the Kyrgyz Republic for 2025 and the 2026-2027 Planning Period' (15 January 2025) art 15 <<https://cbd.minjust.gov.kg/4-5475/edition/25554/kg>> accessed 10 August 2025.
 - 13 Federal Law No 82-FZ 'On the Minimum Wage' (amended 29 October 2024) art 1 <https://www.consultant.ru/document/cons_doc_LAW_27572/> accessed 10 August 2025.

inflationary pressures and negatively affect real incomes. The persistent divergence between the minimum wage and the subsistence level indicates that the statutory minimum often fails to ensure adequate welfare.

The ratio of the minimum wage to the average wage in EAEU member states generally ranges between 20 and 30% (i.e., the minimum wage corresponds to roughly one-quarter of the average wage), with the notable exception of Kyrgyzstan, where it accounts for only about 10% of the average wage. In many cases, the statutory minimum falls considerably short of the economy-wide average income. Raising the minimum wage to the subsistence level is thus viewed as a necessary measure to protect the lowest-paid categories of workers and combat poverty. However, excessive increases in the minimum wage, if implemented without due regard for inflationary dynamics, risk driving price growth and eroding real incomes—a dilemma widely discussed in economic scholarship. In practice, however, each state addresses multiple objectives simultaneously in regulating minimum wage policy:

- raising its level to the subsistence minimum, thereby protecting the least skilled workers and alleviating poverty;
- ensuring a decent standard of living that enables workers and their families to meet basic needs;
- assigning the minimum wage the role of a regulator benchmark for the entire wage system.

According to ILO Recommendation No. 135 *On the Protection of Wages* (Geneva, 1970), the primary objective of establishing a minimum wage is to provide employees with the necessary social protection in relation to permissible minimum levels of remuneration.¹⁴

Researchers note that earnings below a certain threshold (for example, \$3 per hour) are insufficient to cover the basic needs of a worker and their family—a fact recognised by the international community, including the United Nations and the ILO.¹⁵

The regulation of the minimum wage in the EAEU is driven by objectives of social protection, economic stability, and the harmonisation of competitive conditions within the integrated labour market. The established minimum wage by itself does not guarantee the satisfaction of all basic needs; rather, it establishes a floor below which remuneration should not fall. In practice, even when employers comply with minimum wage requirements, the income levels of many migrants may remain low. Empirical studies have demonstrated that

14 ILO Recommendation No 135 'Minimum Wage Fixing Recommendation, 1970' (22 June 1970) art 2 <https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312473:NO> accessed 10 August 2025.

15 Richard Anker and Martha Anker, *Living Wages Around the World: Manual for Measurement* (Edward Elgar 2017). doi:10.4337/9781786431462.

raising the minimum wage does not have a destructive impact on employment and, in some cases, contributes to reducing income inequality.¹⁶

One of the key issues affecting the real wages of workers in the EAEU countries is the absence of wage indexation mechanisms in the labour legislation of several member states. Without automatic adjustment to inflation, the purchasing power of migrant earnings decreases over time. In this regard, experts suggest drawing on international experience to improve the system of guarantees. In particular, the introduction of a median-based approach to determining the minimum wage is under consideration—for example, setting the benchmark at no less than 50–60% of the median wage level, as recommended in the EU—following ILO Convention No. 131 *On Minimum Wage Fixing, with Special Reference to Developing Countries* (Geneva, 1970).¹⁷

In addition, it has been proposed to develop and adopt an EAEU Model Law “On the Minimum Wage,” which would establish basic benchmarks for all member states, protecting workers from poverty and guaranteeing a decent standard of living. The implementation of such initiatives could harmonise approaches across the EAEU, enhancing the transparency and predictability of wage conditions for labour migrants throughout the Union. An additional priority area is the expansion of opportunities for vocational training and retraining for low-income workers, which would facilitate their transition from low-paid sectors of the economy into more skilled and better-paid occupations.

4 REMUNERATION OF LABOUR MIGRANTS AND MIGRATION POLICY: INTERNATIONAL PERSPECTIVES FOR THE EAEU

Comparative research across different countries demonstrates that labour migrants consistently earn less than native workers. According to the European Central Bank, migrants in the eurozone receive, on average, about 30% lower wages than local employees, while their average net wealth (comprising cash holdings and assets) is approximately 60% lower. Notably, demographic characteristics such as age, education, and work experience account for only around 30% of this wage gap, whereas the remaining 70% is attributed to “unobserved” factors, including language barriers, discrimination, and other structural constraints.¹⁸

Migrants are characterised by greater financial vulnerability and increased sensitivity to economic fluctuations, which is reflected in their frequent reliance on subsistence-level

16 Card and Krueger (n 7).

17 ILO Convention No 131 ‘Minimum Wage Fixing Convention, 1970’ (22 June 1970) <https://normlex.ilo.org/dyn/nrmlx_en/?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312276:NO> accessed 10 August 2025.

18 Maarten Dossche and others, *Immigrants and the Distribution of Income and Wealth in the Euro Area: First Facts and Implications for Monetary Policy* (Discussion Paper Series no 2719, European Central Bank 2022). doi:10.2866/4984.

incomes and the more pronounced decline of their earnings during periods of economic downturn. At the same time, the scale of the wage gap differs significantly across countries: in Cyprus, for example, migrants earn on average 42% less than local workers, whereas in Slovakia their earnings are comparable to or even exceed those of locals, a disparity largely explained by differences in economic structure and labour demand.¹⁹

This reflects the operation of two distinct mechanisms: first, the concentration of migrants in low-skilled and low-paid positions, and second, the existence of barriers preventing their upward mobility into middle-income segments.

According to ILO data, in 2015 migrants in Ireland earned on average 20.6% less than native workers, and 23% less when measured by median hourly wages (compared to the EU average of 8.6–14.1%). The gap persisted even during periods of economic growth and widened substantially during the 2008–2009 financial crisis.²⁰

Additional indicators suggest that foreign workers in Ireland are more likely to receive the statutory minimum wage and to maintain this level for longer periods than native workers. Moreover, migrants are concentrated in lower-paid sectors of the economy, such as services and certain segments of industry. The wage gap also varies across income levels: the greatest disadvantage for migrants is observed in the middle deciles of the wage distribution (particularly around the fourth decile), while in the lowest and highest deciles the differences are considerably smaller. This suggests that the main inequality arises among workers with mid-range earnings—likely due to the limited upward mobility of migrants into higher positions—whereas in low-wage segments, the gap is mitigated by uniformly modest pay levels.

In Finland, the wage gap between foreign and native workers is generally moderate (around 15%). In 2022, the median hourly wage of foreigners was €16.75 compared to €19.61 for Finns (a difference of approximately 14.6%). The disparity is predominantly structural: the concentration of foreign workers in low-paid sectors produces a statistical lag, whereas once qualifications are recognised and access to highly skilled positions is granted, the differences largely disappear. This underscores the decisive role of occupational segregation rather than direct discrimination.²¹

19 James Laurence and others, *Wages and Working Conditions of Non-Irish Nationals in Ireland* (Economic and Social Research Institute 2023). doi:10.26504/jr2.

20 *ibid*; 'New ESRI Research Finds a Significant "Migrant Wage Gap", with East Europeans Particularly Affected, Earning 40% Less Per Hour than Irish Counterparts' (*Economic and Social Research Institute*, 19 January 2023) <<https://www.esri.ie/news/new-esri-research-finds-a-significant-migrant-wage-gap-with-east-europeans-particularly>> accessed 10 August 2025.

21 Hanna Jokimäki and Johanna Arvonen, 'Ulkomaalaistaustaisten palkat pienempiä kuin suomalaistaustaisten – paitsi johtajilla ja erityisasiantuntijoilla' (*Tietotrendit*, 4 November 2024) <<https://stat.fi/tietotrendit/artikkelit/2024/Ulkomaalaistaustaisten-palkat-pienempiae-kuin-suomalaistaustaisten-paitsi-johtajilla-ja-erityisasiantuntijoilla>> accessed 10 August 2025.

The situation of migrants in the Finnish labour market is closely tied to economic conditions. During downturns, unemployment among migrants rises more rapidly than among natives, indicating weaker protection for migrants in times of job cuts. However, when foreign workers manage to obtain positions as professionals or highly skilled specialists, their wages are, on average, comparable to or even exceed those of local workers. Thus, reducing the wage gap requires facilitating migrant employment in skilled positions and supporting their career advancement. The Finnish case demonstrates that with proper integration—taking into account migrants' education and skills—the wage differential may be minimal or even absent, and in some cases migrants may successfully compete for higher earnings.

The international overview reveals that various countries employ distinct approaches to regulating labour migration and ensuring minimum standards of remuneration for migrant workers. A comparison of recent reforms in Poland and the United Kingdom illustrates two contrasting models.

For example, Poland has pursued a policy aimed at simplifying and encouraging the employment of foreign workers. On 29 January 2022, significant amendments to the Act on Foreigners entered into effect, designed to ease employment procedures for migrants and make them more flexible. The key change was the abolition of requirements to provide documentation on residence and proof of stable income. At present, the only condition for a foreigner to obtain a residence and work permit is a salary not lower than the statutory minimum of 3,010 zlotys (gross) per month (approximately €665).²²

This rule applies to all foreign workers, regardless of their employment status (full-time or part-time) or the type of employment contract. In other words, migrants must earn no less than the Polish minimum wage, which is deemed sufficient to meet subsistence requirements. In addition, the reform introduced the possibility of obtaining a single combined residence and work permit, enabling foreign workers to be employed by multiple employers simultaneously.

Poland has also given special attention to neighbouring countries by expanding employment opportunities for citizens of six states—Armenia, Belarus, Russia, Georgia, Moldova, and Ukraine. For them, the maximum period of employment under the simplified procedure (based on an employer's declaration of intent to hire a foreigner, without the standard permit) has been extended from 6 to 24 months. This means, for example, that a citizen of one of these countries may legally work in Poland for up to two years without the need to obtain a formal work permit, provided they have an invitation from an employer.

The Polish experience illustrates a course toward the liberalisation of foreign labour recruitment. The removal of excessive bureaucratic barriers, the guarantee of a minimum

22 'Migrant Integration Hub' (*European Commission*, 10 July 2025) <https://home-affairs.ec.europa.eu/policies/migration-and-asylum/migrant-integration/migrant-integration-hub_en> accessed 10 August 2025.

wage, and flexible rules on changing employers are intended to bring migrants “out of the shadows,” attract them to sectors in demand, and secure their basic labour rights. These measures stimulate the labour market by adapting migration legislation to the economic needs of the country, while at the same time establishing a clear social minimum of remuneration for all employed foreigners.

The United Kingdom, by contrast, pursues a restrictive strategy that includes raising the minimum salary threshold for skilled worker visas (to £38,700), tightening the conditions for family migration, and introducing a list of occupations subject to higher wage requirements.²³

Employers in sectors traditionally reliant on foreign labour—such as healthcare, hospitality, and agriculture—have warned of potential labour shortages and rising costs, as recruiting workers from abroad now requires offering significantly higher wages. The government, however, maintains that these reforms reflect public demand for reduced immigration and improved welfare of native workers. This approach limits the recruitment of low-paid labour and channels migration towards highly skilled specialists, contributing to an overall increase in the average wages of migrants but simultaneously exacerbating labour shortages in certain sectors and stimulating the growth of informal employment.

These recommendations are consistent with the findings of a number of international studies, which confirm that the regulation of minimum wages has a significant impact on the working conditions of migrants and their economic integration. Cross-country analysis by Edo and Rapoport (2017) shows that in states with low minimum wages, immigration exerts a more negative effect on native workers' earnings, whereas under higher thresholds this effect is statistically neutralised.²⁴ The REMINDER report (Arenas-Arroyo et al., 2019) similarly highlights cross-cultural differences: in Germany and Spain, increases in the minimum wage contributed to narrowing the income gap between migrants and native workers, while in the United Kingdom, the effect was less pronounced.²⁵ Survey-based evidence from Bernd Hayo and Duncan H.W. Roth (2024) further demonstrates that public perceptions of migration are directly linked to expectations regarding its impact on wage levels, an important factor for policymakers shaping policies on minimum wage guarantees.²⁶

23 Government UK, 'Skilled Worker Visa: Immigration Salary List: Guidance' (*Government UK: Home Office*, 22 July 2025) <<https://www.gov.uk/government/publications/skilled-worker-visa-immigration-salary-list/skilled-worker-visa-immigration-salary-list>> accessed 10 August 2025.

24 Anthony Edo and Hillel Rapoport, *Minimum Wages and the Labor Market Effects of Immigration* (Working Paper, CEPII 2017).

25 Esther Arenas-Arroyo, Cinzia Rienzo and Carlos Vargas-Silva, *Minimum Wages, Earnings and Mobility in the EU* (REMINDER Working Paper, University of Oxford 2019).

26 Bernd Hayo and Duncan HW Roth, 'The Perceived Impact of Immigration on Native Workers' Labour Market Outcomes' (2024) 85(91) *European Journal of Political Economy* 102610. doi:10.1016/j.ejpoleco.2024.102610.

Longer-term studies also underline the complexity of the relationship between migration and labour market outcomes. Card's study of the "Mariel Boatlift" in Miami demonstrated that mass immigration did not lead to a significant decline in wages or an increase in unemployment among the local population,²⁷ while Freeman and Abowd's seminal monograph stresses that the relationship between migration, trade, and the labour market is complex and cannot be reduced to a simple downward effect on the wages of native workers.²⁸

Thus, comparing international practices enables the identification of optimal benchmarks for the EAEU. The Polish model demonstrates that combining flexible access to the labour market with guaranteed minimum social standards can effectively balance the interests of the state, employers, and workers. By contrast, the British experience highlights the risks of excessive restrictiveness, while the cases of Ireland and Finland underscore the importance of recognising qualifications and overcoming occupational segregation as key factors in reducing wage inequality. In light of these patterns, it appears advisable for the EAEU to develop its own model of labour migration regulation—one based on liberal instruments of access, coupled with effective guarantees of decent remuneration—which would promote sustainable development and social integration within the region.

5 INTERNATIONAL DECENT WORK STANDARDS FOR MIGRANTS AND MECHANISMS OF LEGAL PROTECTION IN THE EAEU

International instruments in the field of migrant workers' protection establish universal benchmarks that provide for equality in remuneration and access to social guarantees. However, the EAEU member states remain only partially integrated into these legal mechanisms. None of the EAEU countries has yet ratified the 1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.²⁹ This instrument would guarantee migrants equal pay for equal work and access to social rights (pensions, benefits, and medical care). The absence of ratification means that uniform international obligations in this sphere do not bind the Union's member states.

At the regional level, there is likewise no unified legal framework encompassing all aspects of labour migration within the EAEU. Despite the provisions of the EAEU Treaty establishing the principles of free movement of labour and equality of labour rights for

27 Card (n 5).

28 Abowd and Freeman (n 6).

29 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990 UNGA Res 45/158) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers>> accessed 10 August 2025.

citizens of member states,³⁰ no specific supranational act has been adopted to regulate the status and rights of migrant workers directly. In particular, the EAEU countries have not yet adopted or ratified a common “framework” convention on labour migration that would harmonise basic standards and guarantees. Each state continues to rely on its own labour legislation and bilateral agreements. Similarly, the EAEU itself lacks supranational laws on labour migration: issues such as labour benefits and guarantees are addressed through national legislation and bilateral arrangements. Some CIS conventions—for example, the 2008 Chisinau Convention, ratified by Kazakhstan—exist but do not provide a fully harmonised regional framework.³¹

However, the scope and effectiveness of such agreements remain limited, and a unified regulatory framework has not yet been established across the entire EAEU. This results in a fragmented system of protection: the rights and social guarantees of migrants differ depending on the state, while the mechanisms for their implementation and enforcement are predominantly national in character. Consequently, labour migrants in the EAEU still do not fully enjoy equal rights across all member countries, and the level of legal protection is largely determined by the legislation and law enforcement practices of the host state.

Research shows that a significant proportion of labour migrants in the EAEU remain outside official registration, which contributes to the growth of informal employment and limits the realisation of basic social rights. At the same time, access to healthcare, formal employment, and social protection remains fragmented. In this regard, the proposal to introduce a separate section into the EAEU Treaty devoted to the labour and social rights of migrants appears justified, as it would strengthen their legal protection and enhance the effectiveness of integration processes.³²

Ensuring access to justice is a fundamental prerequisite for protecting the rights of labour migrants in the EAEU. Despite the existence of formal guarantees, in practice, migrants often face linguistic, financial, and procedural barriers that limit their ability to defend their rights in court.

However, formal guarantees cannot be realised without effective enforcement mechanisms and access to justice. The experience of the European Court of Human Rights (ECHR) confirms the crucial role of judicial institutions in safeguarding the rights of migrants. In *Krachunova v. Bulgaria* (No. 18269/18, judgment of 28 November 2023), the Court for

30 Law of the Republic of Kazakhstan No 240-V ZRK ‘On the Ratification of the Treaty on the Eurasian Economic Union’ (14 October 2014) <<https://adilet.zan.kz/eng/docs/Z1400000240>> accessed 10 August 2025.

31 Law of the Republic of Kazakhstan No 235-IV ‘On the Ratification of the Convention on the Legal Status of Migrant Workers and Members of Their Families of the Commonwealth of Independent States’ (31 December 2009) <https://adilet.zan.kz/kaz/docs/Z090000235_> accessed 10 August 2025.

32 Mereke Zhurunova, ‘Issues of Providing Guarantees and Social Protection for EAEU Labour Migrants’ (2024) 7(4) *Access to Justice in Eastern Europe* 401. doi:10.33327/AJEE-18-7.4-a000104.

the first time recognised that a victim of human trafficking has the right to claim compensation for lost earnings from her exploiter on the basis of the prohibition of forced labour (Article 4 ECHR). Bulgarian courts had previously refused to award compensation for the claimant's labour income taken by the perpetrator, considering such work "unworthy." The Strasbourg Court, however, stressed that moral judgments are inadmissible—every worker must be restored to their wages, regardless of the circumstances under which they were lost.³³

In another case, *Dhahbi v. Italy* (No. 17120/09, judgment of 8 April 2014), the ECHR examined a situation in which an immigrant (a Tunisian national) was denied a housing allowance solely based on his nationality, despite the existence of the EU–Tunisia Association Agreement. The Court found a violation of the principle of non-discrimination, stating that the refusal to grant social benefits on the grounds of nationality was contrary to the state's international obligations.³⁴

These judicial decisions demonstrate that judicial practice serves as a key instrument in transforming declarative rights into effective guarantees. While states enjoy broad discretion in shaping social policy, any differential treatment must be based on particularly compelling justifications, since purely budgetary considerations cannot legitimise discrimination.

These precedents underscore that labour migrants must enjoy the same level of legal protection as nationals of the host state, both in terms of remuneration and access to social guarantees. For the EAEU, these cases illustrate the need to strengthen supranational judicial mechanisms. Expanding the jurisdiction of the EAEU Court to include individual complaints from migrants, as well as introducing simplified procedures for the mutual recognition and enforcement of judgments in labour disputes, could significantly enhance legal safeguards. Such reforms would ensure equal access to justice for migrant workers across the Union and contribute to creating a more equitable and balanced regional labour market.

Strengthening supranational protection mechanisms remains an urgent task for the EAEU. In particular, expanding the jurisdiction of the EAEU Court in matters of labour rights would allow it not only to issue advisory opinions but also to hear typical disputes and complaints submitted by migrants. There have already been cases before the EAEU Court concerning the application of labour benefits and guarantees—for example, advisory opinions in cases R-3/21 and R-3/22 regarding the status of employees of Union institutions.

33 *Krachunova v Bulgaria* App no 18269/18 (ECtHR, 28 November 2023) <<https://hudoc.echr.coe.int/eng?i=001-229129>> accessed 10 August 2025.

34 *Dhahbi v Italy* App no 17120/09 (ECtHR, 8 April 2014) <<https://hudoc.echr.coe.int/eng?i=001-142504>> accessed 10 August 2025.

In the future, such supranational judicial oversight could become an essential guarantor of effective protection of migrant workers' rights throughout the EAEU.³⁵

Recognising the existing challenges, the Eurasian supranational bodies have undertaken steps toward convergence of approaches and harmonisation of standards. A notable example is the recent Decision of the EEC Board No. 60 of 28 May 2024, "*On Directories Used in the Field of Labour Migration and Social Protection*", aimed at unifying informational tools and enhancing transparency in the regulation of this sphere.³⁶

This act introduces unified directories (classifiers) applicable across all EAEU member states in the regulation of labour migration and social issues. In particular, it provides for the harmonisation of lists of qualifications, occupations, and social benefits, which is expected to ensure mutual recognition of migrants' professional qualifications and comparability of social guarantees throughout the Union.

The implementation of Decision No. 60 in practice will simplify the recognition of education and diplomas of foreign workers by removing bureaucratic barriers to employment. In addition, the agreed-upon directories will facilitate the transfer of social rights. For example, employment history or entitlement to benefits will be considered when a migrant moves from one EAEU country to another. In this way, the EEC has laid the groundwork for creating a more unified space in the field of labour migration. However, it should be noted that such measures are largely technical in nature and cannot substitute for the absence of comprehensive legal guarantees. Their success will depend on the extent of their incorporation into national legal acts and on the willingness of member states to adhere to standard approaches. Without a general legal framework (such as a law or convention), the effectiveness of these measures remains limited, as they cannot entirely eliminate existing gaps in the protection of migrant rights. In other words, the need for a multilateral EAEU framework agreement on labour migration remains highly relevant.

6 CONCLUSION

The analysis of legal regulation and remuneration practices for migrants in the EAEU countries demonstrates that existing mechanisms do not yet fully ensure the standards of decent work enshrined in ILO instruments and affirmed by EU practice. In many member states, statutory minimum wages amount to only 20–30% of the average wage, falling short of the criteria for decent remuneration and leaving a significant share of workers below the minimally acceptable level of social protection. This situation is further

35 Case R-3/21 (EAEU Court, 21 March 2022) <https://courteurasian.org/court_cases/aeau/r-3.21/> accessed 10 August 2025; Case R-3/22 (EAEU Court, 18 October 2022) <https://courteurasian.org/court_cases/aeau/P-3.22/> accessed 10 August 2025.

36 Decision of the EEC Board No 60 'On Directories Used in the Field of Labor Migration and Social Protection' (28 May 2024) <<https://adilet.zan.kz/kaz/docs/H24EK000060>> accessed 10 August 2025.

aggravated by the fragmented legal framework: the absence of ratification of the 1990 UN Convention, the failure to adopt a common EAEU framework convention on labour migration, and the limited scope of CIS regional agreements prevent the establishment of a unified supranational standard of decent pay. As a result, the level of legal and social protection available to migrants depends largely on the host country and its national law enforcement practices.

International experience confirms that achieving decent remuneration is possible through a combination of factors: linking the minimum wage to the median or average income, regular indexation in line with inflation, recognition of migrants' qualifications, and the reduction of occupational segregation. The Polish model demonstrates the effectiveness of liberal regulation, which ensures flexible access to the labour market while guaranteeing wages not lower than the national minimum, whereas the British case highlights the risks of excessive restrictiveness that limits access for low-paid workers. The experiences of Ireland and Finland further confirm that the recognition of qualifications and the integration of migrants significantly reduce income disparities, bringing their earnings closer to the standards of decent remuneration.

For the EAEU, this implies the need to develop its own regulatory model based on liberal principles of labour market access, while ensuring compliance with minimum social standards. Key steps include establishing a supranational legal framework, unifying methodologies for calculating and indexing the minimum wage, recognising professional qualifications, and eliminating gender inequality. At the same time, it is essential to strengthen judicial mechanisms, including expanding the jurisdiction of the EAEU Court in matters related to migrants' labour rights, to guarantee their effective legal protection. Ensuring access to justice, removing linguistic and financial barriers, broadening the EAEU Court's competence, and promoting mutual recognition of judicial decisions in labour disputes among member states are crucial prerequisites for establishing an effective regional system for protecting the rights of migrant workers.

Overall, the establishment of a comprehensive system of guarantees ensuring decent remuneration for labour migrants in the EAEU constitutes not only a social but also an integration priority—one that can enhance the competitiveness of the common labour market and bring the Union closer to international standards of decent work.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Оглядова стаття

ГІДНА ОПЛАТА ПРАЦІ ТА ДОСТУП ДО ПРАВОСУДДЯ ДЛЯ ТРУДОВИХ МІГРАНТІВ В ЄАЕС:
ПОРІВНЯЛЬНО-ПРАВОВИЙ ОГЛЯД ПЕРСПЕКТИВ**Мадіна Єсіркепова, Нурбек Ісабай, Мереке Журунова* та Лейла Амандикова**

АНОТАЦІЯ

Вступ. Трудова міграція залишається ключовим фактором соціально-економічного розвитку в Євразійському економічному союзі (ЄАЕС), проте забезпечення гідної оплати праці та доступу до правосуддя для працівників-мігрантів є недостатньо вирішеною проблемою. Ця прогалина в захисті зберігається, незважаючи на те, що вона безпосередньо стосується міжнародних трудових стандартів та Цілі сталого розвитку №8, що ухвалена ООН, стосовно гідної праці.

Методи. У дослідженні використовується порівняльно-правовий аналіз Договору про утворення ЄАЕС та національного трудового законодавства країн ЄАЕС у порівнянні з міжнародними стандартами (МОП, ООН, ЄС). Емпіричні дані охоплюють офіційну статистику заробітної плати, урядові звіти та міжнародні публікації. Аналіз також передбачає огляд тематичних досліджень з Ірландії, Фінляндії, Польщі та Сполученого Королівства в межах програми «гідної праці» МОП, у якому було звернено увагу на судові механізми захисту прав.

Результати та висновки. Результати дослідження показують, що встановлена законодавством мінімальна заробітна плата в країнах ЄАЕС є дуже низькою (лише 20–30% від середньої заробітної плати та близько 10% у Киргизстані) і часто не індексується з урахуванням інфляції. Як наслідок, працівники-мігранти стикаються з високим рівнем бідності серед тих, хто працює, та значними перешкодами на шляху до правосуддя (мовними, фінансовими та процедурними), що обмежує їхні можливості відстоювати свої права. Натомість, європейська практика демонструє критичну роль судового забезпечення: наприклад, прецедентне право Європейського суду з прав людини показує, що доступ до судів може перетворити формальні трудові гарантії на ефективні права.

У дослідженні дійшли висновку, що ЄАЕС повинен поєднати посилення гарантій мінімальної заробітної плати з посиленням судового захисту для відповідності міжнародним стандартам гідної праці. Основні рекомендації полягають в тому, що мінімальна заробітна плата має залежати від медіанного доходу, також потрібно запровадити автоматичну індексацію та розширення юрисдикції Суду ЄАЕС щодо трудових спорів. Такі заходи зміцнять соціально-економічну безпеку мігрантів, забезпечать реальний доступ до правосуддя та узгодять трудову політику ЄАЕС із глобальними зобов'язаннями щодо гідної праці.

Ключові слова: трудова міграція, Євразійський економічний союз (ЄАЕС), гідна праця, регулювання заробітної плати, мінімальна заробітна плата, індексація заробітної плати, соціальний захист, доступ до правосуддя, судовий захист.