

IMPROVEMENT OF THE LEGAL FRAME WORK ON LABOR PROTECTION IN UKRAINE

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The Labor Code of Ukraine determines the legal principles and guarantees of implementation of the right order about the abilities of productive and creative work by citizens of Ukraine.

The main task of the Labor Code is the regulation of labor relations of workers, contributing to the labor productivity increase, improvement of the quality of work, increase of the efficiency of social production.

The Labor Code also assures the basic labor rights of workers. Every citizen of Ukraine has the right to work and receive a decent salary that is no lower than the minimum established by the state. The state must create all the necessary conditions for productive labor: employment assistance, training and improvement of labor qualifications, and, if necessary, provide retraining, issue laws on the limitation of the working day and the working week and the provision of a paid annual basic holiday and the right to safe labor conditions. The state should provide financial social security in old age, in case of illness, total or partial disability, and provide financial assistance in case of unemployment. The Labor Code also states the equality of labor rights of citizens of Ukraine, prohibits any discrimination in the workplace.

Every year, amendments are made to the Labor Code, some of these changes contribute to improving labor relations and some, frankly, are alarming.

This procedure is as follows:

the proposal is introduced, discussed at the relevant committee, then it is agreed, put to the vote in the Verkhovna Rada of Ukraine, and if the law or the amendment to the law wins 226 votes, the law of Ukraine is subject to publishing in the state language in the official printed publications: "Official Messenger of Ukraine", "Information of the Verkhovna Rada of Ukraine" no later than 15 days after the adoption and signing of the law.

A law enters into force 10 days after its official disclosure if otherwise is not provided for by the law itself, but not before the publication date in the official printed publications.

We will analyze some of the changes of the last period.

The labor agreement is a phrase well-known to all who at least once had a job. Especially now, when conditions for its conclusion have changed. Earlier, a labor agreement was considered concluded also when the decree or order was not issued, but a worker was actually admitted to work, and conclusion of the contract was made by the decree or order of the owner or his authorized body on the admission of the employee to work. But to date, an employee cannot be allowed to work without a labor agreement, issued the same as earlier by a decree or order of the owner or the authorized body for

admission of the worker. But there are also changes according to which it must be reported to the central executive body on ensuring the formation and implementation of public policy on administration of the single contribution for obligatory state social insurance about the admission of the worker, in the order established by the Cabinet of Ministers of Ukraine (part 4 of Art. 24 of the Labor Code is excluded).

Part 2 of Art. 48 of the Labor Code establishes the necessity of maintaining work record books for students of higher and vocational schools who are trained in the company, institution or organization. Part 3 of Art. 48 is supplemented by the requirement to issue the work record book within five days after the beginning of the internship for students of higher and vocational schools.

Adoption of these amendments has both positive and negative sides. One of the major shortcomings of these changes is the time lost for filling in the required documents. However, at the same time, there will be no situations when an employer is able not to pay salaries for a certain period.

The maintenance of work record books for students has its positive sides. For instance, having finished the university, they will already have some experience that most employers require. However, since an employer cannot be confident in a new employee while accepting them, of course, the employer will prefer an employee who has already worked in this field of activity for a long time. As filling in the documents certainly will not be useless, thereby students fall into a vicious circle again, since getting a job requires certain skills, and where to acquire them if you have just graduated from the university.

But as time goes on, new technologies are introduced and this is why these changes will soon become no longer relevant. After all, one of the expected changes is the abolishment of work record books, as a unified base already exists where all the data has long been entered. Now this question is one of most discussed ones, but ultimately it has not been decided yet.

During the last year, Article 77-2 appeared in the Labor Code, which establishes an annual additional holiday for certain categories of veterans. Now, combatants, war invalids, the status of which is determined by the Law of Ukraine, are granted the annual additional holiday with the preservation of the employee's salary for a period of 14 calendar days per year. Besides, an annual additional holiday can now be received by workers who have an adult child – a disabled child from the subgroup A of the group 1, which was never before.

Article 265 regarding responsibility for violation of the labor laws has also been extended. Legal entities and individuals – entrepreneurs that use hired labor are subject to a fine if: actual admission of an employee to work without issuing the labor agreement, admission of an employee on a part-time job when working the full-time job – at thirty times the minimum salary established by the law at the time of the detection of the violation for each employee in respect of which the violation occurred; violation of terms of payment of salary, failure to comply with statutory guarantees and benefits

to employees –in tenfold the minimum salary set by the law at the time of the detection of the violation for each employee for whom the violation is committed; etc.

Of course,during the last year, a number of positive changes were introduced including those that are worth mentioning, such as the following ones: pregnant women cannot be subjected to a probationary periodof employment; the concept of flexible hours and the ability to work at home is introduced(hours worked will be fixed, but the main criterion in such circumstances will beperforming the work in time);the annual basic holiday will be increased from 24 to 28 days;the lunch break will be regulated (at least 30 minutes, but no longer than two hours).

However, there are also changes that causeconcerns about their effectiveness. One of these changes is that the employer can now monitor the performance of duties of their workers and use technical equipment for that, but the employer must warn the workers about the use of technical means (e.g., video surveillance) if it is due to the features of production.

On the one hand,one can understand an employer who hires workers for the sake of profit, and so the employer can prevent situations where workers do not fulfill their obligations. On the other hand, it is a violation of the integrity of the workplace because the concept of "features of production" is not specified. Also,it is worth noting that ambiguous formulation is the basis for abuse.

The added change that allowsan employer to transfer the workers to another employer is rather strange. According to the draft Code, the employer has the right to temporarily transfer their employee consent to work for another employer in the event of downtime by agreement with others employer. However, in practice, this transfer will be compulsory, as an employee mightgive consent under pressure or being afraid of losing a job. Besides, the term of such a transfer is notestablished (Article 71).

Numerous amendments are introduced against illegal dismissal, but unfortunately,the majority of them are ineffective. One of the measures of protection fromillegal dismissalmight be providing proofs of the qualification level, labor productivity,conscientious attitude to the labor duties, legality of their own actions or inactivity, and explanations overadmitted violations or inappropriate fulfillmentof labor duties. However, in practice,this procedure will not grant any opportunities to a worker to prevent dismissal due to the lack of the review mechanism of such explanations. Usually, they are formally accepted and they do not affect the decision about the dismissal.

The negative changes also include narrowing the rights for aholidayconnected with the studying. So now, workers who intend to acquire the second highereducation can be granted payable vacation only in the case of their referral for training by the employer.

During the last period,numerous amendments were made to the Labor Code, many of them are still in a state of development. All of them are introduced toaddress issues concerning the regulationof labor relations.

Thus, despite the controversial amendments, the Labor Code of Ukraine improves and provides more protection for certain categories of citizens that were unprotected before (mobilized military), but the largest problem is the problem of implementation of these changes in practice, as the system that exists since the Soviet times is difficult to change.

References

1. <http://zakon1.rada.gov.ua/laws/show/322-08/page>.
2. http://blogs.lb.ua/andriy_pavlovskiy/307796_shcho_noviy_trudoviy_kodeks_gotu_ie.html.
3. http://donoda.gov.ua/?lang=ru&sec=02.03.10&iface=Public&cmd=view&args=id:23188;or%24_tags:212;tags:72.