

PROTECTION OF LABOR INDIVIDUALS WITH DISABILITIES IN UKRAINE

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According to the collection "Social Protection of the Population of Ukraine" issued by the State Statistics Service of Ukraine in 2017, there are 2.614 million registered people with disabilities in Ukraine who receive social assistance (statistical information about people with disabilities located in Crimea is not indicated). Only about 650,000 out of 2.614 million are officially employed (a significant percentage is fictitious).

In 2009, Ukraine ratified the "Convention on the Rights of People with Disabilities". Article 27 of this document states that fair and favourable working conditions for workers with persistent physical, mental, intellectual or sensory impairments in the enterprise should be created, in particular, the workplace, reasonably adapted to the needs of a physically challenged worker.

First of all, the rights of such people to work are specified in the "Convention on the Rights of People with Disabilities", in the Constitution of Ukraine and in the Law of Ukraine "On Occupational Safety" (Article 12). A separate requirement is the employer's duty to provide comfort in the workplace for such an employee, referred to an Article 172 of the Labor Code of Ukraine.

Part 3 of Article 18 of the Law of Ukraine "On the Basics of Social Security of Disabled People in Ukraine" states that individuals and legal entities employing hired labor (and such entities include enterprises, institutions, organizations, individuals) have certain obligations to their employees. In particular, employers should create special paid positions for people with various health problems, equip them with the necessary amenities according to the needs and safety of their employees and according to individual rehabilitation programs.

If an employee has lost his ability to work precisely because of an accident or occupational disease, the employee has the preferential benefit to remain in the conditions of equal work and competencies productivity.

The CMU No70 resolution dated January 31, 2007 defines the procedure for providing information on employment of people with disabilities by employer to the Fund of Social Protection of Disabled People.

Article 19 of the Law of Ukraine "On Fundamentals of Social Protection of Disabled People in Ukraine" states that 4% of the state of the subjects of economic activity should be made up of workers with disabilities (and 1 for the state in the amount of 8-25 people) . In addition, employers are obliged to determine how many jobs for people with disabilities should be in the enterprise and to provide employment for such people.

In case of an offense detection (which is the abridgment of the rights of people with disabilities), private companies are liable for paying a fine of half of the annual salary per position with a staff of 8-15 people and an average annual salary with the

staff of at least 15 employees. Public utilities and state-owned enterprises do not pay fines, but they also apply to the requirement to employ people with disabilities. Ukraine continues to harmonize the current Ukrainian legislation on labor protection in accordance with the legislative documents of the International Labor Organization.

At the current stage of establishing institutions in Ukraine that are peculiar to leading social states, one of these key areas of state policy is the introduction to a set of measures for social integration of people with disabilities in public life, including integration through labor activity.

A physically challenged person is able to feel the need of her/himself in society through work activity, to overcome psychological disabilities, to rehabilitate. Employed people with disabilities have the opportunity to integrate into Ukrainian society and optimize their physical, intellectual and social health to an acceptable level, through their own activities. The Law of Ukraine "On the Rehabilitation of Disabled People in Ukraine" also emphasizes the importance of work for people with disabilities as a socialization for such people.

Labor rehabilitation of people with disabilities is being conducted simultaneously with medical rehabilitation, which is implemented with the medical-social expert commission.

The main components of such activity are training and recovery of one's health using rehabilitation means. People with disabilities also need comfortable working conditions and security of travel within the enterprise (in particular, it is necessary to check the availability and comfort of working conditions for the employee and, if necessary, to introduce additional security measures).

For workers with disabilities there are no probation periods. People with disabilities have the right to study, retrain and work in accordance with medical advice. It is allowed to involve people with disabilities in over-time and night work only with their consent to work and if such activities do not break conditions of the requirements of the medical and social expert commission.

Illegitimate actions of the employer, refusal to draft an employment contract or dismissal on the initiative of the management of the enterprise, provide a punishment in the form of a fine. The transfer of a person with a disability to another job is considered acceptable either with the consent of the worker himself or according to the recommendation of doctors and specialists if the work is no more possible due to the employee's state or to ensure the comfort of the worker's needs to change the nature of work.

On former occasions, while employing persons with disabilities, the main document was the Resolution of the Cabinet of Ministers of Ukraine dated May 3, 1995p. No314 "Regulations on the place of work of the disabled people and the procedure of employment of the disabled", now this decree is a dead law because of the appearance of the Resolution of the Cabinet of Ministers of Ukraine, dated January 31, 2007 No 70 "On the implementation of Articles 19 and 20 of the Law of Ukraine" On Fundamentals of Social Protection of Disabled People in Ukraine".

It specifies the procedure of registering enterprises employing hired labor, accepting the number of jobs, paying companies a penalty for non-fulfillment of

claims, the procedure for using funds and the procedure for checking enterprises.

Unlike the previous regulatory act, the Resolution of the Cabinet of Ministers of Ukraine No. 70 focuses more on the financial aspects, introducing articles of the Law of Ukraine "On the Fundamentals of Social Protection of Disabled People in Ukraine" and not on the peculiarities of the workplace for people with disabilities. Although, such decision is dictated to the diversity of the needs of each of employees who require special attention and the specifics of the objects of economic activity, to which requirements are made. Therefore, the audit function is carried out by the Fund of Social Protection of the Disabled, which is ran by the expenses of those employers who do not comply with the requirements of the legislation.

People with disabilities are usually recruited with the help of the State Employment Service, since the unemployed person with a disability finds it difficult to find work by themselves, taking into account travel restrictions and barriers in dealing with potential employers.

The cost of rehabilitation, training and arrangement of living amenities for people with disabilities in European countries is significantly higher than in Ukraine, and the standard of living in general. However, after the Association Agreement with Ukraine was signed, there is a reason to expect that standards of life and safety of labor protection gradually adopted in the European Union will be implemented in Ukraine.

In order to improve the state of safety arrangement and precautions in Ukraine, considerable attention needs to be paid to the issue of employment of disabled people, which in turn helps to maintain social guarantees of protection. It is important to emphasize the training of direct performers and participants in production processes - those who are the most affected by harmful and dangerous production factors and, unfortunately, are seriously injured.

References

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