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orcid 0000-0003-0376-5079

OPTIMIZATION OF LABOR RELATIONS IN THE CONDITIONS OF MARTIAL LAW : CHALLENGES, DECISIONS, PROSPECTS

Prohoniuk Liudmyla Yurievna,

Candidate of Law,

Associate Professor of the Department of Public Administration and
Administration and international economy

Nikolaev national Agrarian University

e-mail progluda@i.ua

The presence of martial law in our country has led to a significant revision of labor legislation, which led to the restriction of employees' labor rights. Many enterprises that were in the war zone were forced to adapt to new conditions or even cease their activities. Numerous employees were forced to leave the country, which led to the need to find new staff employers. The conditions of shelling and shutdown of communications seriously complicate the organization of work. These factors require a detailed study and regulation of legislators.

Many practitioners paid attention to the legal regulation of labor relations in the conditions of martial law in Ukraine. Among the scholars, the issues were addressed as O. Volyanskaya, T. Golovan, I. Kostin, M. Menjul, I. Novak, O. Pleskun, Y. Svic-Karyova, D. Shvets and others.

However, this issue requires a comprehensive study on legal regulation and optimization of labor relations during the action of martial law and its impact on the organization of labor, taking into account the need for further regulation of problems in national legislation. The right to work is one of the fundamental human rights. The basic labor rights in our country are enshrined in Articles 43, 44 of the Constitution of Ukraine and the Labor Code of Ukraine. However, during the Russian aggression, since February 24, martial law was introduced in our country.

The legal basis for the introduction of martial law is the Constitution of Ukraine, the Law of Ukraine "On the Legal Regime of Martial Status" of May 12, 2015 No 389-VIII and the Decree of the President of Ukraine "On Introduction of

Martial Status in Ukraine" of February 24, 2022 No. 64/2022, approved by the Verkhovna Rada of Ukraine.

The stay of our country in the face of martial law also led to a significant revision of the legal regulation of labor relations. The Code of Labor Laws of Ukraine did not contain norms on regulation of labor relations during the period of martial law, which is why the legislator adopted the Law of Ukraine "On Organization of Labor Relations in Conditions During the period of these normative-labor acts, the norms of the Labor Code of Ukraine are applied in the part not regulated by the rules of the above mentioned laws.

The provisions of these laws optimized the issues of procedure for registration and dismissal of employees; certain transformations have changed essential working conditions and transfer of workers; normal working time and reduction of rest time; the order and duration of vacation; remuneration, etc. Legislation during the period of martial law shall be abolished: holidays; Prohibition of work on weekends; shortened working day on the eve of holidays, non -working and weekends; Submission of a day off if the holiday or non -working day coincides with the day off; restrictions for overtime work. Also changes the order and duration of vacation, the duration of weekly continuous rest instead of 42 hours can be reduced to 24 etc

During martial law, the parties may coordinate the form of an employment contract. This means that the employment contract can be concluded orally or in writing, but the employer must notify the State Tax Service of Ukraine of the employment of Ukraine. Thus, this gives the parties the opportunity to enter into such contracts in a simplified form through an order for hiring, without the need in writing. However, in the case of an oral form of an employment contract, sanctions on the part of the State Service of Ukraine for Labor for violation of labor legislation may be applied.

During martial law, it is allowed to conclude term employment contracts, this will allow the employer to promptly attract new workers and resolve the issue of labor shortages in the absence of the main workers

In order to ensure continuous production, the employer is given the right to establish tests for different categories of employees and to conclude fixed -term employment contracts for the period of martial law or for the replacement of a temporarily absent employee. Also, in the context of military aggression, a new concept was introduced - suspension of labor relations. This is a temporary termination of employee's work and suspension of the employee in the performance of work in accordance with the concluded employment contract in connection with the armed aggression against Ukraine, which excludes the possibility of both parties to exercise the obligations stipulated in the employment contract.

During the martial law, employees may notify orders and other documents by means of appropriate electronic communications, which are stipulated in the employment contract. However, in martial law, there may be a shutdown of communication tools such as electricity, Internet or mobile communication, which makes it impossible to work or exchange information. This requires a clearer regulation of employment between the employee and the employer in such situations. Employees who cannot come to work due to combat circumstances or those who

cannot work because of life and health may not be automatically dismissed by the employer or dismissed for passing work for no good reason.

Air anxiety does not define clear rules for employees, as the question arises whether it is necessary to continue work (remotely or in place) or it is more appropriate to look for shelter to protect your own life. Recent events have discovered the irresponsibility of employers in relation to the lives of their employees in cases of force majeure. However, the duration of air anxiety can be significant, and this is a period during which an employee cannot perform his her duties or get to the workplace. Therefore, there is a question of remuneration and working time during this period.

There is no indication of the liability of the employer in labor law, if he forces the employees to work in such conditions. At the same time, the employer has no right to force workers to continue work during anxiety, because it will be a violation of Art.43 of the Constitution of Ukraine, regarding the right to healthy and safe working conditions, which are also enshrined in Art. 153 of the Labor Code of Ukraine. The current labor legislation of Ukraine does not establish direct responsibility for the work of the enterprise during air alarm.

Therefore, it should be noted that according to the provisions of the Law of Ukraine "On Organization of Labor Relations in Martial Status" of March 15, 20122, No. 2136, the labor rights of workers were significantly restricted in comparison with peaceful time, which, of course, has a negative impact on the physical and moral status of employees. In fact, the legislator has expanded the rights of employers and restricted the rights of employees.

In order to reduce the risks associated with war, the employer can change the organization of work to improve labor relations and working conditions: to establish distance or remote work; use flexible working time or change it altogether; conclude an employment contract without fixed working hours; suspend an employment contract and more.

However, in practice, there are many questions about the employment relationship between the employer and the employee who need immediate resolution and regulatory regulation today. The practice of applying and interpreting the norms of the Law of Ukraine "On the Organization of Labor Relations in Martial Status" of March 15, 20122 No. 2136 is not always the same, and this often leads to the emergence of labor disputes and the need to resolve them in courts, which during the action of martial law, is also not easy. The lawmaker and employers need to minimize all labor disputes and protect the right of employees to work and rest, taking into account the restriction of human and citizen rights provided by the Constitution of Ukraine for the period of martial law.

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