

Constitutional guarantees of the right to work due to the COVID-19 pandemic

Конституційні гарантії права на працю в умовах пандемії COVID-19

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Abstract

In the conditions of proper functioning of society, the settlement of labor relations is a remarkably relevant issue, especially during global crises and shocks. Significant changes in the regulation of this issue in almost all countries have introduced the initiation of quarantine due to the quarantine regime. Fulfilling the duty of states to guarantee the protection and realization of the right to work in special conditions is a priority in ensuring the proper functioning of human life. The object of the study is the constitutional guarantees of the right to work due to the quarantine regime. The purpose of the work is to analyze the constitutional guarantees of the right to work in a COVID-19 pandemic. During the study, the following methods were used: historical, generalization, formal-legal, analysis of normative documents, articles, and monographs, comparative-legal, and the social-legal experiment. As a conclusion of the study, the peculiarities of the transformation of constitutional rights in the context of the Covid-19 pandemic were analyzed. In addition, the results of the analysis of regulations and opinions of several scientists established an extensive system of guarantees of the right to work, clarified problematic issues in the field of

Анотація

В умовах належного функціонування суспільства надзвичайно важливим питанням є врегулювання трудових відносин, особливо під час глобальних криз та потрясінь. Значні зміни щодо регулювання цього питання в майже усіх країнах світу внесло запровадження карантину внаслідок пандемії COVID-19. Виконання обов'язку держав з гарантування захисту та реалізації права на працю в особливих умовах є пріоритетним у забезпеченні нормального функціонування життєдіяльності людей. Об'єктом дослідження є конституційні гарантії права на працю в умовах пандемії COVID-19. Метою роботи є аналіз конституційних гарантій права на працю в умовах пандемії COVID-19. Під час проведеного дослідження використовувалися такі методи як: історичний, узагальнення, формально-юридичний, аналізу нормативних документів, статей та монографій, порівняльно-правовий, та соціально-правового експерименту. В результаті проведеного дослідження проаналізовано особливості трансформації конституційних прав в умовах пандемії Covid-19. Крім того, результатами аналізу нормативно-правових актів та думок низки науковців встановлено розгалужену систему гарантій права на працю, з'ясовано проблемні

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ensuring the right to work in a pandemic COVID-19.

Keywords: constitutional guarantees, right to work, employer, employee, labor relations.

Introduction

The end of 2019 was a challenge for the world. Humankind has faced a new test in the form of a coronavirus pandemic, which has made adjustments in all areas of human life. Such adjustments have become crucial for the state, businesses, and employees.

The right to work is one of the fundamental human rights established by international legal acts and recognized by all countries. This right belongs to the group of socio-economic rights and, in a general sense, reflects the need of man to create and acquire sources of livelihood and family, realize his creative potential, and express his/her personality. The right to work and protection against unemployment is proclaimed by the Universal Declaration of Human Rights (United Nations, 1948), the International Covenant on Economic, Social and Cultural Rights (United Nations, 1966), the Conventions, and Recommendations of the International Labor Organization (1964, 1988). At the European level, the right to work is established by the European Social Charter signed by Ukraine upon accession to the Council of Europe (1961)

Of particular value, for the recognition and protection of the right to work, is the activity of the International Labor Organization (hereinafter – the ILO). During the years of its existence since 1919, the ILO has adopted a large number of recommendations on various labor issues.

Therefore, the right to work as the most significant element of socio-economic relations in the fight against a dangerous disease, from which no one is insured, requires a clear definition of guarantees that allow it to be used effectively. During the pre-quarantine period, the state created a system of legally established principles, which are the basis for ensuring all the rights of citizens. The COVID-19 pandemic forced adjustments to the state's legal framework.

Consequently, all states have undergone transformations in the field of ensuring the right to work. Ukraine, as a sovereign and independent, democratic, social, and legal state,

питання у сфері забезпечення права на працю в Україні в умовах пандемії COVID-19.

Ключові слова: конституційні гарантії, право на працю, роботодавець, працівник, трудові відносини.

has not become an exception in ensuring the fulfillment of the rights and responsibilities of citizens.

Hence, several new normative legal acts were adopted, and existing norms were amended. For example, the resolution of the Cabinet of Ministers of Ukraine "On prevention of the spread of coronavirus COVID-19" (Resolution No. 211, 2020) introduced quarantine in Ukraine; the legal regulation of labor relations in quarantine is provided by the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine, aimed at providing additional social and economic guarantees in connection with the spread of coronavirus disease (COVID-19)" (Law No. 540-IX, 2020), the Law "On amendments to some legislative acts of Ukraine aimed at preventing the occurrence and spread of coronavirus disease (COVID-19)" (Law No. 530-IX, 2020), etc.

In addition, more and more companies and government agencies have switched to remote work. Thus, the employer received the right to instruct employees to perform work remotely (at home) if it does not contradict the nature and characteristics of the duties of employees. Also, this option is acceptable if the employee can perform other work, which, although it can not be performed online, still does not require a personal presence in the workplace. To declare such work, the employer must accept the relevant order of the enterprise and indicate to whom it will apply (which positions/departments, etc.). All employees affected by the order must be familiar with it. The consent of employees to transfer to this mode of operation during quarantine is not required. According to the adopted Laws of Ukraine No. 530-IX of 2020 and No. 540-IX of 2020, remote work was legalized, and the employer has the right to instruct employees to work remotely only on its initiative. But employees following long-standing rules of Art. 139 of the Labor Code of Ukraine (Law No. 322-VIII, 1971) are obliged to comply with the instructions of the employer.

The same innovations have been imported abroad.

Given the changes in the implementation of the constitutional right to work, it is necessary to investigate the implementation of the constitutional right to work due to the Covid-19 pandemic and the peculiarities of the regulation of labor rights.

Theoretical Framework

Primarily, it is worth to pay attention to the works of Yakymenko (2006), and Lukyanova & Zaitseva (2021), in their work, analyzed the legal mechanisms of protection of labor and social rights of workers. As a result of the study, the researchers found that the crisis caused by COVID-19 initiated significant changes in the labor market of the world and Ukraine. Thus, according to new data from the International Labor Organization, more than 1 billion people worldwide will suffer financially, as the coronavirus pandemic has a negative impact on job retention and staff salaries. During the corona crisis, trade unions try to protect the rights and interests of trade union members as effectively as possible. The workers, who are members of trade unions (as well as those working in the trade, culture, transport, and social services) have been hit hardest by the epidemic. Workers in these industries are at high risk for coronavirus because their health and safety in the workplace or workplace depend on multiple and unprotected contacts with people (including sick people). In addition, at the beginning of the pandemic, workers in these industries were not provided with the means of protection and information and were subject to quarantine restrictions. At the very moment, millions of workers in other trade unions working in production that has completely or partially stopped, and especially affected workers with unstable jobs (fixed-term employment contracts), are also subject to lockdowns and quarantine restrictions. First of all, it is the sphere of culture, entertainment, public catering. Complicating the situation is the age limit, as older workers at risk of a pandemic lose their jobs, wages, and livelihoods and suffer from declining incomes as their workload increases. Some workers do not have access to social protection or legal support, seek legal advice from trade union inspectors, or are unaware of this possibility. Also, researchers found that the Government of Ukraine (from the beginning of quarantine) focused on solving problems to prevent the spread of coronavirus and the ever-increasing burden on the health care system, disease prevention, and immunization,

introduced certain tax benefits, accelerated the registration of unemployed, to persons – entrepreneurs. Also, measures to preserve jobs and the labor market are clearly insufficient, as evidenced by statistics on rising unemployment since the beginning of quarantine.

Besides, Radchuk (2021) examined how employment changed after quarantine in Ukraine in 2021. Thus, the researcher analyzed that, in some countries, with a high standard of living, the government is increasingly concerned about improving the emotional state of citizens, which helps to strengthen family relationships by reducing working hours. In Denmark, for example, a working week lasts an average of 37.5 hours. And in February 2021, the Spanish government approved a national pilot project, which provides for the introduction of a 4-day working week in the country (the experiment will last three years). The government is allocating 50 million euros to support those companies participating in the pilot project and reducing the working week to 32 hours. It is noteworthy that, at the same instant, they do not reduce the salaries of employees. The management of large companies in different parts of the world, which have introduced a 4-day working week, emphasize the positive consequences of such decisions: according to their observations, it helps increase productivity, reduce the company's electricity costs, and employees feel less tired and nervous. Regarding Ukraine, the author expresses the position that in Ukraine, in conditions of labor poverty, when a person has a job but it is still in a difficult economic situation, a 4-day working week will not have positive results because Ukrainians naturally lack the means to live a full life. Therefore, it is not so much about changes in the schedule and workload, but about increasing the efficiency of employees and, as a consequence, the growth of their income. In addition, such a schedule can contribute to the development of social frustration. Another reason why it is too early to talk about a full-scale transition to a new model of working time organization is that Ukrainians are often paid not for the result but the number of hours worked. Of course, even today everyone can find vacancies, where employees are offered to work for four days.

Additionally, it should be mentioned, that Svitailo (2020) investigated topical issues of employer liability for illegal dismissal of an employee in the context of the SARS-COV-2 coronavirus pandemic. Thus, in his work, the author pointed out that in an unstable financial situation, employers often overlook the rights of

employees, forcibly dismissing them, not paying wages, and generally neglecting the social rights of employees. To avoid such violations, it is necessary to inform the population about the rights and, in case of violations, to encourage them to apply to the State Labor Office.

Further, a particular attention should be paid the work of Spitsyna (2013), who studied the constitutional and legal guarantees of labor rights of foreigners and stateless persons in Ukraine. Thus, the author clarified the mechanisms of protection of labor rights of foreigners, examined the algorithm of actions in detecting violations, and proposed adequate measures to prevent and stop violations of the rights of foreigners in a pandemic.

It is worth noted the study of Ivanov & Livshits (1982), and Knyazev (1988). Thus, in their works, studied the formation of personality in labor law, the peculiarities of enshrining labor rights in the constitution and international legal acts, as well as focused on the mechanism of guaranteeing the rights and freedoms of citizens, including ensuring the right to work.

Methodology

To reveal the research topic, the following methods were used: historical, generalization, formal-legal, analysis of normative documents, articles, and monographs, comparative-legal, and the social-legal experiment.

Therefore, the historical method was used to clarify the development of legislation in the field of guaranteeing the right to work. Thus, the rapid growth of legislation governing the right to work by establishing norms at the international level and their further implementation by individual states has been established. Ukraine is no exception, having ratified some international instruments, such as the Universal Declaration of Human Rights of 1948, the European Social Charter of 1961, the conventions of the International Labor Organization, in particular, On Employment Policy of 1964, On Employment Promotion and Protection from unemployment of 1988.

Besides, the method of generalization allowed us to draw conclusions about the state of the system of ensuring rights in the field of labor relations during the pandemic COVID-19. Thanks to this method, the main issues concerning the provision of labor rights in the context of the introduction of quarantine restrictions, including the implementation of the right to work through the

introduction of teleworking, security measures, etc. were summarized.

The formal-legal method is applied to justify the need to constantly improve labor legislation. Also, this method lets to formulate the main definitions of the concepts of the constitutional right to work.

By using the method of analysis of normative documents, articles, and monographs, the necessary information was taken as a basis for a further detailed explanation of key provisions. Thus, the provisions of the Universal Declaration of Human Rights, the International Labour Organization (ILO) Convention No. 122 “On Employment Policy”, the ILO Convention No. 168 “On Employment Promotion and Protection against Unemployment”, the European Social Charter (1961), the Constitution of Ukraine (Law No. 254к/96-BP, 1996), the Criminal Code of Ukraine (Law No. 2341-III, 2001), the Labor Code of Ukraine (Law No. 322-VIII, 1971), Code of Ukraine on Administrative Offenses (Law No. 8074-10, 1984), On Amendments to Certain Legislative Acts Aimed at Providing Additional Social and Economic Guarantees in Connection with the Spread of Coronavirus Disease (COVID-19) (Law No. 540-IX, 2020), On Protection of the Population from Infectious Diseases, (Law No. 1645-14, 2000), On Amendments to Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19) (Law No. 530-IX, 2020), etc.

Furthermore, the comparative-legal method allowed to compare the domestic practice of guaranteeing the right to work and foreign experience on the example of France, Japan, and Germany. Almost all countries have done everything possible to stop the spread of coronavirus infection and ensure their citizens a normal life in the new conditions.

Finally, the method of the socio-legal experiment was used to assess data on the quantitative change in employment in Ukraine during the COVID-19 pandemic. In addition, this method has made it possible to forecast future trends and challenges in ensuring the constitutional right to work.

Results and Discussion

International experience in regulating the issue of ensuring the right to work due to the COVID-19 pandemic

Regarding the legislation of foreign countries, it should be noted that changes have been made to the legal regulation of labor relations. In Germany, in particular, the following elements can be identified: guaranteeing safe working conditions by organizing the workplace, ventilation, minimizing psychological stress due to coronavirus, instruction, and active communication, which includes the right of the employer to know about cases of illness at work and to carry out preventive occupational safety, in particular by measuring the temperature, home office or remote work outside the employer's premises, extension and reduction of working hours – in emergencies public laws on working hours allow deviations from the general rules on maximum working hours, breaks, periods of rest and work on Sundays and holidays, protection of wages in case of coronavirus, which consists of wages during illness with COVID-19 for 6 weeks.

The above provisions are contained in the Act on the Implementation of Measures of Occupational Safety and Health to Encourage Improvements in the Safety and Health Protection of Workers at Work (Act ArbSchG, 1996), Law on the payment of wages on public holidays and in the event of illness (Continued Remuneration Act) (Law Entgeltfortzahlungsgesetz, 1994), etc. (Khreshatuk, 2010).

In Japan, there are subsidies for the pandemic period, which can be obtained by submitting an application to the appropriate government agency. Such subsidies are provided in the amount of up to 80% for small and medium enterprises and 66% for large enterprises (Nippon: a modern view of Japan, 2021).

With the beginning of the pandemic in France, the Emergency Law on Combating the COVID-19 epidemic was passed. A distinctive feature of guaranteeing the right to work in France is the state's compensation of part of the salary. Simultaneously, the employer is not released from the obligation to pay money to its employees (Mind, 2021).

Despite all the measures taken to stabilize labor in all countries, the unemployment rate rose significantly during the pandemic, which is an inevitable process in today's economy. Thus, in the first quarter of 2020, more than 500,000 cases of layoffs were recorded in France. This is evidenced by data from the National Institute for Statistics and Economic Research of France (Mind, 2021). During the same period, the

unemployment rate in Germany increased to 5.8% (Romashenko, & Dumanska, 2020).

Japan is no exception to the negative impact of the pandemic on the labor market. For the first time in 11 years, the unemployment rate rose to 2.8% as of 2021 (Nippon: a modern view of Japan, 2021).

General provisions on the right to work in Ukraine

The main provisions that first declared the right to work at the international level are contained in the 1948 Universal Declaration of Human Rights. The document states that "everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment."

Further cooperation of states in the field of settlement of labor rights as one of the most important in socio-economic relations has led to the emergence of a number of international legal acts. These include, in particular, the following:

- International Covenant on Economic, Social and Cultural Rights of 1966;
- European Social Charter of 1961;
- ILO Convention No. 122 "On Employment Policy" of 1964;
- ILO Convention No. 168 "On the Promotion of Employment and Protection against Unemployment" of 1988, etc.

The above documents contain several basic concepts regarding the very definition of the right to work (Article 6 of the International Covenant on Economic, Social and Cultural Rights (1966) "... the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right ..."), the obligation of states to ensure the effective exercise of the right to work (Part 1 of Article 1 of the European Social Charter "... to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment..."), the focus of public policy on promoting full, productive and freely chosen employment (Part 1 of Article 1 of the ILO Convention No. 122), the definition of methods of promoting employment including social security, training, and career guidance, activities of employment services (Section V of the ILO Convention No. 168), etc.

It should be mentioned that the above-mentioned international instruments are of a recommendatory nature to their member states. However, by implementing the provisions of the above documents, most countries have made it mandatory to comply with the provisions on the right to work. Thus, the Constitution of Ukraine (Law No. 254к/96-BP, 1996) proclaims the basic principles of labor regulation contained in Art. 43, 45, 46, 48, 53, etc.

Disclosing the content of the articles of the Basic Law, it is possible to follow a clear adherence to the norms enshrined in international instruments relating to the regulation and protection of the right to work and other human rights arising from it. Accordingly, in art. 43 of the Constitution of Ukraine establishes that everyone has the right to work, which includes the opportunity to earn a living by work, which he freely chooses or freely agrees to. Hence, the Constitution of Ukraine has defined the content of the right to work under international standards, and freedom of labor is one of the principles of labor law of Ukraine.

All other articles of the Basic Law logically continue to reveal the meaning of the term "labor" and all the relationships arising from this concept. Thus, the right to rest (Article 45 of the Criminal Code of Ukraine (Law No. 2341-III, 2001)), to social protection (Article 46 of the Criminal Code of Ukraine (Law No. 2341-III, 2001)), to a sufficient standard of living for oneself and one's family, including adequate food, clothing, housing (Article 48 of the Criminal Code of Ukraine (Law No. 2341-III, 2001)) and others, which became the basis for a more detailed explanation in special regulations, in particular, in the following: the Labor Code of Ukraine of 1971; Laws of Ukraine: On remuneration of labor (Law No. 108/95-BP, 1995), On labor protection (Law No. 2694-XII, 1992, On leave (Law No. 504/96-BP, 1996), On collective agreements (Law No. 3356-XII, 1993), On the procedure for resolving collective labor disputes (conflicts) (Law No. 37/98-BP, 1998), etc.

The set of analyzed international and domestic norms, which relate to the obligation of the state to ensure the realization of citizens' rights in general and in the field of labor relations in particular, it is possible to identify the following mechanisms of the constitutional guarantee of human rights in Ukraine (following the Constitution of Ukraine (Law No. 254к/96-BP, 1996)):

- proclamation of Ukraine as a social, legal state (Article 1 (Law No. 254к/96-BP, 1996));
- a person is recognized in Ukraine as the highest social value, human rights, and freedoms, and their guarantees determine the content and direction of the state (Article 3);
- the principle of the rule of law is recognized and operates in Ukraine, the norms of the Constitution of Ukraine are the norms of direct action, recourse to the court to protect the constitutional rights and freedoms of man and citizen directly based on the Constitution of Ukraine is guaranteed (Article 8 (Law No. 254к/96-BP, 1996));
- existing international agreements, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, are part of the national legislation of Ukraine (Article 9);
- constitutional rights and freedoms are guaranteed and cannot be revoked when adopting new laws or amending existing laws, the narrowing of the content and scope of existing rights and freedoms is not allowed (Article 22 (Law No. 254к/96-BP, 1996));
- citizens have equal constitutional rights and are equal before the law, there can be no privileges or restrictions on the grounds of race, color, political and other beliefs, sex, ethnic and social origin, property status, place of residence, language, or other characteristics (Article 24 (Law No. 254к/96-BP, 1996));
- foreigners and stateless persons legally staying in Ukraine enjoy the same rights and freedoms, as well as bear the same obligations as citizens of Ukraine, - except as provided by the Constitution, laws, or international treaties of Ukraine (Article 26 (Law No. 254к/96-BP, 1996)), etc. (Yakymenko, 2006).

By prioritizing the human person as the highest social value, the state has provided a wide range of opportunities to guarantee human rights, which allows citizens to effectively protect their rights.

Features of guaranteeing the right to work in a pandemic COVID-19

During the introduction of quarantine restrictions due to the spread of coronavirus disease, citizens faced some problems, the most notable of which were wages, compensation for forced termination of employment, forced leave, adaptation to new working conditions, etc.

Ukraine, like most countries, was not ready for sudden changes in the organization of the process of stopping a dangerous disease. Pandemic conditions are forcing states to resort to the use of public coercion, as aggressive action is needed to contain any infectious pathogen, especially an infectious one such as COVID-19 (Kharytonov, Kharytonova, Kolodin, & Tkalych, 2020). Naturally, such measures are considered temporary and involve the need to control the incidence of COVID-19 (Tkalych, Safonchuk, & Tolmachevska, 2020).

Given the specifics of the disease, which has caused changes in all spheres of human life, the main task was to establish at the legislative level new rules for the functioning of society.

Labor relations have undergone significant changes. Thus, several new regulations and amendments to existing ones were created.

The following was adopted: Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19)" (Law No. 530-IX, 2020), which prohibits the bodies of state supervision (control) of planned measures for the implementation of state supervision (control) in the sphere of economic activity, in particular in the sphere of labor legislation, regulate the right to grant unpaid leave for the entire period of quarantine; Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Aimed at Providing Additional Social and Economic Guarantees in Connection with the Spread of Coronavirus Disease (COVID-19)" (Law No. 540-IX, 2020) amended Article 60 of the Labor Code of Ukraine (Law No. 322-VIII, 1971) (hereinafter – the Labor Code), which regulates flexible forms of labor organization.

A great innovation of this law is the possibility of remote performance of duties. Until March 17, 2020, remote work was regulated only by the Regulations on working conditions for homeworkers (Resolution of the USSR State Committee for Labor and the Secretariat (the Resolution No. 275, 1981)), which provided a list of grounds on which persons have the priority right to work at home. It was used by women with children under the age of 15, people with disabilities, retirees, and people caring for family members with disabilities or long-term illnesses. Currently, the Law of Ukraine No 530-IX (2020) provides for the possibility of registration of remote work by the administrative act of the employer for all employees, the Law of Ukraine

No. 540-IX (2020) regulated remote work by enshrining in the Labor Code, and most importantly, not only for the period of quarantine restrictions cases by agreement of the parties (indicating the mandatory condition: written execution of the employment contract (Articles 24 and 60 of the Labor Code (Law No. 322-VIII, 1971)). For work at home, the employee receives the same payment as when working at the workplace.

In connection with the use of employees for remote work of resources outside the premises of the employer, Article 125 of the Labor Code (Law No. 322-VIII, 1971) provides for compensation. The amount and procedure for payment of this compensation are determined by the employer in agreement with the employee. You can also arrange for reimbursement for electricity and water, communications and equipment maintenance, etc.

An essential point in the situation of the state's transition to quarantine is to ensure that the employer complies with the requirements of the legislation on the dismissal of employees.

It is no secret that many owners of enterprises, institutions, and organizations in the pandemic have lost considerable income and employees – not only income but also jobs. The latter is of particular interest. Therefore, it is necessary to analyze the regulatory framework for the institution of dismissal at the initiative of the employer.

The Labor Code gives the employer the right to dismiss employees on its initiative on general (Article 40 (Law No. 322-VIII, 1971)) and additional (Article 41 (Law No. 322-VIII, 1971)) grounds. It should be noted that the introduction of quarantine is not a ground for termination of the employment contract at the initiative of the employer.

Some adjustments, albeit of a recommendatory nature, were made by the resolution of the Cabinet of Ministers of Ukraine "Some issues of ensuring the labor rights of civil servants, employees of state bodies, enterprises, institutions and organizations during the quarantine in connection with the aggravation of the situation associated with the spread of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2" (Resolution No. 256, 2020). Thus, the Government suggested that employers refrain from dismissing employees on the grounds set out in paragraphs 3–5 of the first

part of Article 40 of the Labor Code (Law No. 322-VIII, 1971).

Thus, no changes were made to the labor legislation governing the dismissal of due to quarantine throughout Ukraine. In case of loss of work or part of wages, the state amended Article 47-1 of the Law of Ukraine "On Employment" (Law No. 5067-VI, 2012) provided for the provision of partial unemployment benefits by employees of the state employment service in case of loss of part of wages due to forced reduction of statutory working hours in connection with the suspension (reduction) of production without termination of employment with the company, and employees relations with employers from among the subjects of small and medium business due to the suspension (reduction) of their activities for the period of quarantine. Moreover, amendments were made to the Law of Ukraine "On Compulsory State Social Insurance in Case of Unemployment" (Law No. 108/95-BP, 2000), which stipulates that for the period of quarantine unemployment benefits may be paid without a personal visit to the Employment Center (provided they confirm their intention to remain in the status unemployed by any means of communication (telephone, electronic means, etc.)).

Despite the stability of the norms concerning the dismissal of employees and the independence of their grounds, according to the State Employment Service, as of August 31, 2020, the number of registered unemployed in Ukraine was 477.7 thousand citizens, which is 73% more than as of the same date last year (State Statistics Service of Ukraine, 2021).

The issue of wages during the quarantine period has its characteristics. Thus, a new phenomenon of today has become self-isolation, which under paragraph 30 art. 1 of the Law of Ukraine "On protection of the population from infectious diseases" (Law No. 1645-14, 2000) is defined as the stay of a person in respect of whom there are reasonable grounds for the risk of infection or spread of an infectious disease in a designated place (premises) to comply with anti-epidemic measures.

According to Art. 3 (Law No. 1645-14, 2000), the procedure for conducting anti-epidemic measures related to the self-isolation of persons of self-isolation, in particular, are subject to:

- 1) persons who have had contact with a patient with a confirmed case of COVID-19, except for persons who used personal protective

equipment in the course of their duties following the recommendations for their use;

- 2) persons suspected of being infected or persons suffering from COVID-19 in a mild form and not requiring hospitalization;
- 3) persons who have agreed to self-isolation using the electronic service "Act at home" of the Unified State Web Portal of electronic services (hereinafter – the system) before crossing the state border or checkpoints of entry into and exit from the temporarily occupied territory;
- 4) persons who have reached the age of 60, except for civil servants and employees of state and local self-government bodies, people's deputies of Ukraine and deputies of local councils, judges, servicemen, and employees of the Armed Forces of Ukraine, other military formations and law enforcement agencies formed under Ukrainian laws bodies, as well as persons carrying out measures related to the prevention of the spread of COVID-19, ensure the activities of enterprises, institutions and organizations, regardless of ownership, which:
 - conduct activities and provide services in the fields of energy, chemical industry, transport, in the fields of information and communication technologies, electronic communications, in the banking and financial sectors, defense industry;
 - provide services in the areas of livelihood, in particular in the areas of centralized water supply, sewerage, electricity and gas supply, food production, agriculture, and health care;
 - are communal, emergency and rescue services, emergency services;
 - included in the list of state-owned objects of strategic importance for the economy and security of the state;
 - are objects of potentially dangerous technologies and productions.

According to the Law of Ukraine "On Amendments to the Tax Code of Ukraine and Other Laws of Ukraine on Support of Taxpayers for the Period of Measures to Prevent the Occurrence and Spread of Coronavirus (Covid-19)" (Law No. 533-IX, 2020), self-isolation was added to the list of insurance cases for which the provision of material support by the Social Insurance Fund of Ukraine. Therefore, following paragraph 5.2 of chapter 5 of the Instructions on the procedure for issuing documents certifying temporary incapacity for work of citizens,

approved by the Order of the Ministry of Health of Ukraine (Order No. 455, 2001), for the period of stay of the insured person in self-isolation, including under medical supervision in connection with aimed at preventing the occurrence and spread of COVID-19 following the resolution No. 211 (2020) "On prevention of the spread of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2" in Ukraine, except a certificate of incapacity for work is issued by the attending physician for a specified period.

Payment of temporary disability benefits is made in the amount of 50% of the average salary

Table 1.

Employment of the working population of 2019 and 2020. Data provided by State Statistics Service of Ukraine (2021).

Group of population	2019	2020
All able-bodied population	67,6 %	65,6 %
Working population in urban areas	69,1 %	51,2 %
Working population in rural areas	64,5%	62,4 %

Based on the above indicators, it is possible to draw a conclusion about the gradual decline in employment of the working population in Ukraine.

The need to establish liability for violations of quarantine rules has led to amendments to the Code of Administrative Offenses of Ukraine (Law No. 8074-10, 1984). Article 44-2 introduces administrative liability for violating the rules on quarantine of people, sanitary and hygienic, sanitary and anti-epidemic rules and norms provided by the Law of Ukraine "On Protection of the Population from Infectious Diseases" (Law No. 1645-14, 2000), other legislation, as well as decisions of local governments on control with infectious diseases. According to this article, a fine is imposed on citizens from one to two thousand non-taxable minimum incomes and on officials – from two to ten thousand non-taxable minimum incomes. For staying in public buildings, structures, public transport during quarantine without wearing personal protective equipment, including respirators or protective masks covering the nose and mouth, including self-made, provides for a fine of ten to fifteen tax-free minimum incomes citizens.

The Criminal Code of Ukraine has been amended to increase the sanction for committing a crime under Article 325 (Law No. 2341-III, 2001) (violation of sanitary rules and regulations for the

(income) regardless of the length of service, except for medical workers, who in such cases are paid temporary disability benefits in the amount of 100% of the average salary (income) regardless of the length of service (Part 2 of Article 24 of the Law of Ukraine "On Compulsory State Social Insurance" (Law No. 1105-XIV, 1999)).

To better understand the employment situation and, accordingly, the level of impact of quarantine restrictions on the labor market, it is advisable to provide statistics for 2019 and 2020 (Table 1).

prevention of infectious diseases and mass poisoning).

Conclusions

Given the above, it is possible to draw the following conclusions.

In a pandemic, a rational approach to the regulation of labor relations is extremely valuable, since they are the basis for the normal functioning of society. During the fight against coronavirus disease, many measures have been taken around the world, such as restricting the movement of workers, closing down businesses, sending workers on leave at their own expense, forced redundancies, and other measures. Such actions have resulted in the measures necessary to ensure the effective guarantee of human rights in general and in the field of labor relations in particular. These are such measures as providing employees with official transport, issuing certificates for public transport, creating safe working conditions, and more.

As we can see, with the onset of the pandemic, there was an urgent need for rapid and effective implementation of the system of guaranteeing the right to work. Thus, some new legal acts were adopted, numerous amendments were made to the existing ones: the Laws of Ukraine "On Amendments to Certain Legislative Acts Aimed at Providing Additional Social and Economic

Guarantees in Connection with the Spread of Coronavirus (COVID 19)", Law of Ukraine "On Protection of the Population from Infectious Diseases, Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus (COVID 19)", Law of Ukraine "On Prevention of Spread of Acute Respiratory Disease COVID-19 Caused by SARS-CoV-2 Coronavirus on the Territory of Ukraine". Rapid regulatory adaptation has made it possible to respond quickly to the challenges of the personnel pandemic.

The global economic crisis caused by the COVID-19 pandemic inevitably affects the state of labor relations, the right to work needs the full support of the state by creating an effective regulatory framework.

Regarding further research, it is essential to analyze what measures are taken by foreign states and the international community to ensure the constitutional right to work, to investigate how monetary compensation of the state and creating opportunities for training or changing professions affect the adaptation of workers in case of closure or suspension. enterprises.

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