UDC 349.22
DOI: 10.56215/04221202.57

Features and Legal Regulation of the Procedure for Granting Employee Consent to Work in New Working Conditions

Nataliia O. Cherevko*

Kherson State Agrarian and Economic University
73006, 23 Stretenska Str., Kherson, Ukraine

Abstract
In the conditions of dynamic development of the country and the world, the employer is in fact dependent on the Labour Code adopted in Soviet times, because it formulates concepts exclusively and does not define a mechanism for changing essential working conditions at all, which in practice is often abused by employees. The purpose of the study is to provide theoretical justification and develop proposals for improving the organisation of changes in essential working conditions at the legislative level based on the results of an analysis of the practice of applying the law in relevant legal relations. The main results of the study were obtained by methods of theoretical and methodological analysis of scientific literature, and formal-legal, comparative-legal, system-structural analysis, value-normative, and institutional methods. Based on the investigation and generalisation of the laws of Ukraine and judicial practice, the study covers the problems of providing employees with consent to work, systematises their existing forms, suggests ways to solve gaps in the current legislation, considers theoretical and practical problems of providing limited and conditional consent to continue work. Based on the results of the study, relevant conclusions in terms of achieving a balance of interests of the employee and employer, and a number of proposals for improving the current labour legislation were formulated. This paper is advisory, legal, and has practical value for both employers and employees. The studied issue is promising for further application in legislation, in particular the new Labour Code of Ukraine, and the detailing of certain points that are considered in the publication

Keywords:
labour relations; employer; changes in essential working conditions; consent to continue work; new Labour Code of Ukraine

Article's History:
Received: 15.04.2022
Revised: 14.05.2022
Accepted: 15.06.2022

Suggest Citation:
Cherevko, N.O. (2022). Features and legal regulation of the procedure for granting employee consent to work in new working conditions. *Law Journal of the National Academy of Internal Affairs*, 12(2), 57-63.

*Corresponding author

Introduction

Trends in the development of labour law are an important theoretical and practical problem, the importance of which cannot be overestimated. It can be classified as eternal, which also does not lose its relevance. Primarily, this is explained by the complex transformation processes taking place in the world and directly affecting labour law [1]. The world does not stand still, the way of life of citizens is changing, while the labour legislation is quite stable, which creates a considerable number of obstacles for both parties to the employment contract.

Article 43 of the Constitution Of Ukraine[1] defines the right to work as one of the fundamental rights and freedoms of a person and citizen of Ukraine. Labour Code of Ukraine[2] contains an expanded procedure for exercising labour rights for an employee and restricts the employer. However, the current legislation is not adapted to the modern realities of conducting economic activities, which is why entrepreneurs and enterprises increasingly go into the shadows in labour relations with their employees.

Today in Ukraine, almost the only regulation that governs labour and relevant relations is the Labour Code of Ukraine (LC)[3]. Three articles of the LC are devoted to changes in labour relations, which are included in ch. III "Employment Contract" [2].

Article 32 of the Labour Code of Ukraine[4] establishes the procedure for changing essential working conditions for employees in the event of changes in the conditions of the organisation of production and labour. The code stipulates that such changes can only occur with the employee's consent. However, the form and procedure for granting consent to continue work are not established. In practice, some employees openly abuse this and produce various ways to confuse the employer: to provide limited consent, an ambiguous one, or on their own terms.

When disputes arise, the courts of various instances mainly take the side of the employee. The employer is left alone with the employee and the Law. Therewith, the current Labour Code[5] was developed and adopted in the Soviet period. Plenum of the Supreme Court of Ukraine, which is authorised in accordance with the Law of Ukraine "On the Judiciary and the Status of Judges"[6], to ensure the uniform application of legal norms in the resolution of certain categories of cases, generalise the practice of applying substantive and procedural laws, systematise the legal positions of the Supreme Court, based on the results of analysis of judicial statistics and generalisation of judicial practice, give advisory explanations on the application of legislation in the resolution of court cases[7]. However, the only clarification of the Plenum in labour disputes is Resolution No. 9 of 11/06/1992 "On the practice of consideration of labour disputes by courts"[8].

In such circumstances, the problem of flexibility and variability of employment contracts is particularly urgent. An innovative model of production development should guide productive employment. Given this, the issue of legislative regulation of the procedure for granting an employee's consent to continue work in new working conditions is relevant and promising for investigation.

This issue is understudied in modern science. As Professor A.O. Sobakar notes, a crucial role in the implementation and protection of subjective rights of employees is played by legal guarantees, the socio-legal importance of which is that they provide the employee with a real opportunity to enjoy a certain social benefit, which is consolidated by labour legislation, to freely exercise their rights, serve as the "reliable bridge" that provides the necessary transition from the opportunity that is proclaimed in the law to reality [3].

The purpose of the conclusion of any legal transaction in the sphere of Labour is to ensure the effective and stable functioning of the relevant legal relations. The purpose of the employment contract is to create a stable employment relationship between the employee and the employer. Therewith, considering the complexity of legal relations that arise in the sphere of Labour, the presence of objective social, economic, and other factors that often make it impossible to properly perform an employment contract, its parties are guaranteed the right to change the terms of the employment contract and labour [4].

In accordance with this purpose, the paper sets the following tasks: to identify the legal essence of "change in essential working conditions" and its importance for the employee, to analyse the application of the Labour Code of Ukraine[9], including judicial practice in relevant legal relations, to propose modern ways to solve the problem of constancy of the employment contract and uncertainty of labour legislation for the employer, to develop ways to improve the procedure for granting consent by employees when changing essential working conditions to ensure

[1]Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text.
[2]Labour Code of Ukraine. (1996, July). Retrieved from https://zakon.rada.gov.ua/laws/show/322-08/#Text.
[3]*Ibidem*, 1996.
[4]*Ibidem*, 1996.
[5]*Ibidem*, 1996.
[6]Law of Ukraine No. 1402-VIII "On the Judiciary and the Status of Judges". (2016, June). Retrieved from https://zakon.rada.gov.ua/laws/show/1402-19#Text.
[7]*Ibidem*, 2016.
[8]Plenum of the Supreme Court of Ukraine Resolution No. 9 "On the Practice of Consideration of Labour Disputes by Courts". (1992, November). Retrieved from https://zakon.rada.gov.ua/laws/show/v0009700-92#Text.
[9]Labour Code of Ukraine, op cit.

productive employment and achieve a balance between the interests of the employee and the employer.

The issues of changing the legal status of the employer were covered by researchers, in particular, the justification was provided by I.V. Kolosov [5; 6] O.G. Sereda [7], and other.

Thus, as A.M. Yushko noted, "the concept of essential working conditions is evaluative since it is not specified by the legislator and is clarified every time in the process of law enforcement. Therefore, if there is a need to change the essential working conditions, the owner or the body authorised by them must coordinate this issue with each employee, because the same working condition may be suitable for one of them, but not for the other" [8].

According to L.A. Chikanova, the essential terms of the contract are usually considered those on the content of which, based on the law, an agreement must be reached, and which are sufficient and necessary for the contract to be considered concluded and thereby capable of causing the emergence of rights and obligations of the parties [9].

O. Ostapenko proposed to develop the main fundamental approaches to the methodology of legal regulation of Labour Relations in the conditions of the current development of Ukraine [10].

F. Wettstein investigated the relationship between respect for human rights to work in the context of globalisation and business development [11].

V.S. Deyneka was one of the few people who defended the rights of employers. He proposed to resolve the issue of the content of the essential terms of the employment contract at the legislative level, because fixing the clear content of the employment contract would simplify the procedure for concluding and protecting the rights of both employees and employers [12].

Despite the studies on the terms of the employment contract and its importance for the employee and employer, the provision of work consent is understudied.

The purpose of the paper is a theoretical justification and scientific development of proposals for improving the organisation of changes in essential working conditions and consent of the employee to work in new working conditions at the legislative level to ensure productive employment and achieve a balance between the interests of the employee and the employer.

Materials and Methods

The study analysed the problems of legal regulation of changes in essential working conditions and provision of consent to continue work in new working conditions. The regulatory framework for this study included legislation and judicial practice materials. Provisions of the Constitution of Ukraine[1] were used to highlight the main aspects of the rule of law. Provisions of the Labour Code of Ukraine[2] were used to identify gaps in legislation regarding insufficient legal certainty of employees and employers in conditions where the previous working conditions cannot be preserved, and new ones have not yet been introduced. In addition, the study identified the key problems that Ukrainian employers most often face when implementing management.

The study used theoretical materials, materials of judicial practice related to changes in essential working conditions, reduction of the scope of work, transfer of employees to another job, relocation, etc.

The paper used logical-semantic, comparative, hermeneutical, dogmatic (Aristotelian) methods, and system analysis. The logical-semantic method was used to analyse the term "essential working conditions". The comparison method was used to cover judicial practice.

The dialectical method was used to analyse the current legislation and the practice of its application to examine the features of legal regulation of essential terms of an employment contract and the procedure for changing working conditions.

The Aristotelian method allowed formulating proposals for improving the labour legislation of Ukraine. In particular, it proposed to specify the procedure for approving employees to work in new working conditions.

To interpret the studied rule of law, the principles of legislation and features through the best practices of the science of hermeneutics were considered [13].

Thus, the hermeneutical method clarified the current Labour Code[3], the Civil Code of Ukraine[4], and other studies, which allowed establishing the legal essence of "working conditions", interpreting the meaning of working conditions for the employee and employer, and investigating the legal nature of their changes.

Results and Discussion

The content of each employment contract consists of conditions established by law and the agreement of the parties and defines the rights and obligations of the employee and employer. The conditions stipulated by labour legislation are applied to each employee and cannot be changed. These are the maximum length of working hours and the minimum length of leave, the minimum wage, discipline and labour protection, material liability, the procedure for resolving labour disputes, etc. However, those can be detailed by the parties. Such conditions are determined by agreement of the parties and may be mandatory (in the absence of an agreement on which the employment

[1]Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text.
[2]Labour Code of Ukraine. (1996, July). Retrieved from https://zakon.rada.gov.ua/laws/show/322-08/#Text.
[3]*Ibidem*, 1996.
[4]Civil Code of Ukraine. (2003, Jaunuary). Retrieved from https://zakon.rada.gov.ua/laws/show/435-15/ru/ed20131011#Text.

contract cannot be considered concluded) and additional (the presence of which is not mandatory).

Labour relations are not permanent or unchangeable. The reasons for their changes can be both the introduction of new technologies, the redistribution of employee responsibilities, an increase or decrease in the volume of work, etc., the personal qualities of a particular employee, for example, obtaining an education, increase in work experience. External factors that are not directly related to work, but can become crucial for the employee, also have an impact: the distance of the place of work from the place of residence, the operation of public transport, social guarantees, etc.

Despite the fact that labour relations are in continuous motion, changing an employment contract is a rather infrequent phenomenon. The reason is not that employers are uneducated, but that the legislation itself is imperfect, which causes a lot of misunderstandings in practice.

According to Article 32 of the LC of Ukraine, due to changes in the organisation of production and labour, it is allowed to change essential working conditions while continuing to work in the same speciality, qualification, or position[1]. The legislator identifies essential and non-essential working conditions.

Courts of various instances interpret essential working conditions more broadly and attribute certain elements of the circumstances of production to them. In this case, the personal interests of a particular employee are considered [14].

Thus, in judicial practice, the addition of the labour function with additional duties is recognised as a change in essential working conditions. For example, in case No. 766/12480/17[2], the academic load of academic staff is recognised as an essential working condition, since it determines the working hours of teachers for which they receive wages.

Consequently, essential working conditions are an evaluation norm in labour legislation.

As O. Protsevsky stated: "in labour legislation, the concept of "working conditions" is applied in a broad sense and covers various elements of the industrial and socio-psychological atmosphere in enterprises, institutions, organisations. It should not be reduced to labour protection, safety, proper condition of machines, proper quality of tools and materials, their timely submission, etc. This concept represents a more general meaning. It is broader than the concept of "labour protection", since it includes the rights and obligations of employees, work and rest regimes, remuneration, forms of incentives, types of bonuses, opportunities for promotion, improvement of housing conditions, that is, everything that an employee faces in the course of work" [15].

The question of whether a particular condition belongs to the essential ones arises when there is a need to change it. "The employee must be notified no later than two months in advance of changes in essential working conditions – pay systems and rates, benefits, working hours, establishment or cancellation of part-time work, combining professions, changing categories and names of positions, etc.", – provided for in Article 32 of the LC of Ukraine[3].

Changes in essential working conditions are implemented by the following procedure established by the law:

1) adoption of an order on changes in the organisation of production and labour to fix the relevant decision in the legal field;

2) employee warnings – notifications at least 2 months before the changes are implemented, and offers to make a decision on consent or refusal to work. A written warning should be issued with the mandatory indication of the date of notification, the date of familiarisation of the employee, and the date of changing the conditions;

3) approval or refusal of the employee to continue the employment relationship after the introduction of changes in essential working conditions. This point is further considered in more detail;

4) issuance of an order on the introduction of new working conditions. If the employee has not agreed to continue the employment relationship after changing the essential working conditions, they are subject to dismissal based on p. 6 of Article 36 of the LC[4] [16].

A warning, according to some researchers, is an offer to an employee to continue work after the owner changes essential working conditions in compliance with the established deadline [17].

It is advisable to consider the procedure for approving employees in more detail through the prism of judicial practice. The study proposes to divide the options for employees' actions after informing them about further changes in working conditions into five categories:

1) agreed to continue work;

2) agreed, but appealed the order to change the essential conditions;

3) provided limited or ambiguous consent, or one on their own terms;

4) evaded any action;

5) refused.

The first and fifth categories are the easiest because both the employee and the employer understand the meaning of their actions and treat each other with respect. The employee either agrees and continues to work in the new working conditions or refuses and

[1]Labour Code of Ukraine. (1996, July). Retrieved from https://zakon.rada.gov.ua/laws/show/322-08/#Text.
[2]Unified State Register of Court Decisions. (2013). Retrieved from https://reyestr.court.gov.ua/Review/53042819.
[3]Labour Code of Ukraine, op cit.
[4]*Ibidem*, 1996.

is dismissed in accordance with the procedure established by law.

The second category concerns those situations when the employee, without giving any signs of their will, appealed the order to change essential working conditions to the court. The employer logically interprets such actions as a refusal of work, and, accordingly, dismisses. In such a situation in case No. 559/321/16-C[1], the court sided with the employee, recognising the dismissal as illegal and reinstating the employee at work with all the ensuing consequences, such as paying the average salary for each day of forced absenteeism.

The third category is limited or ambiguous consent, or one on the employee's own terms. For example, in case No. 766/12480/17[2], the employees gave the following consent: "I consider the order to change essential working conditions illegal, so I appeal it, but I do not intend to resign." In such wording, actually certifying their consent to work, but on their own terms. The courts of the first, appellate, and cassation instances took the positions of the employee and restored them.

The fourth category is employees' evasion from making any decisions. Employers also have an ambiguous opinion on the wording of the LC[3] "and the employee does not agree to continue working under new conditions". Thus, in case No. 607/83/16-C,[4] the employee did not factually provide any response, and after the transfer appealed the order, which expressed their disagreement.

Consequently, in the absence of legislative regulation, similar situations arise. The employer, not always wanting to actually dismiss the employee, allegedly becomes a hostage to circumstances and tries to find a balance between the interests of the employee and the business, which is why then suffers considerable losses.

As M. Inshyn indicted, "the labour legislation of Ukraine needs to be improved. In particular, it is necessary to adopt a special law regulating individual employment contracts (agreements) for various forms of employment" [18].

It is recommended to apply the norms of the Civil Code of Ukraine to resolve such situations: "the response of the person to whom the offer to conclude a contract is addressed on its acceptance must be complete and unconditional. If a person who has received an offer to conclude a contract, within the time limit for a response, has performed an action in accordance with the terms of the contract specified in the offer (shipped goods, provided services, performed works, paid the established amount of money, etc.), which certifies their desire to conclude a contract, this action is considered as acceptance of the offer, unless other is specified in the offer to conclude a contract or established by law. A person who has accepted an offer may withdraw their response to its acceptance by notifying the person who made the offer to conclude a contract before or at the time of receiving a response on accepting the offer" (Article 642 of the CC of Ukraine)[5].

Applying the principle of analogy, it is required to give the employee a certain period of time to respond to the employer's offer to work in new working conditions. During this time, their response must be complete and unconditional. Such a legislative position puts both sides of the issue on an equal footing and contributes to the establishment of legal certainty.

Considering the above, to legally resolve the problem of granting consent to continue work in new working conditions, it is proposed to supplement the third paragraph of Article 32 of the current Labour Code of Ukraine[6] with the following: "the employer has the right to set a deadline for granting consent, but not less than seven days before the date of introduction of new working conditions. Consent to continue work must be complete and unconditional."

Conclusions

The Constitution of Ukraine, as the main law of the state, establishes the right of a citizen of Ukraine to work. Nevertheless, the Labour Code of Ukraine, which should specify the procedure for citizens to exercise their labour rights, is outdated. The changes made to it are insufficient and do not change the situation of deregulation. Analysis of Article 32 of the current Labour Code of Ukraine allows establishing insufficient certainty of the issue of changing essential working conditions.

According to the results of the study, it was found that even the judicial authorities do not have one stable position, and constantly make completely opposite decisions in similar cases. Therefore, given the existence of a legal problem in the state, it is worth paying due attention to the issue of regulating not only changes in essential working conditions but also the conscientious disposal of employees' rights.

Considering judicial practice, analysing and systematising the behaviour of employees who were informed about changes in essential working conditions, it is proposed to supplement the third paragraph of Article 32 of the current Labour Code of Ukraine with the following: "the employer has the right to set a time limit for granting consent, but not less than seven days before the date of introduction of new working conditions. Consent to continue work must be complete and unconditional". This wording would allow specifying the stated norm of labour legislation and help to achieve a balance of interests of the employee and the employer.

Further studies in the field of labour law are recommended to be devoted to the mechanism of ensuring the exercise of the employee's right to state guarantees.

[1]Unified State Register of Court Decisions. (2019). Retrieved from https://reyestr.court.gov.ua/Review/85796877.
[2]Unified State Register of Court Decisions. (2020). Retrieved from https://reyestr.court.gov.ua/Review/89082922.
[3]Labour Code of Ukraine. (1996, July). Retrieved from https://zakon.rada.gov.ua/laws/show/322-08/#Text.
[4]Unified State Register of Court Decisions. (2018). Retrieved from https://reyestr.court.gov.ua/Review/71779877.
[5]Civil Code of Ukraine. (2001, January). Retrieved from https://zakon.rada.gov.ua/laws/show/435-15#Text.
[6]Labour Code of Ukraine, op cit.

References

[1] Colot, A., & Herasymenko, O. (2020). *Sphere of work in the conditions of global socio-economic reality 2020: Challenges for Ukraine*. Retrieved from https://ir.kneu.edu.ua/bitstream/handle/2010/33773/16344.pdf?sequence=1&isAllowed=y

[2] Lysytska, T.G. (2019). Problems of legal regulation of changes in labor relations of civil servants. *Social Law,* 1, 111-116.

[3] Sobakar, A.O. (2015). *Guarantees of workers' rights to safe working conditions*. *Scientific Bulletin Scientific Bulletin of the Dnipropetrovsk State University of Internal Affairs*, 1, 147-154.

[4] Inshina, M.I., Kostiuk, V.L., & Melnik, V.P. (Eds.). (2015). *Labor law of Ukraine*. Kyiv: Center for Educational Literature.

[5] Kolosov, I.V. (2012). Labor procedural legal relations in Ukraine: Current state and issues. In *National and international legal support for sustainable development*: *Materials of the scientific conference* (pp. 23-24). Lviv: Western Ukrainian Center for Legal Initiatives.

[6] Kolosov, I.V. (2012). Judicial practice of the European Court of Justice in the field of protection of labor rights and legitimate interests of workers as a source of European Union law: Issues of application in Ukraine. *International readings on international law in memory of the professor Kazanskiy P. E.*: *Materials of the third scientific conference* (pp. 621-624). Odesa: Pheniks.

[7] Sereda, O. G. (2004). *Employer as a subject of labor law* (Doctoral dissertation, Yaroslav Mudryi National Law University, Kharkiv, Ukraine).

[8] Yushko, A.M. (2002). *Transfer to another job* (Doctoral dissertation, Yaroslav Mudryi National Law University, Kharkiv, Ukraine).

[9] Chikanova, L.A. (2004). Employment contract. *Labor law*, 58, 4-5.

[10] Ostapenko, O.I., Ostapenko, L.O., Khytra, O.L., Tsvok, M., & Vasyliv, S. (2019). A modern vision of methodological approaches in regulation of labor relations. *Journal of Advanced Research in Law and Economics*, 10(7), 2070-2076.

[11] Wettstein, F. (2022). *Business and human rights: Ethical, legal, and managerial perspectives*. Cambridge: Cambridge University Press. doi: 10.1017/9781009158374.

[12] Deyneka, V.S. (2019). Significant terms of the employment contract. *Scientific Bulletin of Uzhhorod National University,* 1(58), 160-163.

[13] Vyshnovetskaya, S.V. (2016). Trends in the science of labor law in the context of developing its methodology. In *Trends in the development of the science of labor law and social security law: abstracts of reports and scientific reports of the participants of the II international scientific and practical conference* (pp. 50-54). Kyiv: Print-Services.

[14] Pyzhova, M. (2020). Peculiarities of labor relations regulation regarding the implementation of legal guarantees. *Law and Innovation Society*, 2(14), 46-50.

[15] Protsevsky, O. (1999). New content of the right to work – the basis for reforming labor legislation of Ukraine. *Law of Ukraine*, 6, 101-105.

[16] Kostenko, M.I. (2018). *Change in essential working conditions.* Retrieved from http://maryna-kostenko.com/?p=89.

[17] Rotan, V.G., Zub, I.V., & Stychynsky, B.S. (2005). *Scientific and practical commentary on the legislation of Ukraine on labor*. Kyiv: A.C.K.

[18] Inshyn, M., Babych, N., Vitruk, V., Vitruk, O., & Vasylyeva, V. (2022). Effective dispute resolution for a social-labour partnership: The experience of Ukraine. *Access to Justice in Eastern Europe,* 2(14), 134–145. doi: 10.33327/AJEE-18-5.2-n000215.

Список використаних джерел

[1] Колот А., Герасименко О. Сфера праці в умовах глобальної соціоекономічної реальності 2020: виклики для України. URL: https://ir.kneu.edu.ua/bitstream/handle/2010/33773/16344.pdf?sequence=1&isAllowed=y.

[2] Лисицька Т. Г. Проблеми правового регулювання зміни трудових правовідносин державних службовців. *Соціальне право.* 2019. № 1. С. 111–116. URL: http://nbuv.gov.ua/UJRN/sopr_2019_1_21.

[3] Собакарь А. О. Гарантії прав працівників на безпечні умови праці. *Науковий вісник Дніпропетровського державного університету внутрішніх справ.* 2015. № 1. С. 147–154.

[4] Трудове право України : підручник / за ред. М. І. Іншина, В. Л. Костюка, В. П. Мельника. Київ : Центр учб. літ., 2016. 472 с.

[5] Колосов І. В. Трудові процесуальні правовідносини в Україні: сучасний стан та проблематика. *Національне та міжнародно-правове забезпечення стабільного розвитку :* матеріали Міжнар. наук.-практ. конф. (Львів, 2–3 берез. 2012 р.) : у 3 ч. Львів : Західноукр. орг. «Центр правничих ініціатив», 2012. Ч. 3. С. 17–20.

[6] Колосов И. В. Судебная практика Европейского суда в сфере защиты трудовых прав и законных интересов работников как источник права Европейского союза: вопросы применения в Украине. *Міжнародні читання з міжнародного права пам'яті професора П. Є. Казанського :* матеріали ІІІ Міжнар. наук. конф. (Одеса, 2–3 листоп. 2012 р.). Одеса : Фенікс, 2012. С. 621–624.

[7] Середа О. Г. Роботодавець як суб'єкт трудового права : дис. ... канд. юрид. наук : 12.00.05 / Національний юридичний університет імені Ярослава Мудрого. Харків, 2004. 210 с.
[8] Юшко А. М. Переведення на іншу роботу : автореф. дис. ... канд. юрид. наук : 12.00.05 / Київський національний університету імені Тараса Шевченка. Харків, 2002. 27 с
[9] Чиканова Л. А. Трудовий договір. *Трудове право.* 2004. № 58. С. 4–5.
[10] Ostapenko O. I., Ostapenko L. O., Khytra O. L., Tsvok M., Vasyliv S. A modern vision of methodological approaches in regulation of labor relations. *Journal of Advanced Research in Law and Economics.* 2019. Vol. 10. No. 7. P. 2070–2076.
[11] Wettstein F. Business and Human Rights: Ethical, legal, and managerial perspectives. Cambridge : Cambridge University Press, 2022. doi: 10.1017/9781009158374.
[12] Дейнека В. С. Істотні умови трудового договору. *Науковий вісник Ужгородського національного університету.* 2019. Т. 1. Вип. 58. С. 160–163.
[13] Вишновецька С. В. Тенденції розвитку науки трудового права в контексті розробки її методології. *Тенденції розвитку науки трудового права та права соціального забезпечення :* тези доп. та наук. повідом. учасників ІІ Міжнар. наук.-практ. конф. (Київ, 21–22 квіт. 2016 р.). Київ : Прінт-Сервіс, 2016. С. 50–54.
[14] Pyzhova M. Peculiarities of labor relations regulation regarding the implementation of legal guarantees. *Law and Innovation Society.* 2020. No. 2 (14). P. 46–50.
[15] Процевський О. Новий зміст права на працю – основа реформування трудового законодавства України. *Право України.* 1999. № 6. С. 101–105.
[16] Костенко М. І. Зміна істотних умов праці. URL: http://maryna-kostenko.com/?p=89.
[17] Ротань В. Г., Зуб І. В., Стичинський Б. С. Науково-практичний коментар до законодавства України про працю. Київ : А.С.К. 2005. 976 с
[18] Inshyn M., Babych N., Vitruk V., Vitruk O., Vasylyeva V. Effective Dispute Resolution for a Social-Labour Partnership: the Experience of Ukraine. *Access to Justice in Eastern Europe.* 2022. No. 2 (14). P. 134–145. doi: 10.33327/AJEE-18-5.2-n000215.

Особливості та правове регулювання процедури надання згоди працівника на роботу в нових умовах праці

Наталія Олександрівна Черевко

Херсонський державний аграрно-економічний університет
73006, вул. Стрітенська, 23, м. Херсон, Україна

Анотація
В умовах динамічного розвитку країни та світу дії роботодавця фактично залежать від прийнятого ще за радянських часів Кодексу законів про працю, у якому лише сформульовано поняття та взагалі не визначено механізм зміни істотних умов праці, чим на практиці часто зловживають працівники. Метою роботи є теоретичне обґрунтування та розробка пропозицій стосовно вдосконалення організації зміни істотних умов праці на законодавчому рівні на підставі аналізу практики застосування закону у відповідних правовідносинах. Основні результати дослідження отримано завдяки застосуванню методів теоретико-методологічного та системно-структурного аналізу літературних наукових джерел, а також формально-юридичного, порівняльно-правового, ціннісно-нормативного й інституційного методів. На основі вивчення та узагальнення законів України, судової практики в статті розкрито питання щодо проблем надання згоди працівників на роботу, систематизовано їхні форми, запропоновано шляхи усунення прогалин у чинному законодавстві, розглянуто теоретичні та практичні проблеми надання неповної та умовної згоди на продовження роботи. За результатами дослідження сформульовано відповідні висновки з точки зору досягнення балансу інтересів працівника та роботодавця, а також сформульовано низку пропозицій з удосконалення чинного трудового законодавства. Ця стаття є дослідженням науково-рекомендаційного, правового характеру, що має практичну значущість як для роботодавців, так і для працівників. Розглянута тематика є перспективною для подальшого застосування в законодавстві, зокрема новому Кодексі законів про працю України, а також деталізації окремих аспектів публікації

Ключові слова:
трудові відносини; роботодавець; зміна істотних умов праці; згода на продовження роботи; новий Кодекс законів про працю України