

Отже, ознайомившись з судовими рішеннями щодо накладення штрафів органами Держпраці за порушення трудового законодавства слід зазначити, що працювати за трудовим договором вигідно. А це сьогодні офіційно не працевлаштування – гарантія соціального захисту працівників та основа стабільного майбутнього.

Джерела:

1. Конституція України: прийнята на п'ятій сесії Верховної Ради України 28.06.1996 р. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141 (дата звернення: 07.12.2021р.).

2. Кодекс законів про працю України від 10 грудня 1971 року. *Відомості Верховної Ради України*. 1971. Додаток до №50. Ст. 375.

3. Судова практика. Категорія справи №340/3085/19. *Єдиний державний реєстр судових рішень* URL: <https://reyestr.court.gov.ua/Review/89266769>

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THE CONTRIBUTION OF THE EU AND ILO TO THE ENFORCEMENT OF LABOUR LEGISLATION IN UKRAINE

The Project «Enhancing the Labour Administration Capacity to Improve Working Conditions and Tackle Undeclared Work», which is designed for 2017–2019, and the project «On the way to safe, healthy and declared work in Ukraine», which is designed for 2020–2022, are the contribution of the EU and ILO to strengthen labour standards, occupational safety and health and the enforcement of legislation in the country. As a result, all employees and employers in Ukraine shall benefit from regular employment, safer and healthier working conditions.

The project «Enhancing the Labour Administration Capacity to Improve Working Conditions and Tackle Undeclared Work» was supported by the Ministry of Social Policy and the State Labour Service of Ukraine.

In particular, supervision and control over compliance with labour legislation is the activity of the competent authorities, in particular, by the State Labour Service of Ukraine.

The State Labour Service of Ukraine [1] is a central executive body whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the First Vice Prime Minister of Ukraine – Minister of Economy, and which implements state policy in the fields of industrial safety, labour protection, occupational health and safety, handling of industrial explosives, state mining supervision, as well as supervision and control over compliance with labour legislation, employment, compulsory state social insurance against accidents at work and occupational diseases that have caused disability, in connection with temporary disability, in case of unemployment.

In the field of safety and health at work, the main recommendations of the project «Enhancing the Labour Administration Capacity to Improve Working Conditions and Tackle Undeclared Work» were taken into account in the Concept of reforming the health and safety management system. Stakeholders were provided with 10 analytical materials with comprehensive recommendations on the approximation of national legislation to EU norms and technical advice on legal acts designed to transpose a number of EU directives.

With regard to undeclared work, the project, in addition to analyzing this phenomenon and developing recommendations for overcoming it, also supported the development and advocacy of the National Action Plan for Overcoming Undeclared Work and prepared a thematic national information campaign.

Identifying the use of undeclared work is one of the priority tasks within the labour inspection in Ukraine. The informal economy and undeclared work limit the state's ability to pursue modern social policies in education, health care, skills development, employment, social protection, and pensions, promote tax evasion, and reduce revenues to state and local budgets.

In terms of capacity building, about 1,200 participants were introduced to international and European standards in the above areas through relevant activities of national partners, and 413 stakeholder representatives improved their knowledge on these issues through project activities; 263 specialists were trained in occupational safety and health and risk assessment; 256 labour inspectors were trained in inspection techniques and acquired communication skills to more effectively detect and deter undeclared work.

Incidentally, the publications of the EU-ILO Project «Enhancing the Labour Administration Capacity to Improve Working Conditions and Tackle Undeclared Work» can be viewed and researched [2].

In the field of labour inspection, it is necessary to highlight a comprehensive analysis and recommendations for the harmonization of the legal framework for labour inspection with international standards; meaningful recommendations for the modernization of the information system of the State Labour Service; deepening the understanding of ways to apply strategic planning methods to the management of inspection activities of the State Labour Service.

The mandate and functions assigned to the State Labour Service of Ukraine are very broad and ambitious, covering a wide range of powers.

The government of Ukraine has expanded the powers of the State Labour Service by the Resolution «On Amendments to the Regulations on the Civil Service of Ukraine on Labour» № 1117 [3]. Due to the addition of paragraphs. 34 item 4 of the Provision by new norms, the State Labour Service will have the right to participate: in the certification of specialists who have the right to conduct a technical inspection and / or expert inspection of high-risk machines, mechanisms and equipment; in the work of the commission for the write-off of state property.

Also, the State Labour Service will also be allowed to record the process of conducting inspections (inspection visits) using audio, photo and video equipment.

The State Labour Service of Ukraine ensures the effective application of the law, implementing two main functions: 1) law enforcement; 2) providing technical information and advice to employers and employees. The tasks of control, information and counseling are closely related and often implemented simultaneously.

The introduction of compulsory vaccination against COVID-19 is one of the most discussed topics in Ukraine, which raises many questions, especially in the field of labour law.

The State Labour Service has recently received many requests for clarification on the application of labour legislation during quarantine measures caused by the COVID-19 pandemic [4]. At present, citizens are most interested in whether vaccination against COVID-19 is mandatory for all employees and whether it is possible to dismiss them if they refuse. Also relevant are the issues of remuneration during the dismissal of an employee in connection with the refusal of vaccination, the duration of such dismissal, the documentation of the refusal or evasion of the employee from vaccination, the possibility of accepting a temporary employee instead of the dismissed, and so on.

For instance, the State Labour Service explained how to replace a dismissed employee who was not vaccinated against COVID-19. For the period of removal of the main employee, another employee who has received mandatory preventive vaccination against acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2 may be hired under a fixed-term employment contract. An employee who has entered into a fixed-term employment contract shall be dismissed after the expiration of the period of dismissal of the main employee. This conclusion was published by the State Labour Office on its own website, referring to case law [5].

Thus, the critical importance of ensuring the labour right by supervisory authorities, namely, the State Labour Service of Ukraine.

The work of the State Labour Service is aimed at improving the efficiency of work with citizens' appeals, taking into account the need for objective, comprehensive and timely consideration of citizens' appeals in accordance with the requirements of the current legislation of Ukraine. In the third quarter of 2021, the State Labour and its territorial bodies received 11,895 appeals from citizens, of which 462 were collective appeals, in which 16,261 citizens appealed [6].

It is important to note that the State Labour Service of Ukraine became a member of the International Association of Labour Inspection. It is the global professional association with more than

100 members worldwide [7]. This membership should contribute to strengthening the effectiveness and efficiency of labour inspection of Ukraine through participation in international and regional conferences, exchanging experiences and ideas on promoting compliance with labour laws and best practices. IALI also provides its members with access to professional information through the Association's website, newsletters, reports, and other publications and promotes close cooperation between members through regional networks and events.

Labour inspection, as an integral part of the system of labour regulation, which performs the fundamental function of ensuring the application of labour legislation and effective compliance with its requirements, promotes economic development.

References:

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2. EU-ILO Project – «Enhancing the Labour Administration Capacity to Improve Working Conditions and Tackle Undeclared Work». Project publications. URL: https://www.ilo.org/budapest/what-we-do/projects/enhancing-labadmin-ukraine/WCMS_645249/lang-en/index.htm

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6. Довідка про роботу із зверненнями громадян, які надійшли до Державної служби України з питань праці та її територіальних органів у 2021 році. URL: <https://dsp.gov.ua/dovidka-pro-robotu-iz-zvernenniamy-hromadian-iaki-nadiishly-do-derzhavnoi-sluzhby-ukrainy-z-pytan-pratsi-ta-ii-terytorialnykh-orhaniv-u-2021-rotsi/>

7. About the International Association of Labour Inspection (IALI). URL: <http://www.iali-aiit.org/en/about/about-iali.html>