

4. Карпняк К. Деякі аспекти правового регулювання шлюбно-сімейних відносин ускладнених іноземним елементом. С. 124–127. URL: <http://dspace.wunu.edu.ua/bitstream/316497/11212/1/124-127.pdf>.

UDC 349.22(043.2)

**Shyian Yu. V.**, seeker  
for the first (bachelor's) level of higher education,  
National Aviation University, Kyiv, Ukraine  
Scientific advisor: Kmetyk Kh. V., PhD in Law

## **LEGAL REGULATION OF LABOUR RELATIONS WITH THE EMPLOYEES MOBILIZED TO THE ARMED FORCES OF UKRAINE**

The fighting, which lasted in the East of Ukraine for more than 8 years, became an extremely difficult test for the Ukrainian people and our state. A significant number of citizens were mobilized to the Armed Forces of Ukraine in order to protect the territorial integrity of Ukraine. However, on the morning of February 24, 2022 Ukraine faced a new challenge from the Russian Federation. A full-scale invasion of the aggressor country on our lands led to the mobilization of thousands of the employees of enterprises, institutions and organizations to the ranks of the Armed Forces of Ukraine.

In accordance with the provisions of paragraph 4 of Article 1 of the Law of Ukraine “On Mobilization Training and Mobilization”, mobilization is considered to be a set of measures carried out in order to systematically transfer the national economy, the activities of state authorities, other state bodies, local governments, enterprises, institutions and organizations to function in a special period, and the Armed Forces of Ukraine, other military formations, the Civil Protection Operational and Rescue Service – to wartime organization and states [1].

Article 119 of the Labour Code of Ukraine consolidates the guarantees for the employees performing the state or public duties, in particular, this category includes the employees mobilized to the Armed Forces of Ukraine and territorial defence. These guarantees consist in preserving the place of work and position at the enterprise, institution or organization for the period of military service. However, according to the amendments to this article, effective from August 19, 2022, the preservation of the average earnings of the employees mobilized to the Armed Forces of Ukraine is no longer provided. This is required by the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on the Optimization of Labour Relations” [2].

The updated provision of Part 3 of Article 119 now indicates that for the employees conscripted for military service, military service by conscription of

officers, conscription during mobilization, for a special period, military service by conscription of persons from among reservists in a special period or accepted for military service under a contract, including by concluding the new contract for military service, during the special period for a period before its expiration or until the day of actual dismissal, the place of work and position at the enterprise, institution, organization, farm, agricultural production cooperative, regardless of subordination and form of ownership, and individuals – entrepreneurs in whom they worked at the time of conscription are retained. Such employees are paid monetary support at the expense of the State Budget of Ukraine in accordance with the Law of Ukraine “On Social and Legal Protection of Servicemen and Members of Their Families” [3].

Also, there are exceptions to the general rule for regulating the labour relations. The Law of Ukraine “On Military Duty and Military Service” makes no mention of the volunteer formations of territorial communities, so persons who joined such formations are not military personnel in the sense prescribed by law. Instead, they perform state or public duties. Therefore, in accordance with the provisions of part 1 of Article 119 of the Labour Code of Ukraine, the payment of the average wage is maintained [3; 4].

However, not only the members of the volunteer formations of territorial communities have the right to maintain average earnings. In accordance with the provision of part 2 of Article 57 of the Law of Ukraine “On Education” pedagogical and scientific and pedagogical staff also retain their previous average earnings if they serve on conscription during mobilization, for a special period or military service by conscription of reservists in a special period [5].

Thus, the legal regulation of labour relations with the employees mobilized to the Armed Forces of Ukraine is undoubtedly a complex issue that requires attention from the legal community to ensure effective protection of the rights and interests of such employees.

### *References*

1. Про мобілізаційну підготовку та мобілізацію: Закон України від 21 жовт. 1993 р. № 3543-XII. URL: <https://zakon.rada.gov.ua/laws/show/3543-12#Text> (date of access: 30.04.2023).

2. Про внесення змін до деяких законодавчих актів України щодо оптимізації трудових відносин: Закон України від 01 лип. 2022 р. № 2352-IX. URL: <https://zakon.rada.gov.ua/laws/show/2352-20#Text> (date of access: 30.04.2023).

3. Кодекс законів про працю України: Закон України від 10 груд. 1971 р. № 322-VIII. URL: <https://zakon.rada.gov.ua/laws/show/322-08#Text> (date of access: 30.04.2023).

4. Про військовий обов’язок і військову службу: Закон України від 25 бер. 1992 р. № 2232-XII. URL: <https://zakon.rada.gov.ua/laws/show/2232-12#Text> (date of access: 30.04.2023).