

Review Paper

Impact of Martial Law on Labour Regulation at Ukrainian Enterprises

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ABSTRACT

Due to the fact that martial law restricts the rights and freedoms of individuals in order to ensure law and order and security of citizens for the period of its operation, it became necessary to study how the labour process in Ukraine has changed. The purpose of this research work was to clarify the state of labour relations in the conditions of a full-scale offensive of the Russian Federation. The main methods of scientific research were the following: comparative method, systematic and statistical method. Significant results in this study were as follows: outlining the main changes in the labour process in institutions, enterprises, and organizations, as a result of the introduction of martial law and in the context of the Russian-Ukrainian war. Identification and analysis of legislative changes regarding the regulation of labour relations between the employee and the employer in recent months; finding out how regulatory changes have affected the normal labour process and the basic rights and freedoms of the employee. In particular, the issues of changing the workplace, transferring an employee from one workplace to another; issues related to martial law leave, overtime and night work, dismissal and changes in the terms of the employment contract, remuneration and employment of certain categories of employees, etc. The results made it possible to identify a number of recommendations for improving the legislation in the field of labour relations and, accordingly, to increase the efficiency of this area.

HIGHLIGHTS

- The article aims to clarify the state of labour relations in Ukraine during the period of martial law and the Russian-Ukrainian war, analysing the changes in the labour process and legislative regulations, and providing recommendations for improving the legislation in the field of labour relations.

Keywords: Labour Law, Labour Relations, Restriction of Labour Rights, Russian-Ukrainian War, Unemployment

The full-scale invasion of the Russian Federation into Ukraine has affected a number of social relations, including those related to employment, labour process. A significant contribution to the study of this issue has been made by Ukrainian scholars, which indicates a prominent level of relevance of the subject of labour relations in the context of a full-scale Russian offensive. In particular, the need to analyse how the introduction of martial law

has affected the functioning of the labour market in Ukraine is important in the context of the need to understand how the rights of employees are restricted in certain matters or, on the contrary,

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expanded; it is also important to understand what range of powers employers have in such conditions and how this affects the labour process. In order to understand the current state of research on this issue and what aspects were not paid attention to by the authors, it is advisable to highlight some of the most interesting and important scientific works. Thus, V.S. Tarasenko (2022) notes that among the essential conditions of the labour process against the background of martial law is a new system of remuneration and its size, the issue of benefits, combining several professions, as well as working hours.

V. Filippov *et al.* (2022) provide considerations and proposals for an alternative system of motivation of employees at enterprises under martial law. Thus, they propose to take into account the requests of employees for basic needs, stable wages and workplace; also, in their opinion, the psychological state of individuals is no less important. V.V. Hlyvenko and A.S. Lapa (2022) provide some statistics on changes in the labour process in Ukraine. Thus, according to the State Employment Service, in April 2022, about 12 people applied for one job. The author also points out that most Ukrainians who have lost their jobs agree to take jobs that pay significantly less than their previous jobs. S. M. Bortnyk (2022) indicates the main problems that arise in the labour process for both the employer and the employee. For the most part, the employer is faced with the problem of loss of labour force against the background of mobilization or voluntary service of women and men in the armed forces; employees against the background of the introduction of martial law feel uncertainty about the stability of work, timely receipt of wages, as well as solving problems that arise during the termination or conclusion of an employment contract, leave. O.O. Kovalenko (2022) draws attention to the fact that the norm on the suspension of the employment contract, which was put into effect during martial law, significantly limited and narrowed the rights of workers in almost all areas. The purpose of the article is to clarify and analyse the main changes in the labour sphere of Ukraine against the background of the introduction of martial law.

MATERIALS AND METHODS

The research work was written using a number of methods of scientific knowledge, which allowed to outline in more detail the subject of the labour process under martial law. Thus, the main method of this work was comparative, using which it was possible to analyse the state of labour relations between the employee and the employer before the beginning of the full-scale Russian-Ukrainian war and with the introduction of martial law and, accordingly, the situation after such events in Ukraine. Using this method, a number of peculiarities regarding remuneration before and during martial law, termination of the employment contract, employment, etc. were also identified. It is also worth noting that the comparative method allowed to compare the legal regulation of labour and its changes after the introduction of martial law. The systematic method of scientific research was used to outline the current state of the labour process in Ukraine against the backdrop of not only martial law, but also other factors that have in one way or another affected the Ukrainian labour market, including, in particular, coronavirus infection, labour outflow during 2014-2022, as well as mass migration of the Ukrainian working-age population as a result of the Russian invasion.

Statistical analysis allowed to study the changes in the labour market and labour process in Ukraine. In particular, data were provided on which enterprises suffered from the introduction of martial law; how much of the workforce left Ukraine or was mobilized. Also, the response of enterprises to the challenges caused by martial law was illustrated: support of employees, stability of work, timely payment of wages, reorientation, priority of employee safety. The use of a systematic method made it possible to highlight the views of other authors on the labour process in Ukraine in the current conditions of war and martial law. Also, the systematic method allowed to compare the results of this research work with the results of other scientists in order to identify a single conclusion, advantages, and disadvantages of the developments on the problem of regulation of labour relations today. Ways to improve labour legislation to prevent restrictions on the rights and freedoms of workers in conditions of instability and martial law are

proposed. In addition, some separate directions and topics for further research of the relevant issue were highlighted.

RESULTS

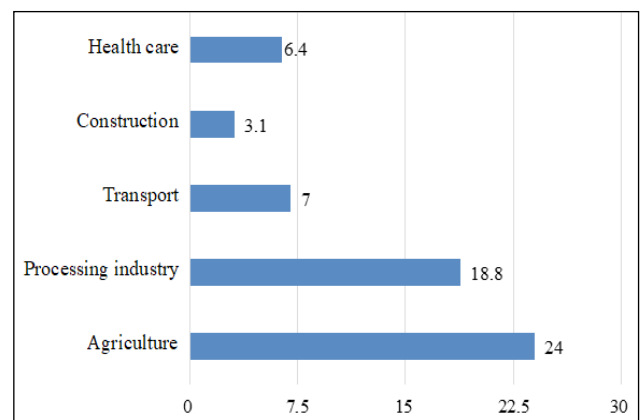
Martial law is a special regime that is put into effect due to the existing threat to national security, sovereignty and territorial integrity of the Ukrainian state (Devi, 2022). Thus, the National Security and Defense Council of Ukraine may submit proposals to the President of Ukraine on the introduction of such a legal regime both on a separate and on the whole territory of Ukraine. If approved, the President issues a legal document – a decree approved by the Verkhovna Rada of Ukraine, which introduces martial law on the territory of Ukraine.

The procedure for the adoption of such an agreement is also specific, in particular, it is stated that it must be executed together with the order or order of the person authorized to hire or dismiss employees. The order on suspension of the contract, one of the parties to which is an official or serviceman, is agreed with the relevant military administration. This order must contain certain information that defines the way of communication between the employer and the employee, the motivational part of the reasons that led to the suspension of the contract, the term of such suspension and how and under what circumstances the contract can be renewed. Taking into account the possibility of abuse of this type of transaction, the employee has the right to appeal against the employer's actions if he does not agree with the decision of the latter.

Another provision that should be outlined in more detail is the termination of the employment contract. This right is granted to both the employee and the employer, but there are certain peculiarities. In particular, at the initiative of the employee, the contract may be terminated due to military operations in the area where the enterprise is located, which causes a threat to the health and life of the person. The conditions under which the employer may terminate the employment contract are that the employee is temporarily incapacitated and cannot perform the range of obligations imposed on him/her. This provision does not apply to temporary disability due to maternity leave, childbirth. It is worth noting that as a

result of violation of the timeliness of payment of remuneration for work performed by the employee, the employer will not be legally liable if there is a sufficient range of grounds and evidence that would indicate the real inability of the employer to fulfil its obligations under the contract as a result of, for example, hostilities, etc. It is advisable to illustrate the changes in economic activity at the time of the introduction of martial law in Ukraine. In general, according to the European Business Association, about 47% of large enterprises in Ukraine began full-fledged work in the third month of the war. A certain part of large businesses started working on a smaller scale (McKee and Murphy, 2022). The martial law has become a real challenge for small and medium-sized businesses, which stop working or suspend it due to lack of demand and low profitability. In particular, it is talking about the restaurant business, cinemas, etc. About 1 million employees were laid off at small and medium-sized businesses during the introduction of martial law due to the inability of employers to provide financial support to employees. The issue of state support for such businesses becomes important.

The largest number of victims at the enterprises was recorded in the capital of Ukraine – 84 people, one third of whom died; also 65 people are victims in Mykolaiv region, 49 – Dnipropetrovsk region, 48 workers in Donetsk region; 40 people – Kharkiv region, about 30 in Zaporizhzhia and Chernihiv regions (Strzelecki *et al.* 2022). It should be noted that not all sectors require staff reductions. In particular, some sectors can provide jobs for a significant number of specialists (Fig. 1).



Source: compiled by the authors based on O. O. Kovalenko (2022).

Fig. 1: Structure of vacancies, % (by type of economic activity)

It is worth noting that only a few labour spheres were able to quickly organize their activities in the conditions of war and martial law, in particular the IT (information technology) sector, which in most cases did not depend on belonging to the territories and could continue to work remotely. However, most enterprises were forced to suspend their activities due to both restrictions imposed with the introduction of martial law and damage to production facilities (Adamczyk *et al.* 2022). This, in turn, led to the fact that some Ukrainians were deprived of the opportunity to find jobs that corresponded to their professional level and professional skills, and their labour rights were accordingly restricted due to changes in legislation and the expansion of employers' opportunities to terminate, suspend and dismiss employees. Thus, among the areas that did not require additional labour, it is advisable to distinguish the following: tourism, restaurant and hotel business, legal, insurance, scientific sphere (Azmuk, 2022).

The martial law and the new labour legislation have changed the principles of labour regulation at enterprises and the ways to preserve their financial capacity to maintain the staff and personnel (Skribans *et al.* 2022). Most enterprises adjusted their work due to the opportunities provided by the amended labour legislation, in particular, they reduced the number of jobs, provided unpaid leave for an indefinite period and suspended the employment contract (Cherep *et al.* 2022). Thus, it is clear from the analysed data that not all spheres of economic activity were equally affected by military operations on the territory of Ukraine and the introduction of martial law. Moreover, a certain part of them was able to adapt to the new conditions of labour regulation and use the provisions of the new legislation to maintain financial and production capabilities at the enterprise.

DISCUSSION

It is interesting to explore the views of other scholars on martial law and the organization of work under such conditions in Ukraine. Thus, for example, O. M. Bukhanevych *et al.* (2021) note that the peculiarity of certain legal regimes is to clearly regulate the relationship between persons participating in public and legal relations in the event of an emergency, exceptional, man-made and natural situations.

Also, according to the team of authors, the legal regime is a comprehensive measure of power, which combines special measures of imperative nature, the main purpose of which is to ensure the normal functioning of the state, security, life and health of the individual. Based on the provisions of the legislation, scientists propose to define the emergency regime as a regime of a special nature, during which the rights and freedoms of individuals and legal entities are restricted, and a temporary measure.

It is worth agreeing with such considerations of the authors and noting that their definition of a special legal regime (including its subspecies – martial law) coincides with the understanding of such a measure in this work. It is also advisable to point out that martial law as a special legal regime has a certain specific procedure for its introduction, which first goes through several stages and several levels of government. O.M. Yaroshenko *et al.* (2018) point to the problem of protection of workers' rights in Ukraine, which is associated with an insufficient level of health insurance. Thus, the authors note that with the process of European integration, the Ukrainian authorities should focus on those norms and opportunities that allow to protect the health and life of the employee at the enterprise to a greater extent. Given the difference between the above results and those presented in this work, it is advisable to take into account the authors' considerations and note that in the conditions of martial law and hostilities, the health and life of a person is under a higher level of danger. This is evidenced by the statistical data on injuries at enterprises, which have already been given earlier.

K. Tomashevski and O. Yaroshenko (2020) point out that the labour legislation of Ukraine does not meet the requirements of the market economy and the labour market in general, in particular, it differs from the norms that regulate labour relations between employer and employee in European countries. It is worth noting that the labour legislation before the outbreak of full-scale war did have a number of problems and gaps that created conflicts in the regulation of labour relations, so these provisions should be taken into account and included in the conclusions of this work. A. Kammer *et al.* (2022) point to the following general consequences of the introduction of martial

law in Ukraine and the Russian invasion: inflation, price increases, humanitarian crisis, etc. Also draws attention to the problem of reducing the level of export opportunities of Ukraine, which will lead to the risk of famine in developing countries. In addition, the authors point out that there are also problems in the domestic labour market of Ukraine in connection with the invasion of the Russian Federation, in particular, he emphasizes that some categories of people face unemployment, and some categories of enterprises – with an insufficient number of qualified workers.

Indeed, the results of this work indicated that, for example, in the field of agriculture and construction there is a lack of labour and specialists. However, for example, the hotel business, insurance and others, on the contrary, do not require additional labour. Most scientists from different countries, discussing the Russian-Ukrainian war, pay attention to general questions about the impact of the war on the universe. Thus, Y. Wang *et al.* (2022) point out that the Russian invasion provokes instability in the world market and commodity market. In particular, a similar opinion is expressed by the American authors E. Bouri and A. Sokhanvar (2022), emphasizing the exceptional situation regarding the shortage of grain resources in the world commodity market. One can agree with such considerations, but it should be borne in mind that the situation on the foreign market of Ukraine is also conditioned by the situation on the domestic market. Thus, the lack of a sufficient number of specialists in the field of agriculture, for example, forced resettlement of people, reduction of the workforce due to the financial insolvency of enterprises – all this, along with the criminal actions of the Russian Federation, affects the country's export opportunities. Also, a number of enterprises cannot be a full-fledged participant of trade due to destruction and military actions that make their normal functioning impossible.

German authors T. Korn and H. Stemmler (2022) point out that due to the Russian invasion millions of Ukrainians left the country in search of asylum. Because of this, a number of enterprises that need labour to ensure the fulfilment of obligations under external and internal supply contracts have found themselves in a position of uncertainty. The work

of scientist L.S. Rubenstein and L.O. Gostin (2022) is interesting. Thus, the author notes, referring to the report of the World Health Organization, that during March 2022, more than 80 attacks on medical institutions of Ukraine were registered, as a result of which 43 people were injured and 72 people died. The author also cites data that about 17 medical workers and patients were injured in an attack on a hospital complex in Mariupol. The results of L.S. Rubenstein and L.O. Gostin's study are related to the results of this work, because, indeed, during martial law, the regulation of labour relations between the employer and employees becomes more complicated not only due to changes and, accordingly, new requirements of the legislation, but also due to the fact that the employer cannot fully provide the employee with safe working conditions for his life and health.

Similar considerations are present in the work of P.B. Fontanarosa *et al.* (2022). In particular, the authors point out that the attacks of the Russian army on medical centres, hospitals and medical workers may lead to the fact that the health care sector will increasingly need qualified workers who can provide emergency medical care, work on the front line, etc. O. Yaroshenko *et al.* (2021) in their research work point to a new flexible form of employment of society – remote work, which is legally regulated in a number of countries. Remote work is a natural consequence of geopolitical changes in the world and the conditions in which the world functions. In particular, the main driver here is the COVID-2019 pandemic, due to which a number of employers were forced to provide their employees with the opportunity to work remotely. It is advisable to agree with the authors' reasoning and note the similarity of their results with the results of this work, but to point out that, like the pandemic, martial law is another aspect that should be taken into account when choosing (where possible) remote work. Thus, as already mentioned, most IT companies had the opportunity to organize remote work of employees almost immediately from the beginning of the war and the introduction of martial law. The issue of salary compensation remains problematic, because such an obligation is imposed by the state on the aggressor country.

CONCLUSION

The study of the issue of the functioning of enterprises under martial law allows us to highlight a number of problematic aspects of this area. In particular, it was found that the labour legislation is now supplemented by the Law of Ukraine No. 2136-IX "On the organization of labour relations in the conditions of martial law". This law contains new provisions on the regulation of social relations that arise between the employer and the employee and consist of the following: remuneration, vacations and holidays, working conditions, termination of the employment contract, suspension of the employment contract, change of location of the enterprise, as well as transfer of work to remote mode. It was noted that big business and the IT sector adapted to the new conditions of labour relations regulation faster. The problem is the inability of small and medium-sized businesses to continue to provide their activities, which are focused on domestic consumers in the restaurant, hotel industry, etc. It was emphasized that the state has introduced a special program "5-7-9", which allows businesses affected by hostilities to receive a low-interest loan, the funds from which will be used to rebuild enterprises. It was noted that some areas cannot provide new jobs for employment; for example, the legal sphere, insurance, retail trade. However, healthcare, agro-industrial complex, construction enterprises need specialists, which are in short supply. The following research works should be devoted to the issues of employment of persons during martial law, stability of the IT sector during the war, restoration of small and medium-sized businesses under the state program "5-7-9".

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