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ACTIVITIES OF SELF-EMPLOYED PERSONS IN THE CONDITIONS OF DIGITALIZATION

Key words: self-employed person; employee; labor relations; economic dependence of self-employed persons; legislation of Ukraine and foreign countries; social and legal status; a person pursuing an independent professional activity; participants in tax relations; status of self-employed persons

ABSTRACT: In modern conditions, the level of scientific development of theoretical and practical problems of self-employment is at an early stage. It should be noted that in the conditions of market transformations, self-employment for a certain part of the population is a way to survive in difficult life situations.

Self-employment as a type of economic behavior can be described, on the one hand, as a strategy to ensure living conditions in a changing life situation and solve the problem of unemployment, and on the other – as the first step in the implementation of entrepreneurial behavior.

The transition of self-employment to entrepreneurial activity is a social indicator of maturity of the subject of individual labor activity.

Self-employment is a manifestation of further self-organization of individuals and is characterized as a strategy to solve the problem of unemployment and ensure proper living conditions. Determined by autonomy and freedom of action, self-employment ideally allows a person to receive income, adequate quantity and quality of labor and investment.

At the legislative level, the term “self-employed person” has the following definition.

A self-employed person is a taxpayer who is an individual entrepreneur or carries out an independent professional activity, provided that such a person is not an employee within such entrepreneurial or independent professional activity.

Self-employment differs from traditional employment with regular remuneration by its inherent autonomy and individual orientation, which contributes to the gradual formation of

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a fundamentally new stratum of the economically active population, which has abandoned paternalistic expectations. This is the social value of self-employment.

The most common type of self-employment is entrepreneurial activity, which includes a system of actions and deeds related to starting your own business, business activity, risk. The market environment expands the freedom to choose the scope of labor, the possibility of applying labor, which, combined with the responsibility of economic entities for the results of production, promotes the development of effective forms of self-employment, including small business.

INTRODUCTION

Among the obligated persons, whose legal personality is formed mainly due to tax obligations, it is necessary to single out the circle of persons for whom the condition of activity is its obligatory state registration in the relevant authorized body. Among the self-employed persons belonging to this group of entities, the most striking example is persons who must obtain a certificate of registration or other document (permit, certificate, etc.) confirming their right to pursue an independent professional activity.

Taxpayer accounting can be defined as a set of certain stages, covering the relevant procedures for regulating the accounting actions of representatives of both the authoritative and the obligated party of the tax relationship. Tax registration applies to all persons who legalize themselves as participants in a tax relationship, ie all persons who have or may have a tax liability are obliged to register as taxpayers. They are subject to registration or registration with regulatory authorities.

Both natural persons-entrepreneurs and natural persons carrying out independent professional activity are subject to obligatory registration in the bodies of the state tax service. This requirement does not preclude a situation where a natural person – entrepreneur is simultaneously engaged in independent professional activity. At the same time, such a person, who, in fact, combines both statuses, is registered in the tax authorities as a natural person – entrepreneur and additionally should not be registered as a self-employed person.

Self-employed persons are registered in the State Register of Individual Taxpayers by making entries on state registration or termination of entre-

preneurial activity, independent professional activity, re-registration, registration, deregistration, changes in the self-employed person, and other actions.

THE STRUCTURE AND MECHANISM OF NORMATIVE RESOLUTIONS

The issue of the impact of digitalization on employment is becoming more relevant every year and requires comprehensive research and proper legal regulation. This is due to the fact that in the information society the most important feature of employment is flexibility, which means flexible organization of work, which allows you to quickly and efficiently meet new production needs and acquire new skills².

Digitization has led to the spread of atypical forms of employment, such as teleworking and freelance work, which allow it to be performed outside the employer's location. In addition, this work can be performed under both employment and civil law contracts. The labor law model is covered by the form of remote work, civil law – freelance.

Recently, digitalization has also led to the emergence of such atypical employment as work based on Internet platforms. There is a special term “platform employee”, which is used to denote those individuals who offer their work on the Internet platform. There are scientific discussions about the status of those who work through the online platform, and whether the Internet platforms themselves can be considered as employers (AzmuK, 2012).

Domestic labor law does not currently regulate work on online Internet platforms. At the same time, it is obvious that the conclusion of civil law contracts with performers on platforms in some cases does not reflect the dependent position of performers. Online Internet platforms position themselves as intermediaries between the customer and the contractor, although in practice some digital work platforms for contractors (selection

² On social aspects of digitalization see more: Hahn, 2021; Marszałek-Kawa, Plecka, Hołub, 2018; Yates, Rice, 2020.

and preliminary assessment of contractors' business qualities, rankings, order distribution algorithms, etc.) may indicate a gradual convergence of these functions with the employer's powers. labor relations.

Recognizing the promising thesis on the spread of labor law regulation, at least in part, in relation to remotely employed online platforms that use algorithmic control, we note that the transnational nature of such platforms still requires a unified approach at the universal and regional levels. At the same time, we cannot agree with the proposal to extend the provisions of the ILO Convention 177 and the ILO Recommendation 184 on work at home to those working on the platforms.

According to ILO experts, working on a digital platform is similar to working from home, with the only difference being that the digital platform serves as an intermediary. They see the similarity between homework and the digital platform in the application of the strategy of dividing tasks into small parts, which can be entrusted to a large number of more or less qualified professionals, as well as the fact that work is not performed on the employer's premises. , workplace and home, there is no prospect of career growth. Homework and platform work tend to be in the informal economy. The services of the platform in practice are similar to the services of a mediator in home work or a temporary employment agency (Barsuchenko, 2013).

Therefore, this issue needs to be addressed urgently, given that ILO experts do not distinguish between home and distance work. At the same time, Internet employment can be manifested both in the form of hired labor (remote work) and in the form of independent professional activity. If in traditional forms of labor activity of self-employed persons differs from employees in relation to ownership of means of production and management decisions and significantly higher degree of industrial risk in independent employment, in the conditions of Internet employment in most cases the employee, as well as self-employed , uses personal equipment and his own access point to the Internet, as well as personal professional skills, ie endowed with the basic means of production. In this case, only basic management decisions and the presence of higher risks distinguish self-employed people from employees in the field of Internet employment.

In conclusion, it can be stated that the boundaries between certain types of atypical forms of employment are vague and need further study. To solve this problem requires a comprehensive development of legislation on self-employment, which would determine the legal status, rights and guarantees of this category of employees, as well as a clear distinction between labor and self-employed, people employed on digital work platforms. Within the framework of the legislation on self-employment it is necessary to regulate the relations of economically dependent contractors and contractors (also called dependent self-employed persons), taking into account the specifics of the work of persons employed on Internet platforms.

OM Ryme, researching the European Employment Strategy, rightly noted that the effectiveness of its implementation directly depends on the quality of legal regulation of labor relations, which are a significant part of public relations on employment (Rabinovich, 2007). Thus, a comprehensive legal regulation of employment is needed, which would meet the challenges of today, using the differentiation of legal regulation of its atypical forms.

NORMATIVE RESOLUTIONS OF UKRAINE

With the development of democratic transformations in Ukraine, the change of social economic system, the flowering of a market economy and entrepreneurship and other factors are the level of self-employment in the total share of employment the population increased sharply. However, this state of affairs did not get out by the state a decent response by settling existing public relations through legal regulations.

The current labor legislation of Ukraine does not contain a single one the definition of “self-employed person” and the doctrine is not clear understanding of the term in relation to the category entrepreneurship, which is a significant shortcoming in legal regulation. Analysis current regulations indicate that only the Tax Code Ukraine establishes a similar term . The definition enshrines that self-employed persons are exclusively private entrepreneurs and persons who carry out independent profes-

sional activity. However, there is such an approach justified only for the needs of tax law and legislation and not meets the requirements of labor law. In addition, in paragraph 14.1 of Art. 14 Tax of the Code of Ukraine stipulates that the definition is defined only for purposes of the tax law of Ukraine.

In the doctrine there are different approaches to understanding the category of self-employed persons. For example, G.I. Kupalova believes that the category of self-employed persons are non-employed, namely: employers (employees owners) engaged in individual (independent) employment, free working family members. From the proposed author definition is clear that the key, defining feature of the self-employed person is the realization of the right to work without entering into a relationship of “power and subordination” with the employer, ie without concluding an employment contract.

In addition, the scientist uses to characterize the relevant concept a list of those entities that belong to the relevant group of employees. However, in our opinion, this approach does not fully reveal the essence of the studied category and needs clarification. A similar definition was proposed by O. Kilnytska, who believes that self-employed persons are non-employed persons, ie people who have their own business. The above definition is general character and it does not contain any characteristic, distinctive features, fig etc., which are inherent in self-employment as a separate type of employment.

CORRELATION OF NORMATIVE LEGAL ACTS

The current labor legislation of Ukraine does not contain a single one the definition of “self-employed person” and the doctrine is not clear understanding of the term in relation to the category entrepreneurship, which is a significant shortcoming in legal regulation. Analysis current regulations indicate that only the Tax Code Ukraine establishes a similar term. The definition enshrines that self-employed persons are exclusively private entrepreneurs and persons who carry out independent professional activity. However, there is such an approach justified only for the needs of tax

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CONCLUSIONS

Based on a comparative analysis of the legislation of different countries, we can conclude that the ways to respond to the challenges of expanding the scope of economically dependent self-employment in different countries are different – from complete disregard for the problem at the legislative level with the possibility of resolving disputes on self-employed persons with the provision of economically dependent self-employed persons with labor rights and guarantees comparable to the rights and guarantees of employees (Spain). Between these two seemingly extreme ways, there are many options, for example: the inclusion in labor laws of rules that apply certain rules to employees to dependent self-employed persons (Germany, Sweden); establishing opportunities for self-employed persons to participate in collective bargaining (Netherlands); formation of a system of court precedents that allow to qualify relations as labor (USA) with simultaneous normative consolidation of signs of labor relations (USA); legislative prohibition on concluding civil contracts for the purpose of regulating labor relations with the possibility of renewal of the violated right as a result of violation of this prohibition in court (Poland).

In all cases, the scope of labor law is actually being expanded, albeit by various means. Therefore, there is an urgent need for an unambiguous and complete definition of the legal status of self-employed persons in the legislation of Ukraine. In particular, it is necessary to develop the legal concept of self-employment, a clear definition of the categories of persons belonging to this segment of the labor market; legislative regulation of issues of self-employment, registration, accounting, social insurance, pensions, simplified taxation and other protection; supplementing labor legislation with regulations in accordance with the conditions of a market economy and stimulating economic activity of the population.

It should be concluded that the essence of self-employment as a type of economic behavior is that a person finds a source of income, provides adequate to his needs level and living conditions as a result of economic activity, which is regulated by social and economic norms. Summarizing the above, it should be noted that self-employment is a phenomenon that has not been thoroughly studied, not fully studied, not created a clear core on which to build the structure of this concept. Self-employment is a constant dynamic process that depends on the economic situation in the country and therefore this concept needs constant reform in approaches to understanding its essence.

BIBLIOGRAPHY:

- Azmuk, N.A. (2012). *Transformation of the structure of occupation of the population of Ukraine: prospects for the development of nasty forms of organization of work. Formation of the market economy*, 1, 35–43.
- Barsuchenko, A.S. (2013). *Self-determination on the market of practice: freelance*, 16, 11–13.
- Hahn, K. (2021). *Social Digitalisation: Persistent Transformations Beyond Digital Technology*. London: Palgrave Macmillan.
- Marszałek-Kawa, J., Plecka, D., Hołub, A. (ed.). (2018). *Social Security. Selected Aspects*. Toruń: Wydawnictwo Adam Marszałek.
- Rabinovich, P.M. (2007). *Foundations of the foreign theory of the law of that state: the headmaster*. 9th type. In the winters. Kyiv, Lviv: Krai.
- Yates, S.J., Rice, R.E. (2020). *The Oxford Handbook of Digital Technology and Society*. Oxford: Oxford University Press.