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імені Г.С. Сковороди (Україна)**

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Вроцлавський університет (Республіка Польща)

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«Актуальні проблеми приватного та публічного права»

**Матеріали IV Міжнародної науково-практичної конференції
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Коваленко Олена Олександрівна (в.о. завідувача кафедри д-р юрид. наук, професор) +38(057)598-98-75;

Головань Тетяна Георгіївна (в.о. декана юридичного факультету канд. юрид. наук, доцент) +38(067)681-93-90;

Ждан Микола Дмитрович (канд. юрид. наук, доцент) +38(063)948-05-19;

Пономаренко Оксана Михайлівна (канд. юрид. наук, доцент) +38(097)332-55-70;

Гоц-Яковлєва Ольга Василівна (канд. юрид. наук, доцент) +38(067)724-29-49;

Гرابко Людмила Владиславівна (ст. лаборант) +38(057)274-83-23

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assistant, the employee works without a capital investment and without a work organization of his own, the way and time of payment of the wage is personal factors to be taken into account in the determination of addiction.

None of these factors can be considered as an absolute measure by itself. The worker's use of his own imagination while working under the conditions set by the employer, and his free movement to get the job done in line with the employer's wishes, does not remove this dependency of the worker. Whether the employee owns the tools used in the workplace, whether the employee participates in profit and loss, whether he has the freedom to decide is very important in terms of the dependency factor.

УДК 349.2

Ahmet Kaya,
Law faculty 4th Grade Student
H.S. Skovoroda Kharkiv National Pedagogical University
(Graduate advisor: Doctor of Laws,
professor, acting Head of the Department of Civil Law Disciplines and Labor
Law named after Professor O.I. Protsevsky Olena Kovalenko)

THE INFLUENCE OF TRADITIONS AND CUSTOMS ON THE ORGANIZATION OF WORKING TIME IN TURKEY

Changes observed in the working life cannot be adapted to the provisions of the legislation rapidly and continuously, and this situation leads to the emergence of unique sources of labor law. Before moving on to the subject of special resources of the Labor Law, it is necessary to mention the nature of the mandatory legal rules in the Labor Law. Mandatory law rules in Labor Law, unlike other branches of law, are subject to the distinction of "absolute and relative imperative rules". On the condition that it is in favor of the worker, the opposite of the relative imperative rules may be decided. For example, a working time cannot be determined above the mandatory working time. However, a working period can be determined below this period, which is in favor of the worker. Absolute imperative rules cannot be decided otherwise under any circumstances. For example, it is not possible to increase the amount of job security compensation and payments for idle time. It is understood from the wording of the provisions that which rules are absolute imperative and which are relative imperative in Labor Law, and the works in the doctrine also help in this regard.

The specific sources of labor and social security law are:

Collective bargaining agreements are a type of bilateral contract (contract) concluded (concluded) between labor unions and employers' unions.

The parties may, by mutual agreement, include provisions in their collective labor agreements that do not contradict the provisions of the current legislation regarding working life. If there is a collective bargaining agreement in a workplace,

there cannot be any arrangement contrary to that collective bargaining agreement in the employment agreements of that workplace.

Individual employment contracts are a type of bilateral contract between the employee and the employer. It determines the rules to be applied in the labor relations between the employee and the employer, provided that they do not contradict the mandatory provisions of the current legislation. Due to this feature, it contains provisions that bind the parties.

Workplace internal regulation is an objective and general regulation prepared unilaterally by the employer in order to determine the working conditions in a particular workplace.

Workplace internal regulations are not directly regulated in the Labor Law, but m. 22, mentioning the personnel regulation as an annex to the employment contract, it is stated that the workplace internal regulations are an annex to the employment contract. However, the internal regulations of the workplace create the terms and consequences of the employment contract, provided that they are known or known to the worker at the time of the employment contract. The internal regulation put into effect by the employer after the conclusion of the employment contract becomes an annex to the employment contract with the approval of the workers.

The workplace cannot be contrary to the regulations in the internal regulations, the legislation in force and the mandatory provisions of the concluded collective bargaining agreement.

Workplace internal regulations TBK m. It is the general trading condition regulated in 20. The regulations in the TCO regarding the general transaction conditions are also valid for the workplace internal regulations. For this reason, the fact that the internal regulations of the workplace, which are contrary to the interests of the workers, are binding on the worker depends on the employer providing the worker with the opportunity to clearly inform the worker about the existence of these conditions and learn the content of them during the conclusion of the contract, and the worker's acceptance of these conditions (TBK article 21). Again, the regulations placed on businesses or corporations that the employer can unilaterally make changes in the internal regulations of the workplace to the detriment of the employee or put a new internal regulation are invalid (TCO article 24).

Workplace practices are also considered as one of the unique sources of labor law. Workplace practices, which have become a working condition, become a legal resource by being born with actual behaviors that are repeated in the same way regularly in a workplace. For example; Although there is no provision in the employment contract, giving bonuses to employees at a workplace every Ramadan, Eid-al-Adha or New Year's Day can be given as an example of a workplace practice that has become a working condition over time. Workplace practices become the provision of employment contracts with the implicit acceptance of the workers, and the employer cannot unilaterally withdraw from this practice. The transformation of a practice into a workplace practice depends on the fact that it is repeated regularly and there is assurance in the worker that this practice will continue. There is no definite criterion about how many times the application is repeated and it will turn into a

workplace practice, and although a solution must be found according to the characteristics of the concrete case, according to the dominant view in the doctrine, for an application to turn into a workplace application, it must be repeated at least three times in a row. Official resources are the resources provided by the state, and "national resources" are divided into "international resources". National resources can be listed as laws, decree-laws, regulations, circulars. International resources are international agreements. Some of the international sources of Labor Law are generally bilateral agreements on labor sending and social security issues, and the other part is multilateral international agreements. An important part of the multilateral agreements are the international agreements prepared by the International Labor Organization, of which Turkey is a member in 1932, and entered into force after the ratification of the member states. The main purpose of the International Labor Organization is to establish a working norm in order to find solutions to international labor problems

УДК 349.2

Ridvan Işık,

Student ID-7263296

Law faculty 4th Grade Student

H.S. Skovoroda Kharkiv National Pedagogical University

(Scientific adviser: Candidate of Law, Associate Professor, Associate

Professor of the Department of Civil Law Disciplines and Labor Law

named after Professor OI Protsevisky Mykola Zhdan)

LABOR LAW TRANSFER LABOR LAW FIELD OF APPLICATION

The scope of application of labor law in terms of subject is the previously mentioned distinction between individual labor law and collective labor law.

In the Labor Law, the worker; It is defined as a "natural person working on the basis of an employment contract" (art. 2/1). Working on the basis of an employment contract and being a natural person are the conditions sought together by the Law in order to be considered a worker.

Persons working on the basis of an employment contract; they work not only legally and economically, but also technically dependent on the employer. Due to these features, exception, power of attorney, transportation, publication etc. are separated from employees according to other contract types. For example; If a civil engineer has agreed to do any kind of construction with a homeowner, it is an exception contract, not an employment contract between the engineer and the building owner. Therefore, a civil engineer is not a worker. Again; If the same engineer works as a control engineer in someone else's construction business based on an employment contract, he is considered a worker according to the Labor Law.

According to Article 2 of the Labor Law; "Real or legal persons or unincorporated institutions and organizations that employ workers based on an