

attention for when studying ways to solve, because they are more important for a person than the state and other sources of providing a person with benefits.

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COMPARATIVE LEGAL CHARACTERISTICS OF THE EMPLOYMENT CONTRACT IN UKRAINE AND THE USA

Introduction. Labor contract issues are always in the focus of scholars and practitioners in the context of modern development. Firstly, The Labor Code of Ukraine, which was adopted in 1970s of XX century and is the main document governing the conclusion of an employment contract, it is validity and termination does not fully meet current realities and requires updating. For this reason, it defines to study the legislation on the employment contract of developed foreign countries. Secondly, in today's world, when a large number of Ukrainian citizens are migrant workers abroad, in particular in the USA, it is important to study the legislation of the employment country contract itself, using the method of comparative law. According to the American FactFinder [1], about 97500 people currently employed in the USA are the Ukrainians. It is important to note that for working migrant workers is useful to know employment law in order to be able to conclude and work legally in the United States of America. Similarly, the citizens in Ukraine need knowledge of domestic labor law. The above determines the relevance of the topic of this study.

Review of recent publication. The issues of legal regulation of the employment contract in Ukraine were investigated by such well-known scientists as I. Y. Kiselev, N. B. Bolotina, N. M. Khutoryan, R. R. Nazmenditov, S.V. Venediktov and others. A. Goldman, I. Berdman, R. Corrada and others explored these issues in the USA.

Objectives of paper. The purposes of this scientific work is to highlight and compare the main features of the employment contract in Ukraine and the United States, to develop proposals for improvement of national legislation on the employment contract.

Results of the research. First of all, it is necessary to find out the meaning of the term “employment contract” in compliance with the legislation of Ukraine and the USA.

So, under article 21 of the Labor Code of Ukraine this is a labor agreement (employment contract), defined as the agreement between the employee and the owner of enterprise, institution, organization. According to this agreement the employee undertakes to perform work and the owner – to pay salary and ensure necessary labor conditions [2].

For the United States of America, there is no legitimate definition of an labor agreement. However, in the legal literature the definition of an employment contract is provided as an agreement between the employee and the employer on the terms of employment [3]. Unfortunately, there are no specific features in this definition.

It should be noted that in America there is no special separate legislative acts that regulate key aspects of an employment contract, namely, on it is conclusion, amendment and termination unlike in Ukraine. However, there are some pieces of legislation that regulate certain terms of the employment contract. These include documents such as the United States Constitution, federal labor law, individual state laws, collective agreements and enterprise act, judgments and ratified conventions of the International Labor Organization (ILO) [4].

The following will be a comparison of the employment contract in Ukraine and US on separate formally legal grounds.

Based on article 21 of the Labor Code of Ukraine, the parties to the employment contract are an employee and employer. According to the Law of Ukraine “On Labor Protection” in article 1 it is stated that the employer is the owner of the enterprise, institution, organization or body authorized by him, regardless of ownership, type of activity and management and natural person who use hired labor. According to the same article, an employee is a person who works at an enterprise, organization, institution and performs duties or functions under an employment contract [5].

In America, the parties to an employment contract are defined in Fair Labor Standards Act. These parties are the employer and employee. In accordance with “Definition” of this law the term employer includes any person acting directly or indirectly employer includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization. The term “employee” means any individual employed by an employer [6]. Therefore, it appears that the parties to the US employment contract are being identified.

Regarding the forms of employment contract in Ukraine, article 24 of the Labor Code of Ukraine states that, as a rule, the employment contract is concluded in writing and the specific cases in which the written form is necessary applied. When concluding an employment contract, a citizen is obliged to provide his/her passport data or a document certifying his/her identity to familiarize himself with the rules of internal employment regulations, job descriptions and collective agreement which state his basic labor right and obligations, as well as guarantees in the field of work [2].

In the USA, there are no legislative requirements for the form of an employment contract, so in most case the employment contract is made verbally. At the same time when the contract is drawn up orally, as stated by A. Goldman and R. Corrada, such a document is used as a job-offer letter. This letter usually sets out the main provisions for termination of an employment contract on basis of the principle of sole expression of freedom or not, remuneration, duties, working hours and the actual duration of the contract employment [7]. Concerning the employment form of the contract in the USA, R.R. Nazmentdinov notes that it takes place only when the parties to the employment contract have concluded a single document on their will in which the conditions of employment were spelled out [8].

The term of the employment contract, depending on the will of the parties in Ukraine are classified into mandatory and optional. Mandatory condition includes the place of work, the date of work, the amount of remuneration for the work performed, sample employment contract, work function of the employee. Optional conditions include the setting up of test, the provision of departmental or office accommodation, health resorts and the like [9].

The basic terms of the employment contract in the USA is governed by federal labor law and the laws of individual states. The Law of Taft-Harley or Labor Management Relations Act defines the maximum term of employment contract. Minimum length of annual leave, minimum wage, mandatory overtime pay, wage payment procedure, working hours during the week of determination in the Fair Labor Standards Act [6].

Conclusion. All of the above makes it possible to conclude that the issues of the employment contract in Ukraine are somewhat regulated in comparison with the USA.

However, in many formal legal terms, employment contracts in Ukraine and US are similar. Different among the employment contracts in Ukraine and USA is their procedure of conclusion.

It is worth noting that remains undeveloped in Ukraine anti-discrimination legislation that allows an employee working under a contract of employment to feel more protected. Ukraine should harmonize it is Labor Code with such us legislation as equal Pay Act of 1963, Civil Right Act of 1964, Pregnancy Discrimination Act of 1978, Age Discrimination in Employment Act of 1963 and etc.

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FEATURES OF NETWORK MARKETING OF BIOLOGICALLY ACTIVE ADDITIVES