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STATE POLICY IN THE FIELD OF EMPLOYMENT: LEGAL PROBLEMS AND PROSPECTS IN THE CONDITIONS OF MARTIAL LAW

Purpose. On the basis of the analysis of legal problems and prospects of state policy (SP) in the field of employment (FE) under martial law to substantiate the direction of SP changes in this area; and the strategic necessity of the social orientation of the specified policy. To offer recommendations: improvement of legal provision of SP; and the addition of legal norms to expand the possibilities of supporting SP with a single information and analytical system (SIAS).

Methodology. General scientific and special methods of cognition are used: statistical analysis – to study changes in employment under martial law; analysis and synthesis – to determine the main tasks of SP in FE under martial law conditions, induction and deduction – to determine an important goal of SP – stabilization of this sphere; critical analysis – to substantiate the strategic necessity of the social direction of SP in FE; logical abstraction – to use SIAS for legal support of SP; formal and legal – to develop amendments to legislative acts to eliminate legal problems of SP implementation.

Findings. Factors of the influence of the war on the labor market are established, the directions of state policy, caused by the specified influences, are determined. The main tasks of the SP in the field of employment under martial law are defined. It is indicated that the legal non-demarcation of the powers of institutional structures leads to the dysfunction of operational measures in this area. It is noted that the lack of strategic orientation of the SP leads to the acquisition of permanent structural features in the disproportions of the labor market. The importance of combining operational measures and long-term measures to solve strategic tasks is indicated, even under existing military conditions.

Originality. The strategic necessity of the social direction of state policy in the field of employment is substantiated, even under martial law conditions, and for this purpose changes in legislation are proposed. The use of SIAS for forecasting employment and legal support of SP is proposed. Additions to legislative acts have been developed for the proper legal support of SP.

Practical value. The proposed additions to the Laws of Ukraine, proposals to expand the use of SIAS will allow resolving some legal problems in the field of employment.

Keywords: *state policy, sphere of employment, conditions of martial law, legal norms*

Introduction. The effectiveness of state policy in the field of public employment is of great importance for national security, the economic condition of the country and every citizen. It is the state policy in the specified area that should be given special attention in the conditions of military aggression, which aggravates the problems of the labor market and creates new powerful threats. The dynamic challenges of the war require prompt changes to the legal framework of state employment policy to neutralize the threats. The lack of time for detailed scientific substantiation of the provisions of the specified changes, for the identification of all the consequences of the introduction of new legislation leads to the formation of legal problems. This calls for a radical restructuring of information provision in this area for relevant planning and forecasting of the state of the labor market, a comprehensive assessment of new legislation norms and their impact on the effectiveness of state policy implementation measures. The complexity of such a task increases as a result of the fact that the normative-legal framework for regulating issues in the field of public employment includes more than one hundred and twenty legislative acts and a significant number of normative documents adopted by various institutional structures in different periods of time. This leads to the fact that the legislation of Ukraine in the field of public employment is excessively regulated, as a result of which state management in this field is complicated due to a significant number of multidirectional legal influences of each decision of institutional structures. Public administration is also complicated by the significant differentiation of

labor market sectors by the level of legal protection and by the rapid spread of informal labor relations. There is also a long-term concentration of legislators mainly on the legal provision of the sphere of hired labor without paying due attention to other areas of state policy in the sphere of employment.

This complicates the implementation of state policy in the field of employment in accordance with the dynamic change of external challenges, especially challenges of significant force, in particular, the regulation of the labor market in the conditions of martial law.

In the laws implemented after the start of the full-scale war, there is a deviation from the previously chosen social-oriented market model of state policy in the field of employment, the introduction of directive regulation and a major increase in the rights of employers. At the same time, according to the requirements of the Decent Work Program introduced by the International Labor Organization (ILO), which Ukraine has joined, changes to the Employment Legislation should not restrict the rights of employees. During the war, in the legal field, the effect of constitutional guarantees on free choice of work, the right to strike, etc., and social guarantees, in particular, regarding vacations, length of the working week, preservation of the workplace, position, etc., is also limited, which reduces the level of motivation to work. Therefore, the focus of state policy on solving mainly urgent tasks affects the fact that the consequences of the war will form long-term challenges to the sustainable functioning of the country's economy.

Literature review. The importance of state policy in the field of employment is indicated by a significant amount and thoroughness of research on this topic.

Thus, Novikova, et al. [1] researched changes in legislation under martial law conditions, which form the prerequisites of state policy in the field of employment. It is noted that these changes have a tendency to take root in the regulatory field in the long term. It is indicated that these changes under the conditions of martial law disturb the balance of interests of the parties to labor relations and are mainly aimed at protecting the interests of employers, which can lead to the destruction of the social direction of the normative-legal field in this area. This thesis is investigated in the given work.

Blyzniuk, et al. [2] indicated the inconsistency of the volumes, directions, and quality of specialist training with the structure of demand for qualified labor. The reasons for this are the insufficient attention of institutional structures to the effects of: changes in the sectoral structure of the economy, reduction in the share of heavy industry, changes in the age structure of the workforce due to a sharp decrease in the share of youth, migration on the labor potential of the country. Significant regional differences in the demand and supply of the labor force according to its structure are indicated. The practical absence of state policy planning in the field of employment at the regional level is noted. These factors significantly deepened the negative effects of a full-scale war.

Ostapenko [3] indicated that frequent changes in legislative and regulatory acts in the field of employment indicate a significant level of labor market instability. It is noted that these changes often do not lead to a significant improvement of the regulatory and legal field, but are only “cosmetic” ones, create obstacles in the settlement of controversial issues and complicate the social dialogue between the parties to labor relations. It is difficult to fully agree with these theses, therefore, the position of the authors on these issues is explained in the text of the work. Ostapenko [3] also formalized the features of the state employment policy in the administrative and legal section.

Vasylytsiv, and others [4] indicated the rapid growth of regional disparities in the labor market during the war, revealed the consequences of this process, indicated gaps in state policy, and indicated promising directions for solving problematic issues of population employment. Vasylytsiv, and others [4] also revealed a risk for the labor market of increasing the pace of relocation of enterprises and migration of qualified personnel abroad after the removal of restrictions on relocation in the post-war period. The possibility of the prolongation of the effects of the negative factors of wartime into the post-war period is also noted in the works of other scientists. Thus, Azmuk [5] indicated that the significant transformation of the labor market during the war, the loss of a significant number of jobs (more than 30 % of their total number [5]), the loss of workers will have a long-term impact. A change in the age structure of the labor force, a tendency towards an increase in the average age of employees, which has long-term consequences for the restoration of labor resources, is also noted. Therefore, according to Azmuk [5], state policy in the field of employment should be aimed at an intensive type of labor potential reproduction.

Golovan's article [6] also points out the expediency of changing state policy in the field of employment. The main direction of the mentioned change is promotion of job creation. The state of legislation in this area is analyzed, in particular, the state guarantees of employment under Article 5 of the Law of Ukraine No. 5067-VI “On Employment of the Population”, but the level of non-fulfilment of the specified guarantees during martial law was not analyzed in detail, and no state policy measures were proposed to resolve this problem.

Ladonko, and others [7] indicated the multi-level state administration in the field of employment and the need to form a state policy in this field based on the general concept

of a socially oriented economy, ensuring the interests of both employers and employees. Ladonko, and others [7] stratified the factors affecting the labor market by their groups, analyzed the state of regulatory and legal support of the specified sphere, but did not investigate the causes and consequences of uncoordinated state policy at all levels, did not indicate the unevenness of ensuring the interests of all parties to labor relations. These issues are considered in the presented work.

Shapovalova, and others [8] indicated the integral nature of state policy in the field of employment, which affects almost all aspects of the country, society, and citizens. It is indicated that regulatory measures of state policy are a response to external challenges and do not have a preemptive nature. It is noted that wartime conditions reduce the effectiveness of such a policy. It is indicated that in order to increase the effectiveness of the implementation of state policy measures in the field of employment, the legal separation of powers regarding the regulation of the labor market between state and regional structures is necessary.

Teslenko, et al. [9] stated that not enough attention was paid to the legal support of the state policy regarding the employment of the population. Evidence of this, in their opinion [9], is the contradiction in the normative legal base on this issue, which is manifested in negative trends in the labor market, which intensified during the crisis. These issues are studied in detail in this publication.

In the work by Serohina [10], the institutional foundations of public employment management were investigated and the imperfection of regulatory and legal support of state policy in this area was pointed out due to a significant number of conflicts in the legal field. Also, the lack of a development strategy is indicated as one of the main reasons for the ineffectiveness of state policy in this area. The author [10] also pointed out a certain level of inconsistency between the legislative norms of Ukraine and international legal norms, which regulate issues of state policy in the sphere of employment.

Kovach [11] outlined the main approaches of state policy in the sphere of employment. It is proposed to direct state policy to ensure the proper structure of employment and increase efficiency in the use of labor potential. Unfortunately, the researcher [11] did not sufficiently take into account the risks, in particular, military risks, of the implementation of state policy in the field of employment.

Skoryk, et al. [12] provided a terminological definition of state regulation of employment as the formation and implementation of state policy in this area. The interconnectedness of these concepts is used in the presented article. Scientists [12] pointed out the main functions of the national employment policy, determined its purpose and directions of implementation. According to them [12], these directions are: increase in the labor potential of the country, re-emigration of qualified personnel in the post-war period; use of strategic programs to improve labor efficiency; identifying and neutralizing the effects of negative factors on the labor market. Unfortunately, due attention has not been paid to the threats to the effective state policy regarding the employment of the population.

In the provided analysis of the latest research and publications, gaps and directions that require extended research are indicated, in particular, regarding prolonged threats of a shortage of workers, imbalance of labor potential by region, qualification, level of personnel training; the need to expand analytical and predictive support in the adoption of regulatory and legal acts on which state policy in the sphere of employment is based; analysis of the regulatory field and development of additions for its improvement.

Purpose. To conduct an analysis of legal problems and prospects of state policy in the field of employment under martial law.

To substantiate the direction of changes in state policy in the field of employment; the strategic necessity of the social orientation of the specified policy. To offer recommendations on improving the legal support of state policy; supplementing legal norms to expand the possibilities of supporting state policy with a single information and analytical system.

Methods. In the research, the results of which are presented in this article, general scientific and special methods of cognition were used.

The methods of statistical analysis were applied to study the dynamics of the index of changes of employees by qualification in war conditions and the dynamics of the specific number of registered unemployed people. The method of comparative analysis was introduced to assess the causes and trends of changes in regional and qualification disparities in the labor market, to identify the effects of the war on the labor market, and, accordingly, to adapt to these challenges of state policy in the field of employment. The use of the method of induction and deduction made it possible to establish the need for state policy, even in wartime, to combine operational measures in the field of employment and long-term measures to solve strategic tasks. The method of analysis and synthesis made it possible to determine the main tasks of state policy in the field of employment under the conditions of martial law. The method of induction and deduction made it possible to determine that one of the most important goals of the state policy in the field of employment, before moving to the phase of sustainable development, is to ensure the stabilization of the labor market. This method also made it possible to provide recommendations on stabilization measures. The use of the method of critical analysis made it possible to substantiate the need to observe the social direction of state policy in the field of employment even under martial law. It is indicated that this will contribute to the achievement of long-term goals of state policy in the specified area. The application of the method of logical abstraction made it possible to propose the expansion of the use of a single information and analytical system for the tasks of employment forecasting, counseling for the legal support of state policy. For the application of the formal-legal method, additions to legislative acts are proposed to eliminate legal problems of the implementation of state policy in the field of employment.

Results. The determination of the state policy in the field of employment is rather difficult to clearly formalize in a relevant way as a legal norm of the legislative field of Ukraine and not only because of a significant number of legal acts in this field, but also because of the significant complexity and multi-vector effects of the policy regarding the employment of the population on the economy, national security of the state, social balance, etc. and a significant number of functions of the specified policy.

To study the state of the labor market under conditions of war, legal problems and prospects of the employment sphere, such a feature of state policy in this sphere as multi-level, multi-vector, purposeful and coordinated activity of institutional structures is singled out to ensure both operational and strategic tasks.

State policy in the field of employment under martial law has significant peculiarities in contrast to peacetime. This policy should acquire a new level of prevention of the effects of challenges of different strength, different direction, and needs a new level of efficiency and comprehensiveness in solving the problems faced by the state. The conditions of martial law lead to the need to apply both immediate operational measures in the field of employment and timely implementation of long-term measures to solve strategic tasks in which the sphere of employment is an important part, but only one of the constituent problems of national security, economy, society, etc. [13].

The war has led to an increased threat of a decrease in the share of the working population, respectively, an increase in

the share of the disabled population; increase in the share of the partially disabled population; population outflow abroad; structural imbalance of supply/demand in regional labor markets; the growth of shadow employment (which covers more than a fifth of workers who do not officially declare their employment relationship) [14]. These threats require dynamic actions of institutional structures.

At the same time, the need for operational measures to regulate the labor market under martial law revealed a low level of coordination at all levels of the implementation of state policy in the field of employment: national, sectoral, regional, corporate, according to all instructional instruments of regulation, which, as noted above, is especially significant for the effective implementation of state policy in the sphere of employment.

There were also negative consequences of the lack of proper legal protection of the demarcation of the powers of institutional structures according to the functions of regulating the labor market, which, in the case of the need for operational regulation in the field of employment, leads to the adoption of inconsistent decisions by the specified structures and, accordingly, to the dysfunction of operational measures of state policy.

Self-regulation in the sphere of employment, on which so many hopes were placed as the main market mechanism for balancing the labor market, also needs legal support, in particular the legislative definition of the mechanisms and principles of regulatory policy, but, first of all, the definition of the spheres of institutional regulation and self-regulation, which is currently lacking in the legal framework of the country.

A certain problem of the legal support of the state policy aimed at increasing the self-employment of the population, spreading the share of individual entrepreneurs in order to balance the labor market is that the legislative acts, in particular in the Code of Labor Laws (CLL), when normalizing the legal status of the employer, do not specify the fact that individuals can also act as an employer. Therefore, in order to expand the legal definition of the employer's status, the following norm should be introduced: "the employer is the owner of the enterprise (institution) or the persons appointed by him, as well as individuals who hire employees".

The need for these measures of state administration has also increased due to the fact that the military actions led to the destruction of enterprises, the displacement of a large part of the population, and the mobilization of workers.

This has increased the disparity in manpower needs between the rear regions and the regions closer to the combat zone. Also, different professional needs of the regions from which people were evacuated and their places of further stay increased the disparities in the structuring of labor demand and the mismatch between the structure of demand and the structure of supply. Highly qualified employees are often forced to work outside of their specialty, at workplaces that do not require qualifications and, even, higher/special education, which contradicts Article 1 Part 2 Clause C of the ILO Convention on Employment Policy No. 122, ratified by the Verkhovna Rada of Ukraine. This causes a significant difference in the index of changes of employees by qualification in war conditions and the pace of its variability according to the data of the Institute of Economic Research and Political Consultations [15] (Fig. 1).

In addition, factors such as different labor market requirements and limited employment prospects in the places of employment exacerbate these problems [16]. Therefore, the share of the unemployed with a university degree in the country is ~43 % on average, and in the cities of Western Ukraine it may exceed ~60 % at the expense of internally displaced persons. Therefore, people are often forced to work in positions that do not sufficiently use their qualifications and, therefore, lose their qualification level and professional skills.

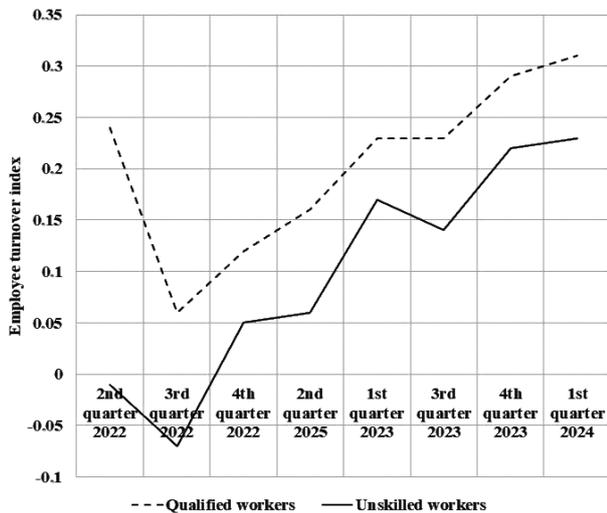


Fig. 1. Dynamics of the index of changes of employees by qualification in wartime conditions

This leads to the fact that, despite the demand, there is a shortage of workers in certain professions and qualifications, both in the East of Ukraine and in the West, where the labor supply is much higher.

The lack of a strategic approach in state policy regarding the long-term settlement of the problem of providing the economy with properly qualified personnel will lead to an increase in the structural imbalance of the workforce, the acquisition of a significant level of “vertical” (excessive) and “horizontal” (insufficient) inconsistency in the education received and, in general, to a significant lack of qualified labor resources [17].

In particular, this is manifested in the strengthening of differences in professional and qualification characteristics in the demand/supply of labor force by industries and regions, which will create significant obstacles both for the further growth of employment and for the development of the economy in general. Therefore, state administration measures should be aimed at: neutralizing the specified challenges; provision of anticipatory, adaptive training of qualified personnel of the relevant specialization; fertility stimulation; facilitating the return of forced migrants; increasing employment opportunities for veterans, war invalids and vulnerable population groups.

Due to the shortage of labor in wartime and postwar times, state policy in the sphere of employment should be aimed, in particular, at increasing the mobility of labor resources and ensuring an increase in the level of adaptability of workers to new workplaces and new specialization. This will make it possible to even out regional disparities in the labor market, and stimulate the growth of the quality of the workforce. A concrete step for this is the formation of a mechanism to assist displaced workers in renting or purchasing temporary housing. One of the directions of implementation of the state policy of increasing the mobility of labor resources is the coordination of legislative, organizational, managerial and other institutional activities in this area at the state and regional levels.

Although there is a tendency for reducing both the absolute number of registered unemployed and the share of registered unemployed relative to the population of Ukraine (Fig. 2) according to the website of the Ministry of Finance [16], unemployment is acquiring structural features [17], which will have long-term negative consequences. This should be an impetus for changes in approaches to the implementation of state policy in the field of employment.

The accuracy of the data for 2023 presented in Fig. 2 is complicated by significant fluctuations in the estimate of the

total number of the country’s population at that time – from 28 to 34 million [18]. To find the specific number of unemployed people, the reference value of the total population of the country is ~28 million [19].

It should be noted that the reduction in the number of unemployed people (Fig. 2) is not so much a consequence of an effective state policy in the field of employment as: the rapid growth of the informal labor market [20], the share of which, according to various data, reaches 20–50 % of the total number of employees; refusal to officially register unemployment from 2022 as a means of evading mobilization; the use of the right to suspend activity under the conditions of martial law by entrepreneurs and not suspending the employment contract with the employee, which excludes the possibility of registering him as unemployed. This, in particular, determines the need to amend Article 13 of the Law of Ukraine No. 2136, regarding the substantiation of the grounds for the suspension of the employment contract through a well-founded determination of the connection between military aggression and the impossibility of fulfilling the employment contract and confirmation of such impossibility by all parties to the contractual relationship.

Also, since the practice of shadow employment is spreading, the number of vacancies without official registration is increasing, this requires increased responsibility for this offense for both employees and employers.

The need to take into account the broad influence of state policy measures in the field of employment is indicated by the above-mentioned growth of the informal labor market, one of the factors of which the tax reform of 2020 can also be considered and not only due to the increase in tax pressure, but also due to the fiscalization of small business, complications of tax administration, increasing the duration of inspections, etc. Confirmation of the significance of the impact of tax policy on the level of unemployment registration is, in particular, the reduction in the rate of change in the relative indicator in Fig. 2 in 2022, when the tax pressure of the specified reforms was partially eased by the adoption of Law of Ukraine No. 2120-IX on the liberalization of the Tax Code norms during martial law.

Since the conditions of martial law lead to dynamic changes in the labor market according to all indicators of supply and demand, therefore, one of the main tasks of state policy in this area, before moving to the phase of sustainable development, is to ensure the stabilization of the labor market. For this, state policy should use the entire set of management measures, all possible directions of influence. For example, state policy should promote non-standard employment: gig economy, freelancing, etc., provide appropriate legal and regulatory support for alternative forms of employment, in particular, remote work, part-time workers, etc. As a tool of state policy in this direction, it is advisable to also use the expansion of labor rights of workers in this field.

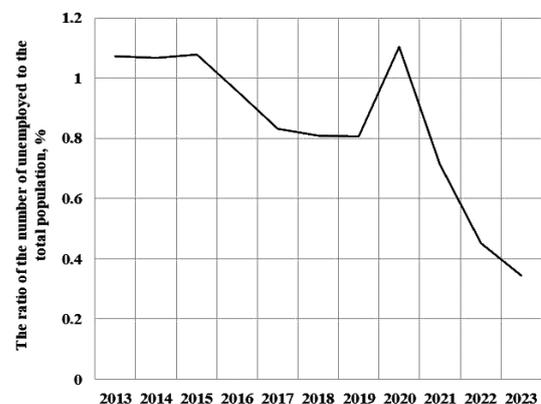


Fig. 2. Ratio of the number of registered unemployed people to the total population, %

State policy aimed at expanded implementation of part-time work for certain categories of workers, especially for mothers with children under three years of age, provision of additional rights for this category of workers, in particular, suspension of Article 9 of the Law of Ukraine No. 2136, which allows the use of work by mothers with children older than one year and women's work in difficult, harmful and even dangerous jobs, in the long term will contribute to the expanded restoration of the state's labor potential. Such steps will also be signs of the social direction of the state's employment policy, which is especially important for the expansion of social trust, and will have long-term positive consequences.

In order to dynamically ensure the necessary spheres of activity of the labor force, critical industries in regions where military dangers are greater (for example, due to artillery fire) than in others, it is necessary to direct state policy measures to use significant asymmetry in wages, the first in the form of allowances and bonuses for work in dangerous conditions. Such measures, unacceptable in peacetime, contribute to the regulation of uneven employment in a state of war.

At the same time, the regulation of professional and qualification disparities in the labor market is complicated due to the mismatch of professional and higher education with the needs of the market. This is due not only to the ineffectiveness of the educational process, but also to the lack of a proper reaction of the state education administration to changes in the requirements of the labor market, to structural changes in the demand for labor. An indicator of this today, in particular, is the increase in the share of unemployed young people who have just received a diploma of higher or special education. First of all, this tendency arises due to the discrepancy between the requirements for the level of skills and the skills and knowledge acquired during the training process. Therefore, the state policy in the field of education should first of all ensure the appropriate level of adaptation of training to the requirements of the labor market.

Vocational and technical education institutions cannot provide the necessary flexibility of training not only due to outdated material base, lack of teachers with the necessary qualifications, but also due to the lack of an appropriate level of autonomy. For institutions of higher education, the ability to flexibly respond to market needs is limited by bureaucratic procedures at institutional decision-making levels.

A legal step towards the settlement of the specified problems is the adoption by the Cabinet of Ministers of Ukraine of Resolution No. 264 on the procedure for professional training/retraining and advanced training of the unemployed on March 24, 2023. Since the specified procedure introduces the implementation of the principle "money follows the person", the procedure not only provides an opportunity for additional earnings in vocational education institutions, but also stimulates flexibility of their educational programs. At the same time, there is an obvious need for the same Resolution of the CMU regarding the training/retraining of labor resources in higher education institutions. A useful experience in this direction is the introduction of the state programs "Start in IT", IT Generation, which ensure the transition of specialists to another, newer field.

State policy is still not aimed at flexible planning changes in the training of personnel, the process of training specialists still takes place according to established peacetime practices.

This requires an anticipatory assessment of the need for personnel not only for the immediate period, but also for the strategic perspective of the post-war reconstruction of the economy and, accordingly, the organization of planning, financing, provision of the legal framework for the implementation of measures of the state policy of training and retraining of a significant number of specialists in the fields that will

be needed for innovative and anticipatory development of the country.

At the same time, among other countries, Ukraine occupies one of the lowest positions in terms of the level of efficiency in the use of human capital – the result of dividing the specific share of GDP (per citizen) by the average salary.

The above allows indicating the main tasks of state policy in the field of employment under martial law conditions:

- analysis of dynamic impacts on the labor market, forecasting trends in employment changes based on key indicators, development and implementation of state policy measures to neutralize negative impacts;
- anticipating the challenges of wartime legal normalization of the activities of the subjects of labor relations and institutional regulatory support for the implementation of the specified activity even with significant changes in its conditions;
- unwavering supervision of compliance with legal provisions and norms in the field of employment and strengthening the imperative of legal responsibility for their violation;
- consistent implementation of socially-oriented state policy in the field of employment, ensuring the interests of both employers and employees to increase the level of social trust of all parties to labor relations;
- implementation of long-term mechanisms, primarily legal mechanisms, formation of a stable legal framework for strategic regulation of the labor market in view of the need for long-term provision of state interests in the spheres of national security and economy.

The war was the impetus for a radical change in the goals, mechanisms and instruments of state policy in the field of employment. In particular, the task of a relevant forecast for the selection of appropriate sets of management actions of institutional structures arises under significant multi-vector challenges.

It should be noted that the legislative and regulatory field of legal regulation of labor relations, in particular the Labor Code, does not meet the requirements of martial law, the needs of regulating the labor market in crisis conditions, and, therefore, undergoes permanent adjustment, which, due to established legislative procedures, does not keep up with changing trends. The need for operational changes in legislative provisions to provide state employment policy with tools and mechanisms that meet the requirements of martial law, as a result of the dynamic effect of war threats, often limits the possibility of a comprehensive legal analysis of new norms.

Thus, at the beginning of full-scale hostilities in order to restore the economy after the shock, a number of legislative acts, which are related to the functioning of the employment sphere during the emergency period, were urgently adopted.

In the specified legislative acts, preferences were introduced for employers and changes were introduced to the legal norms regulating labor relations, which limited the social rights of employees. In particular, the dismissal procedure was simplified, for example, in case of temporary incapacity for work of the employee or during his/her vacation without the consent of the trade union; the level of imperativeness of concluding an open-ended employment contract with an employee was reduced; employers were given the right to make significant changes to working conditions, the duration of weekly rest (Article 6 of the Law of Ukraine No. 2136); minors and women with children older than one year are allowed to work at night; restrictions on the use of women's labor in hard, harmful and even underground work were removed (Article 9 of the Law of Ukraine No. 2136); employers are granted the right to unilaterally limit the effect of individual clauses of the collective agreement (Article 11, Part 1 of the Law of Ukraine No. 2136).

The mentioned Law also introduced the norm of compensation by the aggressor state of wages for the suspension of the employment contract, but the mechanism of such compensation is not standardized. One of the significant negative consequences of the implementation of this legal norm is that, according to the interpretation of the Ministry of Economy, the payment of the single social contribution by the employer is suspended at this time. This, in turn, leads to a limitation in the provision of assistance to the employee in the social insurance system, because the insurance length of service, which is the basis for determining the amount of pension and temporary disability benefits, is reduced. The latter is a significant factor in the demotivation of workers due to the increased risk of injury in the conditions of martial law.

This is a limitation of the constitutional guarantees for social protection, since the Constitution of Ukraine does not provide for the suspension of these guarantees even under martial law. This is also a violation of the requirements of the ILO Convention No. 102 on the social security of workers.

Law of Ukraine No. 2136 also limits the employee's right to terminate the employment contract during the performance of socially useful works and when working at critical infrastructure enterprises. The unevenness of the specified legislative norms for the parties to the labor process increases the possibilities of abuse by employers and illegal pressure on employees. In particular, the practice of delaying the payment of wages to employees without objective grounds for this is widespread.

These acts have a significant number of contradictions with the existing legal norms of other laws and international obligations of the country. Thus, the permission to use women in underground works contradicts the decision of the ILO Convention No. 45. With a certain tactical advantage – providing some enterprises with a labor force, the further application of this provision of the Law of Ukraine No. 2136 may lead to strategic problems, in particular, a decrease in the birth rate as the main factor in restoring the volume of labor resources.

The effectiveness of the introduction of some norms of the specified Law in ensuring the Recovery Plan of Ukraine, presented at the International Conference in Lugano in 2022, raises doubts among scientists [1].

Labor relations between a citizen undergoing alternative service and an enterprise, institution, organization. In Ukraine, a number of normative legal acts, which regulate the procedure for citizens to undergo alternative service, in particular, and labor relations in this area, have been adopted.

The Constitution of Ukraine dated 28.06.1996 stipulates that “no one can be released from their duties to the state or refuse to comply with laws based on religious beliefs. If the performance of military duty contradicts the religious beliefs of a citizen, the performance of this duty must be replaced by an alternative (non-military) service” (Part 4 of Article 35).

Article 1 of the Law of Ukraine “On Alternative (Non-Military) Service” dated 12.12.1991 (as amended by the Law of Ukraine dated 18.02.1999) stipulates that “alternative service is a service that is introduced in lieu of mandatory military service and has the purpose of fulfilling the duty to society”.

The Law of Ukraine “On Military Duty and Military Service” dated March 25, 1992 (as amended by the Law of Ukraine dated April 4, 2006) also stipulates that “citizens of Ukraine have the right to replace military duty with alternative (non-military) service”.

Thus, Ukrainian legislation considers alternative service as a subjective legal right of citizens and as their duty to society. Scientists also emphasize this fact. For example, E. Grigorenko claims that viewing alternative service as a right, and not as a legal obligation, led to the fact that no legal liability was established in Ukraine for evading it [21].

The Law of Ukraine “On Alternative (Non-Military) Service” regulates labor relations between a citizen undergoing

alternative service and an enterprise, institution, or organization (for example, Articles 8, 13, 15, 16).

Resolution No. 1795 of the Cabinet of Ministers of Ukraine dated 31.12.2004 approved the list of types of activities that citizens undergoing alternative (non-military) service can engage in, in particular, health care and social assistance; collective, public and personal services; construction; production of electricity, gas and water; agriculture, hunting and forestry; fish farming; mining industry; manufacturing industry; transport.

During the wartime period in Ukraine, many questions arose regarding the procedure for alternative service. The Law of Ukraine “On Mobilization Training and Mobilization” dated October 21, 1993 (as amended by the Law of Ukraine dated March 2, 2005) does not regulate the issue of alternative service. Today, in Ukraine, there is a practice of refusing citizens to undergo alternative service. In our opinion, this is a violation of Article 35 of the Constitution of Ukraine. The legislation of Ukraine must be supplemented with normative provisions regarding the peculiarities of alternative service by citizens during the period of martial law, in particular, the regulation of labor relations in this area, the place of alternative service, etc.

Changes in legislation that reduce the possibilities of social dialogue in the field of employment, giving preferences mainly to one of the sides of labor relations, even when ensuring tactical goals, in a strategic plan create significant risks of mutual reinforcement of negative influences that will lead to socio-economic losses. It is not possible to claim a total decrease in the understanding of the social significance of labor relations during martial law. Thus, a significant number of employers are ready to hire war veterans and people with disabilities, but this willingness must be supported by legal provision of benefits or compensation to employers and, in general, confirmed by the social orientation of state employment policy.

For example, a step in this direction of state policy could be the correction of changes in the legal regulation of labor during martial law, which led to a reduction in the possibilities of tripartite relations (with the participation of the labor collective, trade unions, institutional structures) for the settlement of problematic issues, as this weakened the legal position of workers [22, 23].

The need for a social orientation of state policy in the field of employment is also substantiated by the decision of the Constitutional Court dated 15.10.2013 in the case 8-пн/2007. In this decision, it is noted that since, according to the basic law, Ukraine is a social, legal state, this determines the need to ensure the social orientation of the economy and, accordingly, the social orientation of the state policy regarding the employment of the population.

Therefore, in order to expand the social component of the state policy in the field of employment, it is proposed to strengthen its legal support with the following additions to the Laws of Ukraine:

- to Part 1, Clause 5 of Article 15 of the Law of Ukraine No. 5067-VI – “Prohibition of forced labor in all its forms”;
- to Part 1, Clause 6 of Article 15 of the specified Law – “Prohibition of discrimination of employees based on nationality, sex, religion, age, gender and political orientation”;
- to Part 2 of Article 52 of Chapter X of the Law of Ukraine No. 5067-VI, add “other public organizations” to the list of structures that implement public control in the employment market.
- to to Parts 1, 4 of Article 13 of the Law of Ukraine No. 2136 by making additions regarding the normalization of the mechanism of compensation of wages by the aggressor state and the mechanism of taking into account the working time of the suspension of the employment contract into the insurance record;
- adding amendments to the Law of Ukraine No. 5067-VI to standardize the procedure for providing partial unemployment benefits for suspension of the employment contract;

- to paragraph 3 Part 1 of Article 24 of the Law of Ukraine No. 1058-IV "On Mandatory State Pension Insurance" by making additions regarding taking into account the period of suspension of the employment contract to the insurance period when calculating the pension.

Also, the list of principles and directions of state policy is given in Article 15 of Chapter II of the Law of Ukraine No. 5067-VI should be harmonized with a much broader list of rights and principles specified in Part 1 of the European Social Charter, ratified by the Verkhovna Rada of Ukraine.

In order to implement the above-mentioned task of state policy in the field of employment in relation to providing institutional structures with a relevant tool for analyzing dynamic effects on the labor market, forecasting trends in employment changes based on key indicators, information support for the development and implementation of state policy measures to eliminate their possible negative consequences, the legislation on the unified information and analytical system (EIAS) needs improvement. This is important during the state of war, when due to wide changes in the vectors of external influences on the employment market, the state policy must be based on balanced legal norms, especially for promptness in their adoption.

Therefore, the legal norm of Part 9 of Article 16 of the Law of Ukraine No. 5067-VI regarding the development of forecasts and assessment of the impact of state policy measures in the specified area needs more imperativeness. For this, in particular, it is necessary to strengthen the imperative of Article 186 of the Code of Administrative Offenses in the provision of information to EIAS regarding employment with the following addition: "Failure to submit data to the unified information and analytical system or to provide unreliable data or information not in the stipulated amount, not in the stipulated terms, entails the imposition of a fine on the responsible persons from ten to fifteen tax-free minimum incomes of citizens. Such actions, committed repeatedly during the year, entail the imposition of a fine on responsible persons from fifteen to thirty non-taxable minimum incomes of citizens".

To strengthen the imperative of Part 9 of Article 16 of the Law of Ukraine No. 5067-VI regarding the functions of EIAS, additions are also proposed:

- to Part 1, Clause 5 of Article 23 of the specified Law of Ukraine with the following content: "development of labor market forecasts and analysis of the effectiveness of state policy measures to eliminate problems in providing sectors of the economy with labor resources";

- to Part 2 of Article 24-prime of the Law of Ukraine No. 5067-VI it is proposed to add clause 4: "material and organizational assistance to internally displaced persons with relevant specialties, qualifications and work experience in relocation to the most desirable places of stay, in accordance with the state policy in the field of employment";

- to Article 24 of the Law of Ukraine No. 5067-VI, it is proposed to add Part 6: "In order to regulate the flow of forced displacement of the population within the country, information provision of internally displaced persons on the volume and structure of demand and supply on the labor market in the regions of probable displacement of the specified persons is used".

This will make it possible to direct the information and analytical system to provide institutional structures with the necessary tool to protect against challenges when applying state policy measures in the field of employment and to introduce an effective tool for operational referral of the workforce, in particular, of displaced persons in accordance with their qualifications to regions where their work will be most in demand.

In the absence of strategic programs for the development of the sphere of employment, significant uncertainty of the effects of the war, the nature of the adoption and change in

legal acts that are catching up, rather than anticipating the effects of martial law, can indicate a high probability of strengthening the above-mentioned negative trends in the labor market, in particular, depopulation, informal employment, structured unemployment, widening of the gap between professional and qualification structures of labor resources.

In the absence of proper attention at all institutional levels, some unresolved employment problems will lead to significant negative consequences in the long run [24, 25]. An example of this, in particular, is that today, despite the slowdown in population migration, ~8,200 thousand people remain abroad – mostly women with children, and ~40 % of displaced persons of working age are already employed. During the continuation of the war, their rooting in the place of residence will increase the problem of labor shortage, decrease the rate of restoration of the number of workers for the reconstruction of the economy after the end of the war. The situation in the future may be worsened by the fact that in the post-war period a new reason for migration may appear – leaving for family reunification. This reinforces the need to introduce strategic programs of state policy regarding the development of the employment sector.

At the same time, one of the problematic moments of the state policy in the field of employment was that employment programs were implemented without researching the real state of the labor market, taking into account regional and industry differences, without proper substantiation of the amount of their financial support, without assessing the risks of an active outflow of qualified personnel [12]. Therefore, in order to reduce the negative impact of these factors in the future, the implementation of state programs should be accompanied by the improved use of EIAS according to the provided recommendations.

Conclusions. It is indicated that the conditions of the martial law lead to the need to apply both immediate operational measures in the field of employment and timely implementation of long-term measures to solve strategic tasks, in which the sphere of employment is an important part, but only one of the constituent problems of national security, economy, society, etc.

It was noted that the level of coordination at all levels of implementation of state policy in the field of employment: national, sectoral, regional, corporate levels is insufficient during wartime, which requires legal regulation. It is also pointed out that there is no proper legal substantiation for delimiting the powers of institutional structures according to the functions of regulating the labor market. It is noted that there is not even proper legal support for the mechanism of self-regulation of the labor market, in particular, regarding the legislative definition of the spheres of institutional regulation and self-regulation. It is indicated that the increase in self-employment of the population, the spread of the share of individual entrepreneurs in order to balance the labor market, is limited by the fact that in legislative acts, in particular, in the Labor Code, when normalizing the legal status of an employer, it is not indicated that individuals can also act as an employer. For the legal settlement of this problem, an extended definition of the status of the employer is proposed.

Statistical data are presented that indicate an increase in regional and qualification disparities in the labor market. It is indicated that these disproportions acquire permanent structural features, which will have a long-term negative impact. These trends are also a consequence of the lack of a strategic approach in state policy regarding the long-term settlement of the problem of providing the economy with properly qualified personnel, which will lead not only to a structural imbalance of the workforce, but also to a significant level of "vertical" (excessive) and "horizontal" (insufficient) mismatch in the received education and, in general, to a significant lack of qualified labor resources.

Due to the shortage of labor in war and post-war times, it is proposed to direct the state policy in the field of employment to increase the mobility of labor resources and ensure the increase in the level of adaptability of workers to new jobs and new specialization.

It is indicated that, although the specific share of the registered unemployed among the total population of the country is decreasing, this is a consequence not so much of an effective state policy in the field of employment, but of: rapid growth of the informal labor market; refusal to officially register unemployment from 2022 as a means of evading mobilization; the use by entrepreneurs under martial law of the right to suspend activity instead of suspending the employment contract with the employee, which excludes the possibility of registering him as unemployed, etc. This, in particular, determines the need to amend Article 13 of the Law of Ukraine No. 2136, regarding the substantiation of the grounds for the suspension of the employment contract by determining the connection between military aggression and the impossibility of fulfilling the employment contract and confirmation of such impossibility by all parties to the contractual relationship.

It is noted that since the conditions of martial law lead to dynamic changes in the labor market, therefore, one of the main goals of state policy in this area is to ensure the stabilization of the labor market before moving to the phase of sustainable development. Recommendations on stabilization measures are provided.

The main tasks of state policy in the field of employment under martial law conditions are defined.

The necessity of observing the social direction of the state policy in the sphere of employment, guaranteed by the Constitution of Ukraine, even under the conditions of martial law, is substantiated. It is indicated that this will contribute to the achievement of long-term goals of state policy in the specified area. For the effective introduction of a socially oriented economy with the aim of increasing the level of trust of all parties to labor relations, amendments to the Laws of Ukraine are proposed. For this, the implementation of one of the main principles of law – the principle of justice – will allow ensuring the appropriate level of social stability, which is extremely necessary in the conditions of war.

In order to implement the task of providing institutional structures with a relevant tool for the analysis of dynamic effects on the labor market, forecasting trends in employment changes according to key indicators, legal support for the development and implementation of state policy measures to avoid their negative effects, additions to the legislation regarding a unified information and analytical system are proposed. These are measures to strengthen the imperative of legal norms in relation to the specified system. This will make it possible to avoid problems in the application of state policy measures in the field of employment.

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Державна політика у сфері зайнятості: правові проблеми й перспективи в умовах дії воєнного стану

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Мета. На основі аналізу правових проблем і перспектив державної політики (ДП) у сфері зайнятості (СЗ) за умов воєнного стану обґрунтувати напрями змін ДП у цій сфері та стратегічну необхідність соціальної орієнтації вказаної політики. Запропонувати рекомендації вдосконалення правового забезпечення ДП і доповнення правових норм для розширення можливостей супроводження ДП єдиною інформаційно-аналітичною системою (ЄІАПС).

Методика. Використані загальнонаукові та спеціальні методи пізнання: статистичного аналізу – для дослідження змін у сфері зайнятості за умов воєнного стану; аналізу й синтезу – визначення основних задач ДП СЗ; індукції та дедукції – визначення важливої цілі ДП – стабілізації цієї сфери; критичного аналізу – обґрунтування стратегічної необхідності соціального спрямування ДП

СЗ; логічного абстрагування – використання ЄІАС для правового забезпечення ДП; формально-юридичного – розроблення доповнень законодавчих актів для усунення правових проблем впровадження ДП.

Результати. Встановлені фактори впливу війни на ринок праці, визначені напрями державної політики, обумовлені вказаними впливами. Визначені основні задачі ДП у сфері зайнятості за умов воєнного стану. Вказано, що правове не розмежування повноважень інституційних структур призводить до дисфункції оперативних заходів у цієї сфери. Зазначено, що нестача стратегічної спрямованості ДП призводить до набування диспропорцій ринку праці сталих структурних ознак. Зазначена важливість навіть за наявних воєнних умов суміщення оперативних заходів і заходів довгострокової дії для вирішення стратегічних завдань.

Наукова новизна. Обґрунтована стратегічна необхідність соціального спрямування державної політики у сфері зайнятості навіть за умов воєнного стану та для цього запропоновані зміни норм законодавства. Запропоноване використання ЄІАС для прогнозування зайнятості та правового супроводження ДП. Розроблені доповнення до законодавчих актів для належного правового забезпечення ДП.

Практична значимість. Запропоновані доповнення Законів України, пропозиції розширення використання ЄІАС дозволять урегулювати деякі правові проблеми у сфері зайнятості.

Ключові слова: державна політика, сфера зайнятості, умови воєнного стану, правові норми

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