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LEGAL REGULATION OF UNPAID VACATIONS

Speaking about the unpaid vacations in a general way, in Ukraine duration of such is 15 calendar days, except activities on optimization of staffing level of public authorities when vacation is provided for the period of duration of such measures and the application does not require the employee. Innovation in this regard is the Part 1 Art. 200 of the draft Labour Code, which provides unpaid vacation for up to three months. Thus, the second paragraph states that if work stops at certain times due to climatic conditions and other reasons, the employee in his statement may be given unpaid vacation for the period of suspension of work. In other words, it is possible to say that such vacation may be granted without limitation and without good reason – at the request of the employee. In this case, a separate concern is the position as follows: “if work stops at certain periods for other reasons besides climatic conditions”, which allows the employer to artificially create the following reasons for providing “unpaid” vacations.

K.I. Dmytriieva considers the provisions of Art. 200 of the draft Labour Code of Ukraine as the reduction of the level of labor rights and rightly draws attention to the fact that the draft law does not provide a list of circumstances that

may be considered “other reasons”, under which an employee can be “sent” on unpaid vacation, and therefore it gives the employer an unlimited right to use this type of vacation and thus leads to unlimited violations of labor rights. We agree with scientists that for Ukraine the situation where the employer makes the employee quit on unpaid vacation is very typical, and therefore consolidation in Art. 200 of the right of employer to provide employees with unpaid vacation is unacceptable. In addition, the provisions of Art. 200 of the draft law completely deprives the sense of the Art. 234, which provides guarantees for employees to receive payment during downtime, because the employer instead of paying employees for downtime, would rather provide them with unpaid vacation.

It is stated that currently found vague legal regulation and contradictory legislation on unpaid vacations actually allow employers interpreting legislation in their sole discretion and violate state guarantees provided for employees. Therefore, the draft Labour Code of Ukraine should regulate this issue more thoroughly, which in turn requires a number of changes, particularly in terms of a clear distinction between the rights of the employer and employee in the provision of unpaid vacation.