

**TO THE PROBLEM OF THE DEFINITION OF THE NOTION OF
«EMPLOYEES WITH FAMILY OBLIGATIONS» AND ITS APPLICATION
IN THE LEGISLATION OF UKRAINE**

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The article is dedicated to the study of approaches to the definition of the notion of «employees with family obligations» within the theory of labor right and within the legislation of Ukraine, and to identification of perspectives of the legislation developing in this direction.

Employees, family obligations, rights, Labor Code, the legal regulation.

The article is dedicated to the study of approaches to the definition of the notion of “employees with family obligations” within the theory of labor right and within the legislation of Ukraine, and to identification of perspectives of the legislation developing in this direction.

Within the performed study, we have made a conclusion on absence in the applicable labor legislation of the definition of the “employees with family obligations” notion. On the other hand, international legislation (Convention of ILO on equal treating and equal opportunities for working men and women: employees with family obligations No. 156, and Recommendation of ILO on equal opportunities equal treating of men and women: employees with family obligations No. 165) gives the definition to this category of employees. It is also fixed in the Labor Code project.

Comparison of provisions of international and national legislation, as well as opinions of scientists working with this issue (namely A. O. Kharytonova, F. O. Dzogoyeva, R. L. Suniayeva, L. P. Tarashchenko) gave possibility to allocate terminological defects of the Labor Code project and develop our own definition of the notion of “employees with family obligations”. It was offered to fix this general notion in the labor legislation of Ukraine in the following wording: “these are the employees having obligations related to the upbringing and maintaining of the child in accordance with family or other legislation (parents, adoptive persons, guardians, caretakers); other relatives who actually take care of the child in cases directly determined by the legislation, and employees having obligations related to other members of their families who need care and help in determined cases”.

In case of necessity, some norms of labor legislation can give details on number of children, their age, level of help needed by other members of the family, etc. within identification of some particularities of legal regulation of labor relations and giving some guarantees to employees with family obligations.

We have analyzed the content of the Code of laws on labor, namely, in the part of giving guarantees to women having children, father of the child, guardians (caretakers), adopting parents. We have come to the conclusion, that there is a tendency to expand the number of persons that can be included to the category of “employees with family obligations”. At the same time, the performed analysis has shown orientation of national labor legislation to creation of additional guarantees for employees having children. As for guarantees for employees having responsibilities related to other members of their families that need care or help in the determined cases, they are actually absent (with few exceptions).

In order to perform comprehensive study of the problem of using the notion of “employees with family obligations” in the legislation we have

studied the content of the project of the Labor Code. We have come to the conclusion on the simultaneous use of two notions: “employees with family obligations” and “persons with family obligations”. Thus, in part 4 of Art. 11, Art. 21, Art. 47, Art. 73, part 2 of Art. 82, part 2 of Art. 102, part 1 of Art. 128, part 2, 3 of Art. 129, part 3 of Art. 140, Art. 166, part 2 of Art. 168, part 2 of Art. 181, Art. 198, Art. 199, part 3 of Art. 248, part 3 of Art. 254, Art. 284, Art. 290 the first notion is used, and in part 2 of Art. 182 and part 2 of Art. 195 the other notion is used, that needs some comments. To eliminate such contradiction we have analyzed the notions of “person” and “employee”. We provide the definition of the latter fixed in the legislation.

Taking into account the aim, task and application of the Code of laws on labor and Labor Code, we have concentrated our attention on the fact that the use of the large notion “persons with family obligations” is not correct or justified. The use of the notion of “employees with family obligations” is proper, and it should be taken into consideration in further legislative activity of our country.