

activities of the State Service of Intellectual Property of Ukraine, as well as the current state of intellectual property rights protection in Ukraine international context.

Key words: intellectual property, patents, law of the industrial property, scientific and technical information, utility model, industrial design.

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Issue of Legal Regulation of Rental Housing

The article highlights issues of legal regulation of rental relations, their formation, development, features of the current state of legal regulation and it is justified that the most universal and accessible form to meet the housing needs is a civil contract. As for the leases of housing that are the objects of law for state or municipal property, the grounds, conditions and procedure of conclusion and termination is set by a special law, and in his absence is settled by the Civil Code of Ukraine

Key words: rent of a dwelling, residential apartment, housing fund, civil contract, social contract, tenant, use of dwelling.

Formulation of scientific problem. Current status of the legal regulation of residential relations is characterized by the absence of a clear definition of varieties of renting contracts, including the subject of employment and narrowing the constitutional guarantees of citizens' rights to housing as one of the basic needs of social life. The current Housing Code of Ukraine, adopted during the Soviet era in 1983, The Civil Code of Ukraine 2003, The Law of Ukraine «About Social Housing» 2006 do not fully regulate ambiguous and regulate the constitutional right to housing. The article is devoted to problems of housing legislation, including the adequacy of the settlement of relations of the hiring (rent) of the Civil Code of Ukraine.

Objectives and purpose to set the urgent problems of national housing legislation by analyzing the genesis of legal thought, housing legislation and the direction of development of modern housing and to outline main directions of its improvement during the rapid development of the housing market.

The degree of research. Even though housing legislation includes a number of conflicting regulations, uncertainty in the scientific literature it is expressed by ambiguity and controversial approaches to solving problems. Scientific researches are of fragmented character.

Most of these studies refer to the Soviet period. These are the works of scientists like: V. F. Maslov, A. E. Mushkin, Y. S. Vasiliev, T. N. Lisnychenko, P. A. Cheberyak, and I. N. Kucherenko. Modern scientists, who studied the living relationships are V. I. Zhukov, V. S. Hakanchuk, Y. Zaika, M. K. Halyantych, E. I. Fedyk, E. O. Kharitonov, N. O. Saniahmatova, Y. A. Micherin, V. Y. Bondar, Y. Huliak and others.

The main material presentation. Genesis of residential relationship indicates that long leases in the housing sector were regulated by civil law in general terms. Thus in pre-Soviet times right to use lodgings was governed by civil treaty of rent named Books of Laws of Russian Empire (Articles 1691-1707) [1, p. 16].

Since 1922, after the adoption of the Central Committee of USSR, relations concerning the right to use lodgings were regulated by the Art. 152-179 within which, special rules have been formulated with regard to certain situations that could arise in hiring (art. Art. 156, 156-1, 166, 172, 173, 177 of the Central Committee of USSR) [1, p. 18].

At the end of the 30s of XX century, the value of impact of the administrative area of legal regulation of use of housing facilities, as evidenced by the CEC and CPC of the USSR 1937, which regulated the basic issues of public housing and use of it [2].

The Central Committee of USSR 1963 (by the Art. 277 - 323) significantly softened administrative impact on the residential relationship. Art. 277 of the Central Committee of USSR did not define separate contract of employment of premises, but only contained the guidance on subjective part of the last and grounds and procedures for its conclusion, referring to the specific legislation of the Soviet Union and Ukrainian SSR [2].

In the Housing Code of USSR 1983 issues of contracts of hiring premise were devoted to the Art. 61-117, 158-170. [4] It is necessary to mention, that in norms of the right of perpetual use of living quarters in buildings state and public housing were stated in the HC, and among the entail the termination the contract of

employment of premises means of administrative influence were anticipated, which significantly reduced the base civil regulation of relations of hiring premises in houses of various types of housing stock.

Today the relations connected with the hiring of housing, are regulated by The Central Committee of Ukraine in the Law «About Social Housing», [5] and by other normative legal acts.

These legislative acts are based on international instruments of human rights. In particular, the Universal Declaration of Human Rights, where everyone has the right to a standard of living, including food, clothing, housing, medical care and necessary social services, which is essential for the health and improvement of himself and his family (Article 25).

Art. 11 of the International Covenant on Economic, Social and Cultural Rights states that the state involved in the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and a steady improvement conditions.

According to the Article 47 of the Constitution of Ukraine: «Everyone has right to have a dwelling». The state creates conditions under which each citizen has a possibility to build, purchase a property or rent it. Part 3 of this article stipulates that no person shall be compulsorily deprived of housing other than by court order or by law, and the right of citizens to housing in any case can not be limited (Art. 64).

It is necessary to note that current rules of HC provide citizens with housing mainly by state and public housing fund by hiring (rent) of dwellings under which a homeowner (landlord) transfers or agrees to transfer to the other party (the tenant) accommodations to live in it for a certain period for a fee.

Thus, basing on the fact that the contract of hiring the accommodation in a very general form can be defined as an agreement to provide living quarters from the landlord to the tenant for living of the latter during a specified period or indefinitely (as of HC), then we should consider the advisability of introducing a single concept of such a statement in national law.

In this case we presume that in determining the renting contract we give only universal characteristic of its features: the object and the subject of the contract. This implies that the characteristics and conditions of the contract should be specified at the level of specific legislation relating to certain types of contracts.

To elucidate these issues it is also important to incorporate provisions of the concept of public housing policy, the Central Committee of Ukraine, HC and other acts of housing legislation, which provide that citizens use housing under private ownership, membership in a housing cooperative or employment (rental).

Changes in understanding the civil right to housing, as well as approaches to the implementation of the law, in turn, led to the transformation of the concept of the contract of employment (rental) housing.

Analysis of HC that regulates conclusion and execution of the contract of employment of living quarters and use of housing on its base indicates that this scope is solely concerning special housing legislation.

However, much of the relations that arise in the use of housing, in particular, under a contract of hiring premises, by its legal nature is civil, which in turn leads to opportunity, and in many cases the need, for subsidiary application of the Civil law (in particular, it Ar. 59 of the Civil Code of Ukraine) to the corresponding relations to use lodgings. However, that option is directly stipulated by the Article 62 of the current HC of Ukraine that comes from the possibility of subsidiary application of civil law for regulation of any residential relations.

Regarding the Civil Code of Ukraine, it significantly narrows the scope of civil law for regulation of the relations which arise from a contract of rent that is the subject of state or municipal property, noting that this sector is of specific legislation (ch. 2, Art. 810 of the Civil Code of Ukraine) [6].

But a detailed analysis of this issue leads to the conclusion that the position of the legislator is fairly balanced and reasonable, since the nature of such specific industries as housing legislation was taken into account.

It should be noted that the Civil Code provides attempts to give a general definition of the contract of hiring of living quarters, which is contained in Part 1, Article 810 of Civil Code of Ukraine. Under the terms of this provision under the contract of hiring (rental) the accommodation, one party – the homeowner (landlord) transfers or agrees to transfer to the other party (the tenant) accommodations to live in it for a specified period for payment [6].

It is necessary to mention that there is a discussion in civil literature regarding the relationship between leases of premises with the contract of tenancy. Some scientists believe the contract of hiring a special residence to be a kind of tenancy agreement; others distinguish it as an independent kind of contracts. The position of the last is supported by the author.

Agreement on the use of individuals housing for in current legislation is named differently. For example, in Chapter 59 of the CC of Ukraine such a contract is called «contract of renting (rental) housing».

In the HC of the USSR it is called «contract of renting premises». The project of the HC Ukraine agreements for housing, depending on the type of housing, which is the subject of hiring are named as «the contract of hiring of social housing» (Art. 49) and «contract of rent» (Art. 50), «contract of renting service housing» (Art. 79) and others.

Analyzing the state of the terminology in this field we pay attention to the fact that because the Constitution of Ukraine refers to rent, the same notation would be used in civil, residential and other legislation. However, the CC of Ukraine uses traditional, called «renting contract».

By agreeing or disagreeing with the arguments concerning inaccuracies in denomination the contract of rent, we consider it necessary to use the term «contract of renting (rental) housing», which lawmakers used in the CC of Ukraine.

Mentioned above terminology state of housing law provides grounds for distinguishing «contract of engagement (rent) of dwelling» as a general category and leases of certain types of housing which can occur in different types of housing funds such as national and social ones.

For the current stage of legislation development, which regulates the relations of housing usage, a lack of orderliness of such relationships in certain types of housing funds (dormitories, office residential areas) and the lack of consideration of the constitutional principles of the contract of hiring of housing in the public and social housing and general lack of clear definition of species of the contract of rent and its industrial nature are usual.

In the legal literature classification of leases of a dwelling, a basis of which is consideration of areas of citizens' realization of the right of dwelling. Accordingly it is offered to distinguish between: 1) private (commercial) contract of renting premises, 2) social contract of renting premises, 3) special service agreement of hiring of premises (renting office premises), 4) hiring of housing in the dormitories (temporary contract of renting premises) and so on [7, p. 56].

To social hiring of premises scientists include legal relations that arise concerning housing, which is a part of state or the public, so called social fund. The main form of mediation of these relations is a contract of hiring, the features of which consist in a complicated procedure of its conclusion, the need of sorting of additional grounds for the emergence of relationships of hiring (the need to improve housing conditions, social insecurity, the decision concerning accommodation, issuing orders and so on).

The varieties of the contract of hiring also include rent of official premises and of housing usage in dormitories. These relations inherent similarities but there are also a number of specific differences between them, including a special purpose of housing. However, official living quarters dormitories and other special housing funds are primarily designed to meet the housing needs of citizens, taking into account not only the individual but also collective social interests. Thus, the contract of hiring of service housing is a kind of the contract of hiring premises, although it has some specific features. In view of these considerations, it seems more accurate to divide two types of lease contract of premises: 1) contract of employment of housing; 2) contract of renting of social housing, which will include hiring of service housing and dwelling in dormitories, as proposed in the project of the HC Ukraine.

The most universal treaty is undoubtedly «civil law» contract of renting of premises, as a general form of satisfying the housing needs of citizens who can not claim special support from the state, provided by chapter 59 of the Civil Code of Ukraine.

It should be noted that uniting moment of all kinds of contract is its subject – accommodation (in the terminology of the current housing legislation – «dwelling») or «accommodation» up to the CC of Ukraine, but at the same time, a significant difference between «social contract» of hiring of premises and civil one is that the first of these agreements mediates the relationship of housing within the «social rights», while the second is a conventional civil law contract.

The common goal of lease agreement (of premises) is to ensure the transfer of dwelling for temporary use, which is of interest for both sides of the contract. The employer's right to use the dwelling is protected not only by the rules of the law obligations, but also has proprietary legal protection against violations by third parties. In this sense, it has some similarities to the ownership and other real rights (Book Three of the CC of Ukraine). Thus, this right of housing usage is protected because the employer together with the vested right to use has a right for ownership, that is, concerning all others, stands as a person having material rights to someone else's thing.

Conclusions. So, contractual relationship of hiring premises to the extent in which they are linked to its transfer to the ownership of another person, also give rise to some of the implications of real-legal nature. The last appear not only in features concerning protecting the rights of the violations, but also in case of transfer of ownership of the rented dwelling to another person's contract of renting within the period of its

validity remains valid also for the new owner, which becomes the assignee in relation of hiring of dwelling (Art. 814 of the CC of Ukraine).

But these features, in varying degrees, are manifested both in civil law and in social contract of rent.

These contractual relationships have the foundation either the immediate requirements of the law or are additionally determined and also can also be defined by the contract of rent concluded in accordance with the principles of civil law.

Thus, the contract of rent of dwelling which is defined by the CC of Ukraine is a civil law contract, which has all the features of the latter is also a normative basis of appropriate relations under the provisions of Chapter 59 of the CC of Ukraine (Art. 810-826 of the CC of Ukraine), as optimal and most universal form of relationships mediation in the housing field on temporary use of accommodation (dwelling).

As for the leases of housing that are the objects of law for state or municipal property, the grounds, conditions and procedure of conclusion and termination is set by a special law, and in his absence is settled by the CC of Ukraine (Part. 2 pg. 3 Art. 810 of the CC of Ukraine).

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Самчук-Колодяжна З. Питання правового регулювання найму (оренди) житла. В статті висвітлюється питання правового регулювання відносин з найму (оренди) житла, їх становлення, розвиток та особливості сучасного стану їх правової регламентації. Вказується, що в дорадянські часи та до 30-х років минулого століття такі відносини опосередковувалися цивільно-правовими договорами. В подальшому посилюється значення адміністративного впливу на ці відносини, які дещо пом'якшуються з прийняттям Цивільного кодексу УРСР 1963 р., проте особливий порядок надання та користування житлом з державного та громадського фондів передбачається в спеціальному законодавстві та закріплюється в Житловому кодексі УРСР 1983 року. Сьогодні житлові відносини врегульовуються вказаним кодексом із відповідними змінами, Законом України «Про житловий фонд соціального призначення» 2006 р. та Цивільним кодексом України 2003 р., які хоча і базуються на принципах міжнародних актів з прав людини, проте передбачають ряд положень щодо умов та порядку укладення цих договорів. Обґрунтовується, що найбільш універсальним є цивільно-правовий договір найму житлового помешкання, як загальна, найбільш доступна форма задоволення житлових потреб особи, що не може претендувати на спеціальну підтримку зі сторони держави.

Ключові слова: найм (оренда) житла, житлове помешкання, житловий фонд, цивільно-правовий договір, соціальний договір, наймач, користування житлом.

Самчук-Колодяжная З. Вопрос правового регулирования найма (аренды) жилья. В статье освещается вопрос правового регулирования отношений по найму (аренде) жилья, их становление, развитие и особенности современного состояния их правовой регламентации. Указывается, что в досоветские времена и к 30-ым годам прошлого века такие отношения опосредствовались гражданско-правовыми договорами. В дальнейшем усиливается значение административного влияния на эти отношения, которые несколько смягчаются с принятием Гражданского кодекса УССР 1963 г., однако особенный порядок предоставления и пользования жильем из государственного и общественного фондов предусматривается в специальном законодательстве и закрепляется в Жилищном кодексе УССР 1983 года. Сегодня жилищные отношения регулируются указанным кодексом с соответствующими изменениями, Законом Украины «О жилищном фонде социального назначения» 2006 г. и Гражданским кодексом Украины 2003 г., которые хотя и базируются на принципах

международных актов по правам человека, однако предусматривают ряд положений относительно условий и порядка заключения анализируемых договоров. Обосновывается, что наиболее универсальным является гражданско-правовой договор найма жилого помещения, как общая, наиболее доступная форма удовлетворения жилищных потребностей гражданина, который не может претендовать на специальную поддержку со стороны государства.

Ключевые слова: найм (аренда) жилья, жилое помещение, жилищный фонд, гражданско-правовой договор, социальный договор, наниматель, пользование жильем.

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Child Labor: Ukrainian Experience in the International Context

The article deals with the theoretical and legal aspects of the child labor concept and its prohibition under the national legislation of Ukraine and international standards in this area. The child labor concept has been defined; child labor regional peculiarities in Ukraine have been highlighted; conclusions and specific proposals as for amendments to the legislation under which child labor is provided have been formulated. Implementation of the prohibition of child labor is possible through establishing guarantees in employment of minors, as well as monitoring compliance with labor legislation on health and its health, safety, compliance with wage young workers and other factors that contribute to gaining child education, its spiritual and physical development.

Key words: child labor, forms of child labor, prohibition, operation, international standards, labor legislation.

Presentation of the scientific problem. Child labor and the ways to overcome its negative manifestations is an urgent not only in Ukraine but all over the world. Child desire to receive an independent income; difficult financial situation in the family; unemployment; to obtain professional and practical skills is among the most common reasons of child labor.

The purpose of the article is to study the theoretical and legal aspects of child labor concept and its prohibition under national laws and international standards in this area.

To achieve this goal it is necessary to solve the following tasks:

- identify the main approaches to the definition of child labor, to determine and analyze its essence;
- describe international standards for the child labor prohibition;
- identify regional characteristics of child labor in Ukraine;
- analyze labor laws norms that regulate child labor;
- formulate conclusions and specific proposals for the amendments and additions to the legislation providing child labor.

Analysis of research and publications. A significant contribution to the study of general issues of child labor and labor law prohibition including has been made by modern scientists, such as N. B. Bolotina, N. S. Diad'kova, V. Zhernakov, V. Ivaschenko, V. Kostyrsia, B. K. Levchenko, L. Parkhomenko, O. P. Petrashchuk, O. I. Protsevskiy, N. M. Khutorian and others.

However, comprehensive research devoted to theoretical and legal problems of child labor in Ukraine in an international context hasn't been done yet. This problem causes exceptional urgency and the need for a comprehensive research as it is fundamental for ensuring freedom of the prohibition of child labor and its negative manifestations.

Main content and justification of the study results. The concept and prohibition of child labor is defined by the international community and is fixed in international instruments: the Universal Declaration of Human Rights 1948 [1], the Convention on the Rights of the Child in 1989 [2], the European Social Charter (revised) in 1996 [3] Declaration ILO Fundamental Principles and Rights at Work 1998 [4], the ILO conventions and recommendations: № 138 «On the Minimum Age for Admission to Employment» in 1973 [5]; № 146 Recommendation on the minimum age for taking on work in 1973 [6]; № 182 «The Prohibition and Immediate the Elimination of the Worst Forms of Child Labor» in 1999 [7].

The Convention on the Rights of the Child in 1989 establishes the child's right to protect from economic exploitation and performing any work that may be hazardous to interfere with the child's education, or harmful to the child's health or physical, mental, spiritual, moral and social development [2].