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THE PLACE OF INCENTIVES OF THE EMPLOYEE IN THE SYSTEM OF LABOR CONDITIONS

The article aims to study legal nature of such phenomena as labor incentives that act as a system of interrelated principles and factors that motivate employees to highly-productive labor. The author defined incentivizing as the process of targeted encouragement to influence people's efforts, diligence, perseverance, integrity, commitment to solving business challenges facing the enterprise and include appropriate motives. It was noted that effective incentivizing improves overall employee's productivity, solve economic problems and provide them a set of economic and social benefits. Particular attention in the article is focused on the study of moral incentives of an employees as an effective means of ensuring labor discipline and public expression of respect to an employee in forms that are permitted and defined by the law.

Key words: labor incentives, encouragement, working conditions, moral incentives of employees

According to ch. 2, Art. 1 of Labor Code of Ukraine¹ labor legislation sets a high standard of labor conditions, comprehensive protection of labor rights. O. I. Protsevskyy considers the labor conditions as a set of social and production factors that go with the labor process². Creation of favorable labor conditions, proper psychological climate at the workplace, moral and material incentives is the main means of maintaining the high labor activity of employees. The incentive of labor is the factor of labor conditions. The phrase "internal labor schedule" inextricably linked with the term "conditions". M. V. Molodtsov and S. Yu. Golovina considers the internal labor schedule as the "... the order of interaction and relationships of all participants of joint labor activity in the organization (employer and his representatives, employees and their representatives), based on common rules of behavior in the process of joint labor, mutual rights and obligations of labor relations parties, the basic labor conditions (work and rest regime, wages, safety, incentives and responsibility measures) and other issues of labor relations in the organization"³.

The incentives and motivation issue is relevant for each organization, because the truth is known: "highly motivated employee means effective employee". Motivation is one of the functions of management that focused on the creation of situational conditions under what people met the critical needs and people's labor input receives public approval. The understanding of the motivations content is the main indicator of professional skill of the good leader. Knowledge about human actions is the prerequisite to help them to realize their own reasons and to prevent cases when the motivation can cause some complication.

Everyone has their own interests and needs, values that should be satisfied. Motivation is the type of management, providing the process of encouraging people to activities aimed at achieving personal goals or goals of organization.

The incentives is the targeted application of encouragement to people to influence over their efforts, diligence, perseverance, integrity, commitment to solving business challenges facing the enterprise and include appropriate motives . According to V. V. Travin's opinion, incentives – is application of encouragement to people to influence over their efforts, diligence, purposefulness concerning with the challenges facing the organization and inclusion of the relevant reasons. Obtaining incentives (any goods, human needs) deals with employment that is good stimulus labor, if it forms the motif of labor⁴. In other words, speaking of the incentives of work, we are talking about an employee who seeks to benefit in the form of labor (motive), and mention the incentives we are talking about the management bodies that have set of benefits required to the employee and given to him for the effective labor. Thus, under the incentives of labor we should understand the impact on labor behavior of employee by creating significant personal conditions that motivate him to act a certain way. Effective incentives of the employee improve his overall

¹ *Кодекс законів про працю України 1999* (Верховна Рада УРСР). ВВР, 50, 1971

² Процевський, О.І. (1999). Новий зміст права на працю – основа формування трудового законодавства України. *Право України*, 6, 101-105.

³ Молодцов, М.В. (2003). *Трудовое право России: учеб.* Москва: НОРМА-ИНФРА, 640.

⁴ Травин, В.В., Дятлов, В.А. (2004). *Основы кадрового менеджмента: учеб. пособ.* Москва: Наука.

productivity, in other words, the solution of economic problems. The social function of incentives concerning with the fact that taking a particular place in social labor, employee provides a certain set of economic and social benefits. Effecting on the income level of certain categories of employees, incentives also effect on both the professional and qualification structure of production, and on the social structure. The formation of moral qualities of the employee's individual seeks moral and educational function of labor incentives.

Encouraging is the form of assistance to conscientious fulfillment of employee's labor duties. It is a manifestation of a positive assessment of the results of employee's labor during labor function fulfillment.

V. I. Prokopenko points that work is a creative activity, and the need to obtain material resources to meet the interests is the main force that motivates people to engage in it¹. This need becomes the goal of the activity that reflected at active labor behavior of employees. I. P. Zhyhalkin grounds that labor law should be referred to social law, that realize the functions of social and legal state, with the main aim to create through the law most complete and comprehensive forms of human solidarity, socialization, stimulation of creative activity, ensuring dignity, and security and personal freedom².

M. O. Dei emphasized 3 main areas of incentives methods:

a) clear statement of production purpose, and employee, focusing on the achievement of such purpose, also focuses his attention and efforts on particular direction;

b) changes in work behavior using targeted incentives or, conversely, weaken or eliminate the negative aspects of labor activity. It provides an effective system of moral, material and other incentives of employee's labor efforts and reasonable sanctions that allow to control the labor behavior;

c) to improve the meaningfulness of labor, reducing the share of manual labor, increased safety, etc., that helps to produce a stable grounds of employees' labor behavior by enhancing the attractiveness of work;

The system of labor incentives should lean on particular legal framework. The employee should know the requirements, the reward for its implementation and sanctions that could be applied in the case of non-compliance of such requirements³.

E. V. Okhotskiy defines the concept of "stimulation of labor activity" as moral and material conditions for effective and high-quality labor of employees, because moral factors by its own don't stimulate the labor activity⁴. Its realization depends on the employee, his needs and interests of its satisfaction, depending on its development level: the higher level of development leads to higher level of needs, and hence stronger motivation to work, desire for professional growth regardless the type of activity. Thus, the basis of rational combination of material and moral incentives act the unity of basic economic interests of employees.

As rightly said S. V. Venediktov: "Unilateral development of anyone group of incentives – material or moral – reduces the quality of professional staff ... deprives the stimulation process ... of such characteristics as efficiency, feasibility, optimality and harmony. If material incentives expresses the attitude to life and labor primarily as to the means of providing themselves and families with everything necessary for life, but moral incentives provides the need of employees ... in recognition of the results of their public-labor activity. Therefore, material incentives provides means not only to normal life of employee as an individual, but also indicates that society need his office and him, the individual could feel his social and public significance; moral stimulation is devoid of personality characteristic to provide livelihood and directed only to recognition of socially important achievements of employee. Therefore, the most effective incentives of employees... are that achieved dual purpose... Only a harmonious combination, the unity of incentives can give maximum effect"⁵.

Taking into account the significant number of issues, in this article we will focus the attention on the study of moral incentives of employees. It is an effective way to ensure labor discipline and its public

¹ Прокопенко, В.І. (1998). *Трудове право України*: підруч. Харьков: Консум, 480.

² Жигалкін, І.П. (2016). *Система принципів трудового права в умовах формування нової правової доктрини України*: дис. ... д-ра юрид. наук: спец. 12.00.05. Сєверодонецьк, 449.

³ Дей, М.О. (2005). *Правове регулювання засобів стимулювання праці в умовах ринкової економіки: теоретичний аспект*: дис. ... канд. юрид. наук: спец. 12.00.05. Харків, 212.

⁴ Охотский, Е.В. (1998). *Служебная карьера: учеб.-метод. пособ.* Москва: Экономика, 302.

⁵ Вєнедіктов, С.В. (2004). *Матеріальне та моральне стимулювання ефективної професійної діяльності працівників органів внутрішніх справ: теоретичний аспект*: дис. ... канд. юрид. наук: спец. 12.00.05. Харків, 186.

expression of respect to the employee in forms that are permitted and defined by the law. Such incentives could be used for the exemplary fulfillment of labor duties, for the improving of product quality, for long continuous work, for innovation in work, for increasing labor productivity and other achievements. Moral incentives based on the human need for social recognition. Its essence is to transfer the information about results of human achievements to the social environment. It has the informational nature and become the information process where the employer acts as the source of information about the employee's merits; the receiver is the object of incentives, employee and labor collective; channel of communication are the communication tools. The result of using the incentives for employees is the increasing interest in the work, improving quality of life, ability to work in a friendly atmosphere, commitment to training, innovation, satisfaction and a sense of moral dignity. S. S. Karinskiy, exploring the question of moral incentives, highlighted the following types of moral encouragement: a) providing awards; b) provision of social labor honor; c) the privileges and advantages; d) promotion more responsible work¹.

According to Art. 143 of the Labor Code any reward for exemplary performance of labor duties, for increasing productivity, for improving the product quality, for long-lasting and flawless work, for innovation in work and for other achievements contained in internal labor regulations approved by labor collective work rules could apply to employees of enterprises, institutions and organizations. Resolving of mentioned question referred to the sphere of local regulation. A. Yaroshenko rightly insists that at modern stage of society development the local legal act adopted by the organization is the independent source of labor law and lawmaking result of the labor collective and the employer (or their representatives) activity that contains binding rules (local norm). The local rule-making is carried out by authorized subjects of labor law. The intervention of the state and its authority in this process is appropriate mostly in the form of recommendations and by establishing the minimum standards of legal regulation of labor^{2 3 4}.

Par. 21 of Model rules of internal labor regulations for employees of enterprises, institutions and organizations⁵ provides the incentives measures that can be used in all enterprises: acknowledgment; premium; valuable gift rewarding; awarding Honorary Diploma; entry in the Book of Honor, the Board of Honour. According to p. 6 of the resolution of the Plenum of the Supreme Court of Ukraine №9 «On the application of the Constitution of Ukraine during the implementation of justice" from November 1, 1996⁶ laws and regulations adopted before the entry into force of the Constitution, are in force in the part that does not contradict it.

In this regard, during the judicial consideration of the case the court may apply the regulations of the former USSR that not inconsistent with the Constitution and laws of Ukraine, including internal labor regulations. The possibility of employees encouraging could be provided in the collective agreement or in another local act. And using of incentives that aren't provided for such acts not excluded.

The draft Labor Code of Ukraine (registration №1658, text finalized by May 20, 2015)⁷ also deals with mentioned issue. According to Art. 320 of this Code for success work and conscientious performance of labor duties moral and material incentives could be applied to employees, among them: acknowledgment, awarding the diploma, the payment of bonuses, handing the valuable gift. Other incentives could be established by internal labor regulations or by other regulations.

For special labor merits employees may awarded by departmental or state awards.

The system of state awards became an important factor of establishing of Ukrainian statehood, of moral encouragement of the citizens for activity that deals with economic development, of science, culture, social sphere, defense of Motherland, of protection constitutional rights and freedoms, of state building and

¹ Каринский, С.С. (1965). *Правовые способы материального и морального стимулирования рабочих и служащих к дальнейшему повышению эффективности*: дис. ... д-ра юрид. наук: спец. 12.00.05. Москва, 223.

² Ярошенко, О.М. (2007). *Джерела трудового права України*: дис. ... д-ра юрид. наук: спец. 12.00.05. Харків, 476.

³ Ярошенко, О.М. (2004). Щодо природи локальних нормативно-правових актів у сфері трудового права. *Вісник Академії правових наук України: Зб. наук. праць*. Право, 2(37), 131 – 138.

⁴ Ярошенко, О.М. (2005). Проблемні питання прийняття локальних нормативно-правових актів у сфері праці. *Проблеми законності*, 72, 57-64.

⁵ *Типовые правила внутреннего трудового распорядка для рабочих и служащих предприятий, учреждений, организаций 1984* (Госкомтруда СССР и ВЦСПС). *Юридичний вісник України*, 15, 1999.

⁶ *Постанова про застосування Конституції України при здійсненні правосуддя 1996* (Пленум Верховного Суду України). *Бюлетень законодавства і юридичної практики України*, 5, 2004.

⁷ *Проект Трудового кодексу України зареєстрований у Верховній Раді України 2014* (Верховна Рада України). *Офіційний сайт Верховної Ради України*. <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=53221>

social activities. State awards of Ukraine is the highest form of celebration citizens for outstanding achievements in economic development, science, culture, social sphere, defense of Motherland, the protection of constitutional rights and freedoms, state building and social activities, and of other services to Ukraine (ch. 1, Art. 1 Law of Ukraine "On State Awards of Ukraine"¹).

The separate public authorities have its own awards, for example, the Diploma of the Cabinet of Ministers of Ukraine. It is a reward for exemplary duties fulfillment, high production and scientific achievements, personal contribution to the development of economic, scientific, technical, social, cultural, military, social and other activity spheres and for achievements to the Ukrainian people in promoting the establishment of rule of law, implementation of measures to protect the rights and freedoms of citizens, strengthen of democracy and the effective operation of executive state bodies and other local authorities².

Departmental incentive awards are established to encourage and celebrate personal achievement in professional employment, official activities, for the excellent service and special services while on fulfillment of duties by employees of central executive bodies, enterprises, institutions and organizations within their control, soldiers and officers of military units, servicemen of staff, employees of state law enforcement agencies³. The following employees could be awarded by: medals "10 years of good service", "15 years of good service", "20 years of good service", "Veterans Service" – military personnel, persons of ordinary and commanding structure; breastplate – ministries and other central executive bodies employees, members of military units, employees of state law enforcement bodies; thanksgiving diploma, – employees of ministries and other central executive bodies, enterprises, institutions and organizations that are controlled by them, military personnel and military units, persons of ordinary and chief composition, employees of state law enforcement bodies. The ministry could set only three badges (except the Ministry of Energy and Coal Industry of Ukraine, Ministry of Defense of Ukraine, that can set more badges), in other central executive bodies – only one; in military formation or state law enforcement body that does not subordinate to the central executive body – not more than three; there are no degree of badges, except badges of Ministry of Energy and Coal Industry of Ukraine that may be I, II and III degree. Regulations on departmental award determined reason of departmental honors, the procedure of considering the materials and deciding about the award, the description of departmental award, order of presentation, its possession and storage of departmental award and limiting number of departmental awards during the calendar year.

Incentives to employees apply under statutes and regulations. For example, par. 8 of the Regulation on discipline of railway employees, approved by the Cabinet of Ministers of Ukraine dated January 26, 1993 r., №55⁴ specifies that for the exemplary performance of duty and initiative in work the following types of moral encouragement define for railway employees: acknowledgment; awarding the diploma; conferring the title of best worker by profession; awarding lapel badge; awarding "Honorary railroader" lapel badge.

Thus, incentive is one of the most important factors that affect the effective labor. It is interrelated principles and factors that motivate employees to highly-productive labor. The right incentives and good motivation provide significant impetus to efficient production and ultimately more effective functioning of the enterprise. Incentive is the basis of motivation of labor and human activity. It appears in encouraging that apply to employees. Incentive is a natural result of the positive assessment of the employee's actions and the results of his work. It is implemented through the public recognition of his merits. Its purpose – to mark, identify best labor collectives and individual employees that showed labor activity and to encourage proper and fair fulfillment of labor duties by employees.

References:

1. Venediktov, S.V. (2004). *Materialne ta moralne stymulyuvannya efektyvnoyi profesiyanoi diyalnosti pratsivnykiv orhaniv vnutrishnikh sprav: teoretychnyy aspekt*: dys. ... kand. yuryd. nauk: spets 12.00.05. [Material and moral incentives for effective professional activity of law enforcement officers: a theoretical aspect: Thesis for PhD degree in law]. Kharkiv. [in Ukrainian].

¹ Закон про державні нагороди України 2000 (Верховна Рада України). *Відомості Верховної Ради України*, 21, 162.

² Постанова про Почесну грамоту Кабінету Міністрів України 2008 (Кабінет Міністрів України). *Офіційний вісник України*, 63, 32.

³ Указ про відомчі заохочувальні відзнаки 2012 (Президент України). *Офіційний вісник України*, 19, 57.

⁴ Постанова про затвердження Положення про дисципліну працівників залізничного транспорту 1993 (Кабінет Міністрів України). *ЗП уряду України*, 4-5, 71.

2. Dey, M.O. (2005). *Pravove rehulyuvannya zasobiv stymulyuvannya pratsi v umovakh rynkovoyi ekonomiky: teoretychnyy aspekt*: dys. ... kand. yuryd. nauk: spets. 12.00.05 [Legal regulation of labor incentives in a market economy: a theoretical aspect: Thesis for PhD degree in law]. Kharkiv. [in Ukrainian].
3. Zhyhalkin, I.P. (2016). *Systema pryntsyypiv trudovoho prava v umovakh formuvannya novoyi pravovoyi doktryny Ukrainy*: dys. ... d-ra yuryd. nauk: spets. 12.00.05 [The system of labor law principles in the formation of a new legal doctrine of Ukraine: Thesis for ScD degree in law]. Syevyerodonetsk. [in Ukrainian].
4. *Zakon pro derzhavni nahorody Ukrainy 2000* [The law on state awards of Ukraine] (Verkhovna Rada Ukrainy). *Vidom. Verkhov. Rady Ukrainy*[Bulletin of the Verkhovna Rada of Ukraine], 21, 162. [in Ukrainian].
5. Karinskij, S.S. (1965). *Pravovye sposoby materialnogo i moralnogo stimulirovaniya rabochih i sluzhashhih k dalnejshemu povysheniju effektivnosti*: dis. ... d-ra jurid. nauk: spec. 12.00.05 [Legal methods of material and moral incentives of workers and employees to further improvement of efficiency: Thesis for ScD degree in law]. Moscow, 223. [in Russian].
6. *Kodeks zakoniv pro pratsyu Ukrainy* [Labor Code of Ukraine] 1999 (Verkhovna Rada URSR). *VVR* [Bulletin of the Verkhovna Rada of Ukraine], 50, 1971 [in Ukrainian].
7. Molodcov, M.V. (2003). *Trudovoe pravo Rossii*: ucheb [Labor Law of Russia: Textbook]. Moscow: NORMA-INFRA. [in Russian].
8. Ohotskij, E.V. (1998). *Sluzhebnaja kar'era*: ucheb.-metod. posob. [Professional career: tutorial] Moscow: Jekonomika. [in Russian].
9. *Postanova pro zatverdzhennya Polozhennya pro dystsyplinu pratsivnykiv zaliznychnoho transportu* [Decision on Approval of Regulation on discipline of railway employees]1993 (Kabinet Ministriv Ukrainy). *ZP uryadu Ukrainy* [Government of Ukraine], 4-5, 71. [in Ukrainian].
10. *Postanova pro Pochesnu hramotu Kabinetu Ministriv Ukrainy* [Resolution on Diploma of the Cabinet of Ministers of Ukraine] 2008 (Kabinet Ministriv Ukrainy). *Ofits. visn. Ukrainy* [Official herald of Ukraine], 63, 32. [in Ukrainian].
11. *Pro zastosuvannya Konstytutsiyi Ukrainy pry zdiysnenni pravosuddya: postanova* [Decision on application of the Constitution of Ukraine in administration of justice.] 1996 (*Plenum Verkhovnoho Sudu Ukrainy*). *Byul. zak-va i yuryd. praktyky Ukrainy* [Bulletin of legislation and legal practice of Ukraine], 5, 2004. [in Ukrainian].
12. *Proekt Trudovoho kodeksu Ukrainy zareyestrovany u Verkhovniy Radi Ukrainy* [The project of the Labor Code of Ukraine registered in the Verkhovna Rada of Ukraine] 2014 (Verkhovna Rada Ukrainy) *Ofitsiynny web-portal* [Official Web Portal]. <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=53221> [in Ukrainian].
13. Prokopenko, V.I. (1998). *Trudove pravo Ukrainy*: pidruch [Labor Law of Ukraine: textbook]. Kharkiv: Konsum. [in Ukrainian].
14. Protsevs'kyj, O.I. (1999). *Novyyi zmist prava na pratsju – osnova formuvannya trudovoho zakonodavstva Ukrainy* [The new content of the right on labor as the basis of formation of labor legislation of Ukraine]. *Pravo Ukrainy* [Law of Ukraine], 6, 101-105. [in Ukrainian].
15. *Tipovye pravila vnutrennego trudovogo rasporjadka dlja rabochih i sluzhashhih predpriyatij, uchrezhdenij, organizacij 1984* [Standard internal regulations for workers and employees of enterprises, institutions and organizations in 1984] (Goskomtruda SSSR i VCSPPS). *Jurid. visn. Ukrainy* [Legal Bulletin of Ukraine], 15, 1999. [in Russian].
16. Travin, V.V., Djatlov, V.A. (2004). *Osnovy kadrovogo menedzhmenta: ucheb. posob.* [Fundamentals of personnel management: Textbook]. Moscow: Nauka. [in Russian].
17. *Ukaz pro vidomchi zaokhochuval'ni vidznaky* [Decree on departmental encouraging awards] 2012 (Prezydent Ukrainy). *Ofits. visn. Ukrainy* [Official herald of Ukraine], 19, 57. [in Ukrainian].
18. Yaroshenko, O.M. (2004). *Shchodo pryrody lokalnykh normatyvno-pravovykh aktiv u sferi trudovoho prava* [As for the nature of local regulatory acts in the field of labor law]. *Visn. Akad. pravovykh nauk Ukrainy: Zb. nauk. prats. Pravo* [Journal of the Academy of Sciences of Ukraine: Coll. of scient. works. Law], 2(37), 131 – 138. [in Ukrainian].
19. Yaroshenko, O.M. (2005). *Problemni pytannya pryynyattya lokal'nykh normatyvno-pravovykh aktiv u sferi pratsi* [Problems of adoption of local regulations in the employment]. *Problemy zakonnosti* [The problems of legality], 72, 57-64. [in Ukrainian].
20. Yaroshenko, O.M. (2007). *Dzherela trudovoho prava Ukrainy*: dys. ... d-ra yuryd. nauk: spets. 12.00.05 [Sources of labor law of Ukraine: Thesis for ScD degree in law]. Kharkiv. [in Ukrainian].