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забезпечення, що в перспективі призвело до падіння рівня життя сім'ї особи працездатного віку.

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RESPONSIBILITY OF SCIENTIFIC AND PEDAGOGICAL WORKERS FOR COMMITTING AN IMMORAL OFFENSE

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In modern Ukrainian legislation, immoral behavior or violation of professional ethics or integrity is increasingly recognized as the basis of liability, which is enshrined in the laws of Ukraine «On the Prosecutor's Office», «On Civil Service», «On Education» and others. For certain categories of employees, a violation of not only work duties, but also moral and ethical norms should be considered a disciplinary offense. The above proves the gradual recognition at the legislative level that the norms of morality and ethics are a social value, for encroachment on which the employee may be subject to disciplinary action [2].

One of the additional grounds for termination of the employment contract on the initiative of the owner or his authorized body is the commission by an employee performing educational functions of an immoral misdemeanor incompatible with the continuation of this work. The Labor Code of Ukraine (hereinafter the Labor Code) does not disclose the concept of «immoral misconduct», providing ample opportunities for the law enforcer to decide at his own discretion and personal convictions which acts should be considered immoral and which are not. Unfortunately, too free use of valuation concepts

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sometimes leads to excessive subjectivity in law enforcement practice and violates the rights of the employee [8].

For the last 5 years, 10-15 teachers and educators have been fired annually in schools and higher education institutions of different countries under the article «immoral misdemeanor», pedagogical workers defend their honest name and restore their tarnished reputation.

The following scientists studied the issue of the responsibility of scientific and pedagogical workers for committing immoral misdemeanors: Y. Babansky, G. Goncharova, S. Kozina, V. Kononenko, S. Kolyadova, N. Shvets, O. Protsevsky, G. Vasyanovych, O. Tishchenko and others.

The topicality of the work is due to the spread of such a problem as immoral misconduct committed by a researcher and educator, as well as responsibility for it.

The purpose of the work is to study the immoral behavior of the researcher and determine the extent of possible liability for committing an immoral offense.

The objectives of this work are:

- to define the concept of immoral misconduct;
- list the most common types of immoral behavior of research and teaching staff;
- to determine the measures of responsibility for the immoral misconduct of the researcher;
- outline the conditions under which the dismissal can take place and on whose initiative.

Paragraph 3 of Art. 41 of the Labor Code provides that the employment contract at the initiative of the owner or his authorized body can be terminated in case of «commission by an employee performing educational functions, an immoral misdemeanor incompatible with the continuation of this work» [4]. These provisions are specified in paragraph 3 item 28 of the resolution of the Plenum of the Supreme Court of Ukraine «On the practice of consideration of labor disputes by courts» № 9 of 06.11.1992, which states that only employees engaged in educational activities, such as educators, teachers, can be dismissed for committing an immoral offense, teachers, practical psychologists, social pedagogues, masters of industrial training, methodologists, pedagogical workers of out - of - school establishments. Moreover, the time and place of the commission of an immoral offense does not matter, it does not matter whether it was committed in the performance of labor duties or outside them. Note that such dismissal is not allowed if it is carried out only as a result of a general assessment of the employee's behavior, not confirmed by specific facts [7]. Every lawyer, and even the average citizen who encounters law enforcement, understands the important role of unambiguous interpretation of the legal term, so it is important that the key concepts are officially interpreted by the legislator. However, neither the Labor Code nor the resolution of the Plenum of the Supreme Court of Ukraine «On the

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practice of labor disputes» defines the meaning of «immoral misconduct», despite the fact that in the scientific legal literature there are many definitions.

It should be noted that in the world domestic practice the above definition is manifested in the following legal cases:

- the so-called striptease: 58-year-old geography teacher Svitlana Kolyadova was fired in June 2019 for «immoral misconduct incompatible with teaching». She was accused of allegedly picking up a blouse with the students and almost dancing. According to the teacher, the head teachers who testified in the memo did not take into account that the teacher was not in a blouse that day and was walking, leaning on a stick as a result of the operation on her foot. According to Kolyadov, the school principal decided to get rid of the teacher who was not attractive to her.

- Pedophilia: Valery Lytvynov, a physical education teacher, was accused of pedophilia by the school administration, providing photos and videos in which the teacher touches the student.

- drunkenness and others.

As G.S Goncharova and N.M Shvets emphasize, the employee who is entrusted with the educational functions must constantly monitor himself, feel that his behavior is under the constant control of those he educates, and the moral authority of teachers must be impeccable. [1].

The Resolution of the Supreme Court of Ukraine № 757/4906/15-ts of March 22, 2017 [3] defined 2 conditions for dismissal of an employee who performs labor functions in connection with the commission of an immoral offense:

(a) the immoral offense must be confirmed ,

(b) the commission of a misdemeanor is incompatible with the continuation of work which has an educational function. Such dismissal is allowed both for committing an immoral misdemeanor, both in the performance of work duties and not related to them (committing such a misdemeanor in public places or in everyday life).

The Supreme Court of Ukraine stressed that the increased responsibility of this category of workers is due to the fact that they are in a special legal position and perform specific functions not typical of other categories of workers, and their actions or inaction can violate the constitutional rights and freedoms of citizens, public relations and the authority of both the state and educational institutions. In its Resolution, the Supreme Court of Ukraine refers to Art. 56 of the Law of Ukraine «On Education», according to which pedagogical and scientific-pedagogical workers are obliged to: constantly improve the professional level, pedagogical skills, general culture; to establish respect for the principles of universal morality (truth, justice, devotion, patriotism, humanism, kindness, restraint, diligence, moderation, and other virtues) by setting and personal example; to instill in children and young people respect for parents, women and the elderly. Thus, to terminate the employment contract under paragraph 3 of Art. 41 of the Labor Code of Ukraine requires the following conditions: (1) the employee must directly perform the

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educational function; (2) the fact of committing an immoral offense; (3) incompatibility of immoral misconduct with continued work [8].

The fact of committing an immoral misdemeanor must be duly recorded. Dismissal cannot be considered lawful if it is carried out only as a result of a general assessment of the employee's behavior, which is not confirmed by specific facts. It is also important that the dismissal of an employee in this case is not a disciplinary sanction, and therefore the legislator does not set a specific, clearly defined period during which the employee can be dismissed. The requirements of Articles 148 and 149 of the Labor Code of Ukraine do not apply to the term and procedure for application of disciplinary sanctions. However, the court must take into account the time that has elapsed since the commission of the immoral offense.

So, as a conclusion, we would like to note the following: the existence of legal norms is impossible without the existence of moral norms and for the full existence of each person, regardless of place of work must know at least a minimum, in order to eradicate such a phenomenon as immoral misconduct, only in the field of education, but also in all spheres of human life.

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