

LABOR CODE OF THE REPUBLIC OF UZBEKISTAN: THE LAW BEHIND THE PRACTICE IS BEING IMPROVED

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ANNOTATION

This article provides feedback on what the need to replace the Labor Code of the Republic of Uzbekistan, adopted at the beginning of the nineties, with a new one, is manifested in. Also, the author's views on the positive and controversial parts of the new labor code are reflected.

Keywords: law, code, labor, New, positive, market relations, employee, employer, state, interest.

For the third time in the history of the country, a systematized law was adopted – a new labor code. On October 28, 2022, the next new law "on the approval of the Labor Code of the Republic of Uzbekistan" was signed¹. It was established that this law would come into force six months after the date of its official publication. The inadequacy of this term after the law came into force has come under criticism from both practitioners and the scientific community.

In the last five or six years, experts were often commenting on the "obsolescence" of the Labor Code of the Republic of Uzbekistan, adopted in 1995. In particular, the scientist M. Gasanov believes that for a more consistent reform of labor legislation, it will not be enough to make changes and additions to the labor code. In the past time after the entry into force of the Labor Code of the nineties, it was necessary to adopt a new labor code, which takes into account the changes that have occurred in all areas of the country and is intended for prospects².

These considerations were established as a task in the state program 2019 - " year of active investments and social development ³. Paragraph 135 of the program was tasked with developing a new revision of the Labor Code of the Republic of Uzbekistan.

In particular, the draft law on the approval of the Labor Code of the Republic of Uzbekistan specified the establishment of a number of provisions at that time. These are:

the introduction of norms aimed at preventing the use of informal labor, depending on the demand for a market economy;

due to the peculiarity of the work, a simplified procedure for concluding and terminating an employment contract, providing for rules that represent the interests of the employer at the same time as the employee;

Implementation of the recommendations of the International Labor Organization and the provision of norms that directly regulate labor relations.

¹ Қонунчилик маълумотлари миллий базаси, 29.10.2022 й., 03/22/798/0972-сон.

² Гасанов М.Янги Меҳнат кодекси: қандай ўзгаришлар бизни кутяпти//Кадрлар масалалари бўйича Маълумотнома, 2021. №11. –Б.1-18.

³ Қонун ҳужжатлари маълумотлари миллий базаси, 18.01.2019 й.

To what extent the above rules have found their reflection in the new labor code is now a rather difficult task. Nevertheless, in this code it is possible to recognize the achievements in the legal regulation of the labor sector. Let's dwell on them below.

Structurally change. The new labor code consists structurally of two parts: 1. General part. 2. Special part.

The general part is devoted to fundamental issues of fundamental importance for all institutions of labor law and includes two sections: the main bases of labor law and social cooperation in the field of Labor.

The special section consists of five sections:

1. Employment.
2. Individual Labor Relations.
3. Professional training, retraining and professional development of personnel.
4. Features of the regulation of labor of employees of certain categories.
5. Protection of labor rights of employees. Consideration of labor disputes.

It should be noted that the structural change included a number of sections and chapters in the new labor code. The number of substances doubled to 581.

The short conclusion is that the new labor code is drawn up much closer to the subject of study of labor law in the form of "individual Labor Relations – Labor Relations for the team – procedural relations". Previously, these relationships were not separated from each other in an understandable way.

The regulated area is defined. From the content of the third part of Article 1 of the Labor Code of the ninety-fifth year, it was possible to mistakenly conclude that only individual labor relations are regulated by this code. In fact, the sphere regulated by labor law includes not only labor relations, but also other relations directly related to them (employment, social partnership, professional training, retraining and professional development, control over compliance with labor legislation, relations for the consideration of individual and collective labor disputes). The new labor code also introduced other relations associated with this Labor into its sphere of regulation.

A list of basic principles of labor law is compiled. In a number of codes of the Republic of Uzbekistan, guiding ideas and principles are clearly enshrined (Articles 1 of the Civil Code of the Republic of Uzbekistan, articles 5-11 of the tax code, articles 3-10 of the Criminal Code). However, in the Labor Code of the ninety-fifth year, there was no special article listing the basic principles of the legal regulation of Labor Relations and social relations directly related to them. The unsystematic approach seems to be such that only two principles are mentioned in the individual articles of the code. These include Article 6 of the labor code prohibiting discrimination in labor relations, and Article 7 prohibiting forced labor. In addition to the two principles mentioned above, the other principle is not mentioned in the code. In addition to the fact that the new labor code includes a substance that lists the basic principles of legal regulation of Labor Relations and social relations directly related to them, the content and

essence of each principle is also revealed in individual articles. The new code included the following basic principles:

equality of employee rights and Prohibition of discrimination in labor and training;

freedom of Labor and Prohibition of forced labor;

social partnership in labor;

the provision of labor rights and the guarantee of the execution of labor duties;

failure to allow the legal situation of the employee to deteriorate.

Lawyer M.A number of other innovations were mentioned by Gasanov. In his opinion, another innovation is that the code includes a chapter dedicated to labor law and other regulatory legal acts on Labor⁴. Noting that in the current conditions the role of local regulation of social relations in the labor sphere has increased significantly, this chapter gives serious importance to the issues of mutual adaptation of internal documents, as well as the adaptation of these documents to collective agreements and legislation. In particular, it is provided that not a single internal document can worsen the condition of the employee in relation to legislation, collective bargaining agreements and collective bargaining agreements.

The third chapter of the new labor code reveals the concept of individual Labor Relations, defines their subjects, strengthens the basic rights and obligations of employees and employers, gives special importance to the foundations of the occurrence of individual Labor Relations.

In current legislation, in a number of cases, the occurrence of individual Labor Relations is associated with complex legal content. This is mentioned in Article 72 of the Labor Code of the ninety-fifth year, according to which there may be additional circumstances before the agreement on the conclusion of an employment contract. This article specifies only two such cases: passing a contest, being elected to office, and also states that there may be other circumstances before the agreement to conclude an employment contract. In this case, the code in question does not clarify what cases are being talked about.

In addition to the above, such cases can be:

appointment or confirmation in office;

sending an employee to work by competent state bodies (placement of persons belonging to socially vulnerable segments of the population by local labor bodies in the manner prescribed by the law "on employment of the population", sending graduates of higher educational institutions educated on the basis of state grants to work);

confirmation of his right to work in the employment of a foreign citizen or stateless person who entered the Republic of Uzbekistan in order to carry out labor activities;

written consent of the parent or their replacement to hire adolescents under 16 years of age;

a court decision that imposes on the employer the obligation to hire an employee;

recognition by the court as Labor Relations of relations related to the use of personal labor and arising under a civil-legal contract.

The new labor code contains all the above-listed cases.

⁴ Гасанов М.Янги Меҳнат кодекси: қандай ўзгаришлар бизни кутяпти//Кадрлар масалалари бўйича Маълумотнома, 2021. №11. –Б.1-18.

Lawyer M.Rakhimov, on the other hand, points out the following seven changes, referring to which guarantees the new labor code promises to ensure in the field of human rights, what new norms are envisaged in it. In particular:

first, the procedure for protecting the employee's information about the person is introduced; secondly, the duration of the annual Main leave of employees is increased and is coordinated by international standards;

thirdly, in the event that the day off falls on the day of the holiday, it is established that it will be moved to the next working day;

fourth, women were given additional free days for antenatal (prenatal) Fetal Care;

fifth, the procedure for remote work is legalized;

sixth, the labor of domestic workers is legal arranged;

seventh, the procedure for self-defense of employees ' rights is clarified⁵.

Of course, while the above points do not fully reveal the novelties of the new labor code, it allows you to create an initial picture.

However, the following unfavorable aspects of the new code should also be mentioned. These are:

first, the accumulation of rules and norms of a very large size;

secondly, in addition to HUD, it was put in tartby, that is, regularity;

thirdly, the proliferation of imperative nouns;

fourth, the high probability of the origin of discrepancies with the state budget due to the large number of guarantees and benefits.

Of course, the Labor Code of the New Republic of Uzbekistan allocated more than necessary places for the legal support and protection of employees. In doing so, it questions whether the interests of the private sector are taken into account within the principles of the market.

For this reason, it is necessary to try to maintain the balance between the interests of the employee, employer and the state in the adoption of substantive documents and the development of mechanisms that realise the new labor code.

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⁵ https://uza.uz/uz/posts/yangi-mehnat-kodeksi-unda-qanday-yangi-normalar-nazarda-tutilmoqda_420889

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