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## LEGAL NATURE OF REGIONAL STANDARDS ON ENDING FORCED LABOR

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### ABSTRACT

The article analyzes the content of regional standards on ending forced labor, the importance of the issue of forced labor in regional documents on the prevention of human trafficking, issues of responsibility for forced labor. As a result of the study, conclusions were made on the analysis of international documents adopted by regional organizations.

### KEYWORDS

International standard, forced labor, human trafficking, regional organizations.

### INTRODUCTION

International labor standards establish basic principles and rights in the field of labor. One of the main tasks of the International Labor Organization (ILO) is the development of a system of conventions and recommendations - international labor standards. It is recognized that the importance of regional international organizations in the establishment and development of international standards is also increasing in modern international law[1, p.121, 2, p.80, 3, p.238, 4, p.1078, 5, p.339].

A number of regional human rights documents provide for the abolition of forced labor and the cooperation of

states in this regard. Slavery, forced labor and human trafficking are covered by most regional documents, including international treaties signed in Europe, North and South America, Africa, the CIS and Arab countries - the European Convention on Human Rights of 1950 (Article 4), the European Social Charter adopted in 1961 and revised in 1996 (Article 1, Clause 2), the American Convention on Human Rights of 1969 (Article 6), 1981 Prohibited under the African Charter on Human and Peoples' Rights (Article 5), the 1995 CIS Convention on Human Rights and Fundamental Freedoms (Article 4) and the 2004 Arab Charter on Human Rights (Article 10).

The 1998 Social Labor Declaration of the South American Common Market (MERCOSUR), the 2007 Association of Southeast Asian Nations (ASEAN) on the Protection and Support of the Rights of Migrant Workers, and the 2012 Human Rights Declarations, which are considered "soft law" norms, provide additional regulatory recommendations on ending forced labor.

Article 4 of the European Convention on Human Rights of 1950 provides the following provision regarding forced labor: "No one shall be subjected to forced or compulsory labour"[6]. Also, a list of works and services that are not considered "forced or compulsory labor" for the purposes of the convention is defined, which are essentially the same as the cases listed in Article 8 of the International Covenant on Civil and Political Rights.

According to Article 1 of the European Social Charter, adopted by the Council of Europe in 1961 and revised in 1996, member states are obliged to "ensure the effective protection of the right of workers to earn wages through freely chosen work in order to ensure the effective implementation of the right to work"[7] and thus the Convention prohibits the use of forced labor. Article 6 of the American Convention on Human Rights, adopted by the Organization of American States in 1969, provides for the prohibition of slavery and servitude and forced labor: "No one shall be compelled to perform forced or compulsory labor. This provision does not mean that the execution of such a sentence is prohibited in countries where the penalty of deprivation of liberty is provided for certain crimes. Compulsory labor must not undermine the dignity of the prisoner or adversely affect his physical and intellectual condition[8].

Article 5 of the African Charter on Human and Peoples' Rights adopted by the African Union (the legal successor of the Organization of African Unity) in 1981 states that "all forms of exploitation and degradation of human dignity, in particular slavery, slave trade, torture, cruel, inhuman or degrading punishment or treatment shall be prohibited"[9]. The 1993 North American Agreement on Labor Cooperation (NAALC) includes the prohibition of forced labor as one of its guiding "labor principles" and obligates each member country to incorporate these principles into its national legislation[10]. In the Social Labor Declaration (Declaración Sociolaboral), adopted by the heads of state of MERCOSUR in 1998, the participating countries (Argentina, Brazil, Paraguay and Uruguay) undertake to end the use of all forms of forced or compulsory labor[11].

A number of regional documents, including the 1994 Inter-American Convention on International Traffic in Minors and the 2002 South Asian Association for Regional Cooperation (SAARC) Convention to Prevent and Suppress Trafficking in Women and Children for the Purpose of Trafficking, directly address the issue of human trafficking.

Two documents adopted in the European region have even wider areas of application. The 2005 Council of Europe Convention against Trafficking in Human Beings requires member states to take measures to prevent and combat trafficking in human beings, protect the rights of victims of human trafficking, and promote international cooperation to combat human trafficking[12]. The Convention aims to strengthen the safeguards and standards recognized by other anti-trafficking instruments. Another unique aspect of this document is the requirement that "effective, proportionate and dissuasive punishment" be applied to criminal acts, as well as the establishment of an

independent mechanism to monitor the implementation of the Convention, namely the Group of Experts on Anti-Trafficking in Human Beings (GRETA). Directive 2011/36/EC of 5 April 2011 amending Council Decision 2002/629/JHA (EU Directive 2011/36/EC) also aims to strengthen preventive actions and measures to protect victims. EU Directive 2011/36/EC extended the scope of the concept of "exploitation of persons" not only in the areas of activity listed in the Palermo Protocol, but also for forced begging and use for the purpose of criminal activity[13].

Regional instruments also contain similar provisions that recognize certain acts as criminal acts, as well as provisions on the investigation of trafficking-related offenses and the prosecution of such acts. Like the Transnational Organized Crime Convention, the Council of Europe's Convention on Trafficking in Human Beings requires states to define the liability of legal entities such as companies and associations[12].

The report of the European Expert Group on Trafficking in Human Beings, established by the European Union in 2003, noted the use of forced labor as an "essential element" of the Protocol to Prevent, Suppress and Punish Trafficking in Human Beings, especially women and children. According to the group of experts, "States must criminalize any form of use of persons in the form of forced labor, slavery or practices similar to slavery, in accordance with the main human rights treaties that prohibit the use of these situations"[14].

Article 4 of the European Union Directive 2011/36/EC provides for the establishment of heavier penalties (at least ten years of imprisonment) for the following cases: a) committed against the most vulnerable persons, including children; b) committed within the

framework of a criminal association; c) if it is committed by endangering the victim's life as a result of intentional or gross negligence; g) if it was committed with the help of gross violence or inflicting severe injury[13].

First of all, international standards on ending and combating forced labor are the subject of many international documents adopted within the framework of regional organizations. Most of these instruments are considered "hard law" norms and require member states to take strict measures to end forced labor.

Second, one of the main requirements of the international standards for the abolition of forced labor is that states should establish criminal penalties for forced labor in their legislation, ensure that they are truly adequate and strictly observed.

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