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REGULATION OF THE REPRESENTATION OF EMPLOYEES AND EMPLOYERS AT THE INTERNATIONAL AND NATIONAL LEVEL

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ABSTRACT

The present paper addresses the issues of representation of employees and employers, which are key actors of labor relations and social partnership and analyzes international legal acts regulating representation and social partnership, experience of foreign countries and their legislation. The legal content of the models formed on social partnership is discussed. The regulation of Representative Issues focuses on the fact that the national legislation of the member states of the European Union is also not the same. Amendments to the national legislation of the Republic of Uzbekistan have been covered in the regulation of the issue of social partnership.

KEYWORDS

Representation, social partnership, trade union, convention, foreign experience.

INTRODUCTION

The historical processes of improvement of labor relations, democratization, development of social dialogue and cooperation led to the formation of the legal basis of the representation of labor relations participants and the social partnership between them.

Today, the Republic of Uzbekistan is leading the way to building a legal democratic state, a free civil society, which includes a system of developed independent, stable civil institutions, supported by a wide segment of the population. In turn, attention is being paid at the

government level to the introduction of effective mechanisms to regulate labor relations and protect the interests of employees and employers. In particular, item 37 of the state program for the implementation of the development strategy of New Uzbekistan for the period of 2022-2026 in the year "Glorification of human dignity and active neighborhood" stipulates "Development of effective mechanisms for the protection of labor rights of employees in the civil service of the state" [14]. This creates the need to improve the activities of representative bodies of

employees, to study the experience of foreign countries.

Noting that the labor sector has undergone a number of changes in the last decade, the ILO enumerates its major factors [1]. It is noted that four of them directly affect labor relations and, in turn, social partnership. These are technological revolutions, demographic processes, climate change and globalization [12]. These cases indicate the complexity of effective regulation of labor relations without the use of social partnership today.

The main task of social partnership is to form a mechanism for collective contractual regulation of social and labor relations based on respect for the interests of employees, employers and the whole society, using the advantages of the negotiation process and agreement procedures.

Social dialogue includes negotiations, discussions and exchanges of information between representatives of the government, employers and employees on social and economic issues representing common interests. Social dialogue, on the other hand, is the core of the ILO's activities, and it is reinforced in all ILO conventions, recommendations, and the Decent Work Program. Most provisions of the Convention and Recommendation require direct consultation with the social partners.

The fact that the first priority of the country's Decent Work program adopted by the Republic of Uzbekistan and the ILO is called "Strengthening social partnership in Uzbekistan for the implementation of basic principles in the field of labor" shows the importance of this process.

Within the framework of the ILO, the structures that cooperate on the basis of the principle of tripartism, the representation of the government, employers and

employees, are used in ILO practice with the term social partnership. The concept of "tripartism" is interpreted as follows: "mutual cooperation of the government, employers and employees (through their representatives) as equal and independent partners in solving issues of common interest" [11]. The concept of social partnership was mentioned for the first time in ILO documents in ILO Convention 98 of 1949 "On the Application of the Principles of the Right to Organize and Conduct Collective Bargaining", to which Uzbekistan is a participant.

Two different approaches to the concept of "social partnership" can be seen in the literature. The first of them explains the conflict as a way of regulating social and labor relations, while the second one evaluates it as a complex multifaceted social process [2].

According to the Law of the Republic of Uzbekistan on Social Partnership, adopted on September 25, 2014 - Social partnership is the implementation of social and economic development programs of the country, including network, regional programs, as well as normative legal documents and citizens' rights and cooperation in the development and implementation of other decisions related to their legal interests [3].

However, if we pay attention to the fact that the concept of tripartite social partnership used in the framework of cooperation with the ILO covers the government, employers and trade unions, this concept is broadly interpreted in the above law, and labor issues are not specifically mentioned in this concept.

If we pay attention to the experience of foreign countries, the concept of social partnership used in the field of labor relations is directly included in the labor code [4]. In addition, we can see that various models of social partnership have been developed in economically developed countries[5].

Based on the above, the meaning of the phrase "social partnership" implies the implementation of joint activities of the subjects of labor relations. More broadly, the term refers to consultation and cooperation between employees and employers at various levels in an enterprise to determine mutually acceptable terms of employment and remuneration.

The subjects of social partnership in labor relations are employees, employers and the state. The interaction of these three structures is called "tripartism".

The Labor Code of the Republic of Uzbekistan includes the concept of social partnership, according to which social partnership in the field of labor is a system of mutual relations between employees, employers, their representatives, state bodies in the form of their representatives, and this system includes individual labor relations and social relations directly related to them and will be aimed at ensuring the coordination of the interests of employees, employers and the state in relation to regulatory issues [6].

The Labor Code of the Republic of Uzbekistan defines the levels of social partnership in the field of labor, according to which the primary, regional, branch, and republican levels are distinguished.

Social partnership at the primary level has a twofold nature. In this case, the labor team and the employer are the parties of social partnership at the initial level. It is the representatives of employees and employers who participate in various forms of social partnership at different levels, and their actions have legal consequences for employees and employers. In this regard, the study of issues related to the representation of employees and employers in social partnership relations, the organizational and legal formalization of their powers, and the regulation of the legal status of representatives is of great importance in

the formation of the appropriate legal mechanism of social partnership and the effectiveness of social dialogue.

It can be seen from the above that social partnership can be implemented on the basis of bilateralism (bipartism), in which the employee and the employer participate as the main participants of this relationship.

Scientists who have conducted research on this topic believe that the relations that arise within the framework of social partnership are legal relations according to their description, therefore, it is appropriate to use the category of "subject" in relation to the parties of these relations and their representatives [7].

If we pay attention to the experience of foreign countries, as a result of the development of private legal principles in the regulation of labor relations, the direct participation of the state in social partnership relations will decrease, in turn, its role in the legal regulation of social partnership relations will increase.

In Germany, the social partners exempt the state from regulating working conditions, since it is considered incapable of taking into account all the characteristics of the labor process in a particular enterprise. The state is tasked with setting minimum standards in the legal regulation of labor and protecting it, and social partners implement their relations based on these standards [8].

Research shows that workplace representation in Europe has a mixed character, with representation defined in some places by trade unions, works councils, and in some by a combination of both bodies. However, in many countries trade unions are numerically superior [9].

The importance of international norms related to social partnership is, first of all, that they define the main principles of social partnership, and they are the legal basis for the regulation of relations in this area by legislation, and for the implementation of social partnership in various forms. This situation means that in the legal regulation of labor relations, it is necessary to widely apply the international legal standards, as well as the norms established in the ILO conventions and the provisions of the fundamental conventions that have not been ratified.

The activity of the International Labor Organization in the field of international legal regulation of labor consists of mutual consultation, as well as cooperation between state bodies and the main stakeholders - workers and employers [13].

The ILO's Right to Collective Bargaining and Association Convention 98 of 1949 provides for the protection of trade union members against anti-union discrimination, the protection of employers' and workers' organizations from mutual interference, and measures to facilitate collective bargaining.

According to Convention No. 158 of 1982 on Termination of Employment at the Initiative of the Employer, membership in a trade union, participation in trade union activities outside of work hours or during work hours (with the consent of the employer), expressing a desire to be a representative of employees, performing the functions of employee representatives - labor relations under the law there is no reason for termination.

The mentioned conventions have confirmed that the state authorities should not limit this right or prevent its implementation. At the same time, issues of freedom of association, protection of trade unions from discrimination, interference of employers' and

employees' organizations, as well as protection of trade union independence from control and interference by employers and their unions are gaining importance.

ILO also notes that in implementing the principle of tripartism at the national level, state bodies have an obligation to promote cooperation between employers' and workers' organizations in the development and implementation of national policies or the implementation of legislation aimed at implementing the provisions of the Convention [10].

Based on the above, it can be said that the representatives of employers and employees are the main participants in the implementation of social partnership. Social partnership plays an important role in regulating labor relations and protecting the interests of employers and employees. The experience of foreign countries and European Union member states in regulating the issue of social partnership and representation is also not the same. In this sense, it is appropriate to fully apply the international legal norms regulating representation issues to the national legislation, taking into account the national characteristics. Improving the regulation of representation and social partnership issues serves to further strengthen the legal process of implementing the provisions of the 144th Convention of the ILO on Tripartite Consultations ratified by the Republic of Uzbekistan.

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