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IRSTI 10.63.01

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Separate aspects of harmonization of the labor legislation of the countries of the Eurasian Economic Union (EAEU)

At present, the labor legislation of the countries of the Eurasian Economic Union (hereinafter referred to as "the EAEU") differs significantly from each other. The difference is observed in the approaches to the legal regulation of labor relations. The attempt to form a single market of goods, services, capital and labor resources, comprising the so-called "four freedoms" (freedom of movement of capital, goods, services and labor) on the basis of the EAEU, necessitated the approximation of national labor laws. Harmonization of the labor laws of the EAEU countries should be carried out through the development of unified labor principles based on the features of the national development of the member countries and meeting the requirements of international labor standards. At the same time, this process should not be viewed from the standpoint of unifying the national legislation, but its rapprochement. The development of legal projects and solutions, which unite and satisfy the state, will allow each state of the EAEU to retain its sovereignty and political independence, remaining subjects of international relations and international labor law. The creation and adoption of the unified labor regulatory legal act of the EAEU, the conceptual apparatus and terminology will allow to regulate, bring together and harmonize the labor legislation of these countries.

Key words: labor legislation, EAEU, harmonization, labor law principles, international labor standards.

Еуразия экономикалық заңнамалары бір-бірінен ерекшеленеді. Мұндай айырмашылық еңбек қатынастарын құқықтық реттеудің алғышарттарында да кездеседі. Экономикалық одақ базасында біртұтас тауар, қызмет, капитал және еңбек ресурстарын «төрттік еркіндігі» деп аталатын құрамдастықта қалыптастыруға еңбек туралы ұлттық заңнамаларды жақындастыру қажеттілігінен туындайды. Еуроодақ еңбек заңнамаларын гармонизациялау біртұтас еңбек қағидаларын өңдеу арқылы халықаралық еңбек стандарттары талаптарына жауап беретін және одақ қатысушы елдерінің ұлттық даму ерекшеліктеріне негізделе отырып жүзеге асырылады. Бұл үрдіс ұлттық заңнамаларды унификациялау позициясынан емес, оны жақындастыру негізінде болуы тиіс. Мемлекеттің құқықтық жобаларды және шешімдерді өңдеуі евроодақтың әрбір мемлекетіне егемендігін және саяси дербестігін сақтауға және халықаралық қатынастар мен халықаралық еңбек құқығының субъектісі болып қалуына мүмкіндік береді. Еуроодақтық біртұтас еңбек нормативтік актілерін қалыптастыру және қабылдау, түсініктер мен терминологияны өңдеу бұл елдердің еңбек заңнамаларын жақындастыруға және гармонизациялауға мүмкіндік береді.

Түйін сөздер: еңбек заңнамалары, еуроодақ, гармонизация, еңбек құқық қағидалары, халықаралық еңбек стандарттары.

В настоящее время трудовое законодательство стран Евразийского экономического союза (далее – ЕАЭС) существенно отличается друг от друга. Различие наблюдается и в подходах правового регулирования трудовых отношений. Стремление к формированию на базе ЕАЭС единого рынка товаров, услуг, капитала и трудовых ресурсов, составляющих так называемые «четыре свободы» (свобода движения капиталов, товаров, услуг и трудовых ресурсов), обусловило необходимость в сближении национальных законодательств о труде. Гармонизация трудовых законодательств стран ЕАЭС должно осуществляться через выработку единых трудовых принципов, базирующихся на особенностях национального развития стран-участниц союза и отвечающих требованиям международных трудовых стандартов. Вместе с тем, этот процесс необходимо рассматривать не с позиции унификации национального законодательства, а его сближения. Выработка объединяющих и устраиваю-

 Printed in Kazakhstan

щих государства правовых проектов и решений, позволит каждому государству ЕАЭС сохранить суверенитет и политическую самостоятельность, оставаясь субъектами международных отношений и международного трудового права. Создание и принятие единого трудового нормативно-правового акта ЕАЭС, понятийного аппарата и терминологии позволит урегулировать, сблизить и гармонизировать трудовое законодательство этих стран.

Ключевые слова: трудовое законодательство, ЕАЭС, гармонизация, принципы трудового права, международные трудовые стандарты.

Methods

As the main tool for the scientific study of certain aspects of the harmonization of the labor legislation of the EAEU countries, a general scientific method of cognition of social processes is used: analysis and synthesis, comparisons and generalizations, computational and analytical, expert. The methodological basis of the research was the normative-logical, historical methods, comparative jurisprudence, analytical synthesis, system-legal method and others. The application of the dialectical approach to the comprehension of the social reality of the EAEU countries allowed us to consider internal and external contradictions. The main practical applied method is the comparative legal method, as it is an integral element of the methodology of comparative studies used in branch legal sciences and in particular labor law.

Introduction

One of the significant aspects of social modernization is the improvement of the mechanism of labor relations. The President of the country outlined in the "Plan of the nation – 100 steps to implement five institutional reforms" [1] through the need to liberalize labor relations and the adoption of the New Labor Code. The reform of labor relations and labor legislation in the Republic of Kazakhstan against the backdrop of changing integration and geopolitical processes is particularly important.

The comprehensive expansion of economic ties, mutually beneficial socio-political and cultural cooperation, coupled with a common historical development, allowed the countries of the post-Soviet space to seriously pay attention to the possibilities of integration partnership. The formation of the Eurasian Economic Community on the basis of the Commonwealth of Independent States was the first significant step towards the creation of a powerful economic bloc of the Eurasian continent. The subsequent union of customs borders in the format of the Customs Union and the creation of the Common Economic Space of Russia, Kazakhstan and Belarus only confirmed the growing prospects for economic and social convergence of these countries.

On January 1, 2015, the Treaty on the Establishment of the Eurasian Economic Union (hereinafter referred to as the "Unified Energy System of Ukraine") entered into force, where, in addition to Kazakhstan, Russia and Belarus, Armenia and Kyrgyzstan entered. According to Article 4 of the Treaty on the Eurasian Economic Union (hereinafter the Treaty), one of the main objectives of the EAEU is the desire to form a single market for goods, services, capital and labor, which is the so-called "four freedoms" (freedom of movement of capital, goods, services and labor resources) [2].

At the moment, the interstate level is discussed the convergence of national labor migration legislation, and a phased transition to a single service market had began. Thus, the Decision of the Board of the Eurasian Economic Commission of December 18, 2014 approved the draft decision of the Council of the Eurasian Economic Commission "On the draft decision of the Supreme Eurasian Economic Council" On the approval of the list of services in which a single market of services is functioning within the framework of the Eurasian Economic Union "[3] which implies the adoption by Member States of specific commitments on the formation and functioning of a single market of services. Regarding labor migration issues, it should be noted that the Treaty on the Establishment of the EAEU provides for the recognition of documents on the formation of any country of the EAEU; the implementation of social security (social insurance) of workers of member states and members of their families on the same conditions and in the same manner as for citizens of the State of employment; accounting for the length of service of the working member states in the total length of service in accordance with the legislation of the state of employment, etc. [2].

Thus, it should be noted that the creation of a single labor market on the territory of the Eurasian Economic Union will inevitably entail the need to harmonize the labor laws of the EAEU countries with a view to the most effective cooperation and the functioning of the new economic union. In this connection, the issue of developing directions and approaches to the formation of a single labor legislation is acute.

Issues of Harmonization of Labor Legislation

As Russian scientists emphasize, simultaneously with the formation of new socioeconomic, political and spiritual prerequisites for the construction of the Russian rule of law, the content of the normative material is updated, and the tendencies of its improvement and development are modified [4]. This is the need to strictly ensure the rule of law in all spheres of society; specialization, unification, intensification of legislation; contradictoriness and competitiveness of its structures; an increase in the array of technical and legal prescriptions, the scientist's state [5]. These trends, which we believe can be fully extended to the post-Soviet legislations of the EAEU countries, can be conditionally divided into three large groups. The first group includes: comprehensive strengthening of the legislative priority, intensification and the desire for stability. The second is the specialization of legislation with its various forms of manifestation: differentiation, specification, detail. The third group includes legal unification and related processes: integration, generalization, universalization, the publication of complex normative acts [6].

The above-mentioned tendencies in the development of the current legislation also include the one called the harmonization of the labor legislation of the EurAsEC member states, which is fixed by the Recommendations on Harmonization of the Labor Legislation of the EurAsEC Member States, approved by Resolution No. 10-13 of the Interparliamentary Assembly of the EurAsEC of 13 May 2009 [7]. Note that the definition of "harmonization" is absent in the legal conceptual apparatus.

According to the aforementioned act, the harmonization of the labor legislation of the EurAsEC member states can be carried out in several ways:

1) the creation of a model Labor Code, which has an advisory character;

2) the adoption of the Fundamentals of the labor legislation of the Eurasian Economic Community, which has the status of a normative act of direct action;

3) introduction of amendments and additions to the existing labor codes of the EurAsEC states with a view to creating unified conditions for the use of labor.

The aforementioned ways of harmonizing the labor legislation of the Eurasian Economic Community, which in the theoretical and practical terms will be transferred to the legislation of the EAEU states, are perceived ambiguously and, naturally, are reflected in different views of the researchers of this topic.

Currently, the EEC, together with the General Confederation of Trade Unions (GCTU), is considering the establishment of the "Principles of Labor Legislation of the Member States of the Eurasian Economic Union (EAEC)", which will be discussed at the 3rd meeting of the Advisory Committee on Social Security, provision of medical care and professional activities of workers of the EEA member states [8].

From our point of view, it is necessary to work out a single concept of harmonization of labor legislation, which, we believe, should be understood as convergence of national labor laws, but not their unification, reducible only to the development of uniform norms designed for similar relations. Of course, the process of unification in national legislation is regarded as a kind of science of generalization and unification of structures of legal regulation, the content of which is formed by the legislator in the form of the need to develop unified legal models in the labor legislation of a certain state [9].

The further completion of unification can, as a rule, act as a separate regulatory legal act, or the structured content of certain sections of the foundations, codes, regulations, statutes of various branches of legislation, including labor. From these positions, unification of the labor or other legislation of any single state of the EAEC is not in doubt, but we are talking about the approximation (harmonization) of the labor laws of sovereign states [10].

Recommendations on the harmonization of the labor legislation of the EurAsEC member states have been implemented within the framework of the unification of the legislation of a single national state. S.U. Golovinacorrectly, noted that harmonization of the labor legislation of the EurAsEC member states is aimed at creating interstate standards in the sphere of wage labor regulation, as well as improving national legislations [11].

Does not cause a dispute and proposal of S.U Golovina that the international labor standards should become the basis for harmonization of the labor legislation of the EurAsEC member states, which can be regarded as model for the Fundamentals of the EurAsEC labor legislation. On the one hand, the most important rules concerning the labor contract, work time and rest time, disciplinary and material responsibility are subject to unification, and on the other hand, the scientist suggests, it is advisable to leave certain opportunities for preserving the

national features of regulating labor relations, the established legal traditions of states members of EurAsEC.

N.L Liutov is convinced that when it comes to harmonization of labor legislation within the framework of the Eurasian Economic Community, it should be understood that behind this term there are two completely different phenomena that do not always distinguish:

a) unification (or convergence) of labor legislation with a view to making it more convenient for them to use the workers and employers in the territory of the Eurasian Economic Community;

b) the creation of a common economic space and, as a result, the EurAsEC common labor market.

It is theoretically possible to implement the unification of the labor legislation of the EurAsEC, that is, bringing it to some common denominator, but without the creation of a single labor market, the meaning of such unification will be largely minimized [12].

This approach to understanding the notion of harmonization of labor legislation differs from the previous one, including the conceptual provisions of the recommendations on the harmonization of the labor legislation of the EurAsEC member states. Supporting the concept of the Fundamentals of the EurAsEC Labor Law, the scientist makes a number of interesting proposals aimed at solving the problems of harmonization of the labor legislation of the EurAsEC member states. In this regard, the grounds, the ideas of S. Yu. Golovina, which affirm the priority of the Fundamentals of the EurAsEC Labor Law, are not flawless.

At the same time, while agreeing with many theoretical calculations of these scientists, I would like to say the following. Harmonization of the labor legislation of the EurAsEC states should be considered from the point of view of its rapprochement, and not from the position of its unification pursued in any state with a view to its further development. In this sense, the harmonization of labor law in the EAEU states and the unification of labor legislation in a single country, conducted with the help of national legal methods, should be regarded as philosophical categories: general and particular.

The explanation for this is found in the fact that the EAEU states are sovereign, independent states, are the subjects of international relations. And the interstate relations of these states are based on generally accepted international principles and norms. In this respect, we agree with Yu.A. Tikhomirov, who claims that "the approximation of the legislation of different countries is the policy of states to harmonize the principles of legal regulation based on the norms of international law, the definition of stages and joint measures for the development of national legislation" [13].

He concludes that "with the strengthening of integration trends in the world, the process of coordinated development is more ambitious and intensive. Each national legal system reflects the sovereignty of the state and its unequal approaches to linking its own interests in the international General rules of doing business in the world community are developed by recognizing their value and regulation for participating States. At the same time, universally recognized principles and norms of international law influence national legal systems".

Harmonization aims at ensuring uniformity in approaches to coherence, harmony, consistency in the system of both national and interstate legislation.

Legal principles of the labor law of the Unified Energy System of EAEU

The basis, the foundation of harmonization, the construction of the unified labor legislation of the EAEU countries, in our opinion, should be the principles of law common to the member countries, enshrined in national legislation and common for countries of the conceptual apparatus in the field of labor law.

It is through unified, identical constitutional principles that it is possible to build a common law, since it is this category of law that objectively reflects the needs of society, fixing them legislatively, through the manifestation of consciousness and law enforcement activities of legislators.

At present, there is no agreed opinion on the concept of legal principles in legal science. Summarizing the approaches to the concept of "principles of law" encountered in the literature, there are three main ones:

1. The traditional approach exists in the so-called traditional legal systems (Islamic law, Hindu law). In them, the concept of "principles of law" as such has not yet developed, although there are a number of fundamental ideas that actually are the principles of law.

2. The Romano-German approach was embodied in the countries of the Romano-German legal family. For all of them, the concept of sources of law is general, according to which law is not created a priori way and is not contained exclusively in legislative norms. Moreover, in some countries, general principles of law are explicitly enshrined in the law as a source of law [14].

For example, referring to general principles of law in the event of gaps in legislation is prescribed to the judge in the civil codes of Austria, Greece, Spain, Italy, and Egypt [15]. Article 6 of the Spanish Civil Code lists among the sources of law "general principles arising from Spanish codes and legislation" [15]. The Council of State of France, as the highest instance of administrative justice, repeatedly refers to justice as a source when making decisions on specific cases. <3> According to R. David, the general principles reflect "the subordination of the right to the dictates of justice in the form in which the latter is understood in a certain epoch and a certain moment" [15]. For the countries of the Romano-German legal family, from the point of view of R. David, the antipositivistic tendency is generally characteristic. In particular, this is confirmed by the Federal Supreme Court (Bundesgerichtshof), and the Federal Constitutional Court of the Federal Republic of Germany (Bundesverfassungsgericht). Both these bodies announced in a series of their decisions that constitutional law is not limited to the text of the Basic Law, but also includes "some general principles that the legislator did not specify in the positive norm" that there is a suppository law that links even the constituent power of the legislator. Thus, the general principles of law in the Romano-German legal family are regarded as a kind of higher law.

The Anglo-Saxon approach is typical, respectively, for countries belonging to a legal family with a similar name. In the countries of Anglo-Saxon law, the concept of general principles of law has not historically evolved. Cases in the case of gaps in the law were initially decided on the basis of reason. Later, this concept was replaced by the notion of natural justice, worked out by English courts. Justice as a category has a dual purpose in English law.

Thus, in the courts of the Chancellor, justice (equity) served as a means of correcting the decisions of common law courts in their appeal, and the principles of natural justice (the principles of natural justice) form the basis for solving the case in the event of gaps. Thus, in the countries of the Anglo-American (Anglo-Saxon) legal family, instead of the concept of "principles of law", there is the notion of "principles of natural justice", which also include procedural guarantees (for example, the right to protection). It should be noted that the general principles of law and the principles of natural justice are primarily aimed at ensuring basic human rights.

The word "principle" is translated as "basis", "guiding idea", "beginning", the philosophical meaning of which is laid down by the learned jurists directly in the very concept of legal principles. In particular, a number of authors, including S.S. Alekseev, interpret the term of legal principles as follows: "The principles of law are guiding ideas that characterize the content of law, its essence and purpose in society" [16].

Kazakh jurists E.N. Nurgaliev and S.A. Bukharbayev, while supporting this view, note that such an understanding of the term reflects the external aspect of its content [17]. However, despite the unity of opinions and approaches of scientists in the general definition of law, the issue of the objective and subjective nature of the principles of law is still debatable in scientific circles. Some scholars adhere to the view of the subjective nature of legal principles and regard the principles of law as fundamental subjective ideas, views that are strictly abstract, not fixed by law, thereby transforming them into a theoretical category of legal consciousness. Thus, for the ideological position of legal principles, along with other researchers, (D.A Kovachev, L.S Yavich, O.V Smirnov, A.M Vasiliev),R.Z. Livshits, said that about fact that the principles of law are fundamental ideas, the beginnings that express the essence of law, the ideas of justice and freedom [18].

A number of researchers, including V.M. Semenov, pointing to the objective nature of legal principles, which in turn areexpressed in the fact that their formation and development is associated with the material conditions of society and social relations. We join the opinion of theoreticians in the field of law, G.KH.Shafikova and M.S. Sagandykov that the principles of law have both objective and subjective qualities. They are objective because they are conditioned by real economic and social qualities, and are subjective, since they are the results of law-making activity of the state, intellectual activity of the legislator [19].

Thus, certain researchers are certainly right when they say that legal principles, being guiding, fundamental principles of law, being enshrined in the law, should not be identified with the rules of law, in other words, the principles of their legal significance are much higher than the norms of law [20].

If we analyze the labor laws of the EEA countries, then the similarity of principles is observed in the labor laws of all the countries participating in the EAES. The peculiarity of the labor legislation in the Republic of Belarus is that the Labor Code of the Republic of Belarus, (unlike the labor legislation of other states) does not contain a separate chapter or section on the principles of labor law. Legal principles in the world of work

are enshrined in the Constitution of the Republic of Belarus, as well as in certain norms of the LC of the Republic of Bashkortostan; similarly as in the constitutions of the Republic of Kazakhstan, the Russian Federation, the Republic of Armenia and the Republic of Kyrgyzstan.

We believe that the universally recognized labor legal norms and principles enshrined in international legal instruments, uniform terms and definitions should be the foundation of the unified harmonized labor legislation of the EAEU countries.

The internationalization of labour law found institutional embodiment in the ILO. The adoption of national labour codes and the gradual institutionalization of labour law as a discipline were paralleled by the ILO's standard-setting work at the international level. The development of national legislation and international legal instruments on labour was thus coordinated [21]. The ILO is dedicated to promoting four main objectives [22]: These objectives are to advance 1) fundamental principles of rights at work, 2) greater opportunities for obtaining employment meeting those conditions, 3) enhanced coverage and effectiveness of social protection for all, and 4) tripartism (involving governments, employers, and workers) and social dialogue in labor relations [23].

The ILO achieves these objectives through its Constitution [24] and the related Declaration of Philadelphia (1944), [25] 189 labor conventions, [26] 202 recommendations, [27] the 1998 Declaration of Fundamental Principles and Rights at Work (1998 Declaration), [28] and mechanisms for member state reporting and monitoring compliance with the conventions and recommendations including the Committee on Freedom of Association. [29] Aside from the Constitution and the 1998 Declaration, the most significant ILO instruments are eight core labor conventions, addressing forced labor, [30] freedom of association, [31] organization and collective bargaining, [32] equal remuneration, [33] discrimination, [34] and child labor [35].

The ILO Declaration on Fundamental Principles and Rights at Work and its Implementation Mechanism, adopted by the General Conference of the ILO, recommends the following principles for all countries participating in the world of work:

1) freedom of association and effective recognition of the right to collective bargaining;

2) the abolition of all forms of forced or compulsory labor;

3) the effective prohibition of child labor;

4) non-discrimination in employment and occupation [36].

In addition, the Belarusian scientists, on the basis of the analysis of the ILO Constitution and the current ILO declarations, identify the following principles of international labor law as universally recognized (fundamental):

1) the principle of social justice, including the provision of opportunities for all to participate in the fair distribution of the fruits of progress in wages, working hours and other working conditions, as well as the subsistence level of wages for all who work and need such protection;

2) the principle of equal pay for equal work;

3) the principle of freedom of speech and freedom of association of workers and employers as a necessary condition for constant progress;

4) the principle of humanity (humanism) of labor, including the provision of human labor conditions to workers, the recognition of poverty as a threat to the common welfare and the recognition of the right of all people to exercise their material well-being and spiritual development in conditions of freedom and dignity, economic stability and equal opportunities;

5) labor is free and it is not a commodity;

6) the principle of social partnership, including equality and cooperation of representatives of workers, entrepreneurs and governments [37].

The above principles are reflected in one way or another in the labor laws of the EEA countries. We consider it necessary to pay attention to the fundamental international principle – the principle of the right to work, as its legislative and scientific interpretation does not coincide in the states of the EAEU, and in Kazakhstan, it is completely excluded from the content of normative legal acts.

The principle of the right to labor as a fundamental principle in the world of labor

Article 24 of the Constitution of the Republic of Kazakhstan says that everyone has the right to freedom of labor, free choice of occupation and profession [38]. Article 6 of the Labor Code of the Republic of Kazakhstan establishes that everyone has the right to freely choose work or freely agree to work without any discrimination and coercion, the right to dispose of their abilities to work, to choose a profession and occupation [39]. The right to free choice of labor is fixed art. 32 of the Armenian Constitution [40]. A similar norm applies to the Constitution of the Republic of Kyrgyzstan under Article 32 § 3 "Everyone has the right to freedom of labor, to dispose of his abilities to work, the choice of profession and occupation, security and working conditions that meet safety and hygiene

requirements, and the right to remuneration for work is not lower than the subsistence minimum established by law "[41].

In accordance with article 23 of the Universal Declaration of Human Rights, everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. The European Social Charter in Article 1 specifies the principle of the right to work and, in order to ensure the effective implementation of this principle, requires to the parties to recognize one of their main goals and responsibilities to achieve and maintain the highest possible and stable level of employment, as far as possible, employment; to ensure effective protection of the right of workers to earn their living by work in a freely chosen profession, to create or support free employment services for all workers, and to ensure or facilitate the provision of appropriate vocational guidance, training and retraining. According to the International Covenant on Economic, Social and Cultural Rights, everyone has the right to work, including his right to earn a for living, and the state must take measures to fully to implement this right [42].

Thus, the notion of the right to work in international documents is much broader than freedom of labor, and includes in its content the guarantee of the state on employment, employment, and so on. The Republic of Belarus and the Russian Federation in national legislation have established a different concept of the principle of the right to work. Paragraph 1 of Article 11 of the Labor Code of the Republic of Belarus fixes the right to work as the most worthy way of self-affirmation of a person, which means the right to choose a profession, occupation and work in accordance with vocation, education, vocational training and taking into account social needs, as well as healthy and safe working conditions. The Labor Code of the Russian Federation proclaims the principle of freedom of labor, including the right to work, which everyone freely chooses or freely agrees to, the right to dispose of his abilities to work, to choose a profession and occupation.

Thus, the principle of labor freedom, as enshrined in the labor legislation of the Republic of Kazakhstan, does not fully meet the requirements of international standards. The principle of freedom of labor, unlike the principle of the right to work, does not act as a guarantor of the human right to work, does not contribute to the solution of issues of employment and unemployment problems, since this principle is largely declarative in nature, giving priority to the natural human right to free choice of labor without the necessary state guarantees.

Conceptual apparatus and terminology

With a view to a uniform understanding and application of labor legislation, it seems necessary to develop a single conceptual apparatus, developing standard definitions of the most used concepts. In particular, such basic terms as the concept of labor relations, labor contract, wages, rest, working hours, etc., may refer to them. Let us note that at present the conceptual apparatus of legal regulation of labor relations in the EAEC countries differs significantly from each other. The interpretation of labor relations in Kazakhstan and the countries of the EAEC is not the same. Thus, in accordance with pp. 24 of p. 1 of Article 1 of the Labor Code of the Republic of Kazakhstan, employment relations are understood as relations between an employee and an employer arising for the exercise of rights and obligations stipulated by the labor legislation of the Republic of Kazakhstan, labor, collective agreements.

This definition does not fully reflect the essence of the employment relationship, which has a number of characteristics, such as the performance of a specific labor function, when the employee personally performs the assigned labor function, which may not be civil law; the employee fulfills his labor function, subject to the internal labor regulations of the organization, (in the relationship of civil law nature of such submission is not); the employee has the right to pay wages, as well as to provide the employer with work in accordance with the profession, qualifications, etc., as well as to provide them with working conditions. In this light, the Labor Code of the Republic of Kazakhstan defines the concept of labor relations as the definition of an employment contract, although it is not explicitly mentioned in the code's text, for example, in the Labor Code of the Republic of Belarus (hereinafter RB), where article 4 says that "the labor code regulates labor relations based on an employment contract "[43].

More detailed content of labor relations is set forth in Russian legislation. According to the Labor Code of the Russian Federation (hereinafter RF), labor relations are relations based on an agreement between an employee and an employer on personal performance of a labor function for a fee (work in accordance with the staff schedule, profession, specialty, qualification, employee), subordination of the employee to the rules of internal labor regulations, while providing the employer with working conditions stipulated by labor legislation

and other regulatory legal acts containing the norms of labor law, collective agreement, agreements, local regulatory enactments, labor agreement [44].

Similar to the Republic of Belarus and the Russian Federation, the concepts of labor relations are fixed in the labor laws of Kyrgyzstan and Armenia. Thus, Article 13 of the Labor Code of Kyrgyzstan says that labor relations are the relationship between an employee and an employer about personal performance by an employee for payment of a labor function (work in a particular specialty, qualification or position) with subordination to the internal labor schedule while providing the employer with working conditions stipulated by labor legislation, a collective agreement, agreements, an employment contract [45].

According to the Labor Code of Armenia, labor relations are understood to be relations based on a mutual agreement between the employee and the employer, according to which the employee personally performs labor functions for a certain payment (work in a particular specialty, qualification or position), subject to internal regulations, and the employer provides conditions labor, provided for by labor legislation, other normative legal acts containing labor law norms, collective and labor contracts [46].

Obviously, approaches to the definition of labor relations in the three above-mentioned states differ with almost identical interpretation of the same term.

Conclusion

Thus, the processes of integration and internationalization of material production, technology and science, the deepening of the international division of labor and, accordingly, the development of world economic exchange, as well as the mutual enrichment of cultures, do not fit into national legal systems: the international legal system acquires more law enforcement practice, i's. primacy over domestic (national) legislation. Thus, the importance of the international legal system is so high in resolving the issues of maintaining world civilization.

Awareness of the inseparable connection between the integral national legal system of the country, the rule of law in the world community, international relations being built on a legal basis, represent an important feature of modern political thinking. One of the signs of the development of the country as a rule of law is the improvement of the legal system of national legislation – that is, the state faces the integrated task of legal reform, which includes updating all its elements and ensuring conditions for their optimal interaction with the norms of national legislation and international law, enhancing the integrity of the system, on which the effectiveness of legal regulation as a whole depends.

In other words, the national and international legal systems are "doomed" to be in close interaction. With regard to relations in the world of work, this relationship is particularly strong. Modern international law is largely formed under the influence of the most successful examples of the national labor legislation. However, when analyzing any one national labor law system, the impact is much more noticeable: the impact of international legal acts on national outs.

Harmonization of the labor legislation of the EAEU states should be carried out by convergence on the basis of the theory of transformation. States, without creating supranational legislative bodies, ratify the labor agreements developed by the bodies authorized by them, which take into account the national characteristics of each state and, on the basis of universally recognized international principles and standards, develop legal projects that unite and satisfy the states.

These projects are adopted by each EAEU state as laws, ratifying them in national parliaments. At the same time, the EAEU states retain their sovereignty, political independence, remaining subjects of international relations and international labor law.

References

The nation's plan is 100 steps. The modern state for all. (May 2015). Kazakhstan's truth, №92.

Treaty on the Eurasian Economic Union [Electronic resource]: the contract of May 29, 2014. – Astana // Reference and legal system "Consultant Plus". – Access mode: local. – The date of update is 03/10/2015.

On the draft decision of the Council of the Eurasian Economic Commission "On the draft decision of the Supreme Eurasian Economic Council" On the approval of the list of services in which a single market of services operates within the Eurasian Economic Union "[Electronic resource]: Decision of the Board of the Eurasian Economic Commission of December 18, 2014 No. 241 // Information and legal system "Adilet" – Access mode: local – Date updated 03.10.2015

Lawmaking in the Russian Federation. (1996). Moscow.

Matzuva, N.I. & Malko, L.A. (1999). Theory of State and Law: Lecture Course. Moscow: Jurist.

Theory of State and Law. Course of lectures. (382).

Decision of the Interparliamentary Assembly of the Eurasian Economic Community. (May 13, 2009). Recommendations on harmonization of the labor legislation of the EAEU member states (based on a comparative legal analysis of national legislations),10-13.

Journal of the Eurasian Economic Union "The Partner of the EAGE" The fundamentals of the labor legislation of the EAEU member states will additionally protect the labor rights and interests of the workers of the countries of the Union. [Electronic resource]: http://eurasmedia.ru/2017/09/3286/

Abaideldinov T.M., Suleimenova S.Zh. "Prospects for the approximation of the labor legislation of the EAEU countries" / / Legal regulation of the implementation and protection of the rights of individuals and legal entities: materials of the Intern. scientific-practical. Conf., dedicated to the 90th anniversary of Professor V.F. Chigir (Minsk, November 4 – 5, 2014) / editors: I.N. Kolyadko (Ed.) [And others]. – Minsk: Law and Economics, 2014. – 500 p.

Abaideldinov T.M., Suleimenova S.Zh. "Mechanisms for ensuring the implementation and protection of labor and social rights prospects for convergence of labor laws of the EAEU countries" // Legal regulation of the implementation and protection of the rights of individuals and legal entities: materials of the Intern. scientific-practical. Conf., dedicated to the 90th anniversary of Professor V.F. Chigir (Minsk, November 4 – 5, 2014) / editors: I.N. Kolyadko (Ed.) [And others]. – Minsk: Law and Economics, 2014. – 500 p.

Golovin, C.Y. (2010). On the issue of the need to adopt the Basic Principles of Labor Law of the EAEU. Labor law in Russia and abroad, pp.2-4.

Rabtsevich O.I. The problem of general principles of law in international law // Right and Politics. – 2007. – No. 11. – p.80-85. (85).

Lyutov, N.L. (2010). Some considerations on the harmonization of labor legislation within the EAEU.Labor law in Russia and abroad, pp.17-22.

Tikhomirov, Y.A. (2006) Comparative law: the development of concepts and social practice, p.12.

Lyutov, N.L. & Mironov, P.E. (2011).International labor law. Tutorial. Moscow:Publishing House.

Alekseev, S.S. (2005). Theory of State and Law, p.204

Nurgalieva, E.N. & Nurgalieva, S.A. (2004). Principles of labor law, p.160

Livshits, R.Z. (1994). Theory of Law: Textbook, p.224

Shafikova, G.Kh. (2004). Constitutional principles of labor regulation in the Russian Federation, p.184

Abaideldinov, T.M. (2001). On the implementation of certain principles of labor law: theory and practice. Human and law, 4, 39-43.

Eric Gravel and Quentin Delpech. International labour standards: Recent developments in complementarity between the international and national supervisory systems / International Labour Review, Vol. 147 (2008), No. 4.

David Weissbrodt & Matthew Mason. Compliance of the United States with International Labor Law, 98 Minn.L.Rev. 1842 (2014), available at http://scholarship.law.umn.edu/faculty_articles/368.

Missions and Objectives, ILO, http://www.ilo.org/global/about-the-ilo/mission-and-objectives/lang--en/index.htm (last visited Apr. 1, 2014).

ILO, Constitution of the ILO (Apr. 1, 1919), http://www.ilo.org/public/english/bureau/leg/download/constitution.pdf [hereinafter ILO, Constitution].

ILO, Declaration Concerning the Aims and Purposes of the International Labour Organisation (Declaration of Philadelphia) (May 10, 1944), http://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO#declaration [hereinafter Declaration of Philadelphia].

NORMLEX INFO. SYS. ON INT'L LABOUR STANDARDS, Conventions,http://www.ilo.org/dyn/normlex/en/f?p=1000:12000:0::NO::: (last visited Apr. 1,2014).

NORMLEX INFO. SYS. ON INT'L LABOUR STANDARDS, Recommendations, http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12010:0:NO:: (last visited Apr. 1, 2014).

NORMLEX INFO SYS. ON INT'L LABOUR STANDARDS, 1998 Declaration on Fundamental Principles and Rights at Work, http://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453911:NO (last visited Apr. 1, 2014) [hereinafter 1998 Declaration]; see also ILO, Declaration on Social Justice for a Fair Globalization (June 10, 2008), http://www.ilo.org/wcmsp5/groups/public/---dgreports/---cabinet/documents/genericdocument/wcms_099766.pdf (representing the third major statement of principles adopted by the ILO since the Constitution, which builds upon and reaffirms the Declaration of Philadelphia and the 1998 Declaration in the context of globalization).

Committee on Freedom of Association, ILO, http://www.ilo.org/global/ standards/applying-and-promoting-international-labour-standards/committee-on-freedom-of-association/lang--en/index.htm (last visited on Apr. 1, 2014).

ILO, Convention (No. 29) Concerning Forced or Compulsory Labour,June 28, 1930, 39 U.N.T.S. 55; ILO, Convention (No. 105) Concerning the Abolitionof Forced Labour, June 25, 1957, 320 U.N.T.S. 291 (ratified by the UnitedStates).

ILO, Convention (No. 87) Concerning Freedom of Association and Protectionof the Right to Organise, July 9, 1948, 68 U.N.T.S. 17 [hereinafter ILOConvention No. 87].

ILO, Convention (No. 98) Concerning the Application of the Principles of the Right to Organize and to Bargain Collectively, July 1, 1949, 96 U.N.T.S.257 [hereinafter ILO Convention No. 98].

ILO, Convention (No. 100) Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, June 29, 1951, 165 U.N.T.S.303 [hereinafter ILO Convention No. 100].

ILO, Convention (No. 111) Concerning Discrimination in Respect of Employment and Occupation, June 25, 1958, 362 U.N.T.S. 31 [hereinafter ILO Convention No. 111].

ILO, Convention (No. 138) Concerning Minimum Age for Admission to Employment, June 26, 1973, 1015 U.N.T.S. 297 [hereinafter ILO Convention No. 138]; ILO, Convention (No. 182) Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, June 17, 1999, 2133 U.N.T.S. 161 [hereinafter ILO Convention No. 182] (ratified by the United States).

ILO Declaration on Fundamental Principles and Rights at Work and Mechanism for its Implementation [Electronic resource]

Tomashevsky, K.L. (2010).The universally recognized principles of international law in the world of work: a list and legal force. Journal of International Law and International Relations, 4.

Constitution of the Republic of Kazakhstan. (2015). Almaty: Lawyer, p.75

Labor Code of the Republic of Kazakhstan. (2014).Almaty: Lawyer, p.112

Constitution of the Republic of Armenia. (1995).

Constitution of the Republic of Kyrgyzstan. [Electronic resource]. The website of the Government of the Republic of Kyrgyzstan: http: //www.gov.kg/?page_id=263&lang=en

International Protection of Human Rights and Freedoms. (1990). Moscow, p.346.

The Labor Code of the Republic of Belarus. Minsk, p. 272.

Labor Code of the Russian Federation. (2015). Moscow:Eksmo, p. 416.

Labor code of the Republic of Kyrgyzstan. (2004).

Labor Code of Armenia. (2014). [Electronic resource]: http://www.parliament.am/legislation.php?sel=show&ID=2131&lang=eng