GALAXY INTERNATIONAL INTERDISCIPLINARY RESEARCH JOURNAL (GIIRJ)
ISSN (E): 2347-6915
Vol. 9, Issue 12, Dec. (2021)

RESOLVING COLLECTIVE LABOR DISPUTES IN UZBEKISTAN

Raximov Miryoqub Aktamovich
Lecturer of Tashkent State University of Law

ANNOTATION

Based on the norms of the Labor Code of Uzbekistan and the theory of labor law, the article examines the issues of definitions of collective labor disputes, conciliation procedures for their consideration and resolution.

Keywords: collective labour disputes, conciliation procedures to consider and resolve, conciliation commission involving a mediator, labour arbitration

TYPES OF LABOR DISPUTES

Generally recognized and legally established in the labor legislation of most countries of the world, including all developed countries, is the recognition of the existence of two types of labor disputes: disputes of a claim nature (or disputes about the right) and disputes of a non-claim nature (or disputes about the interest). Disputes of a claim nature are disputes concerning the application of labor legislation, collective agreements, collective contracts, other local regulations, as well as the employment contract. Such disputes are considered in the courts. In addition, the legislation of various countries provides for the possibility of considering these disputes in a special body created at the enterprise. In the CIS countries, such a body is the Labor Disputes Commissions. When considering a labor dispute of a claim-based nature Labor Disputes Commissions or the court makes a decision based on an assessment of whether the norms of labor legislation, the provisions of collective agreements, collective agreements, other local regulations, as well as the employment contract have been violated or not.

Disputes of non-claim nature do not arise in connection with violations of labor legislation, provisions of collective agreements, collective agreements, other local regulations, or employment contracts. For example, two enterprises produce the same products, have equal incomes, and employ workers in the same professions. However, at one of these enterprises, workers receive an average of 10 million UZS per month, and at the other – 3 million UZS. Employees of the second enterprise put forward a demand for an increase in the amount of remuneration to 5 million UZS per month. However, the employer refused to meet this requirement of employees. In this case, there is a disputes of a non-claim nature or a dispute about interest.

Such a dispute cannot be considered by the court or Labor Disputes Commissions, since the employer has not violated the norms of labor legislation, the provisions of collective agreements, the collective agreement, as well as the terms of the employment contract. These disputes are resolved through the use of conciliation and mediation procedures. In most countries of the world, such procedures include: consideration of a dispute by a conciliation commission, an intermediary or mediator, and labor arbitration. In the event that the dispute cannot be resolved through the use of conciliation and mediation procedures, employees are given the right to resort to strikes as an extreme method of resolving a collective labor dispute. At the

same time, it should be noted that in many countries this right of employees is limited by fixing in the legislation a large list of requirements, if at least one of which is not met, employees cannot go on strike. This approach minimizes the risk of strikes.

INTERNATIONAL STANDARDS ON THE COLLECTIVE LABOR DISPUTES

According to Article 8 of The International Covenant on Economic, Social and Cultural Rights, ratified by 171 countries, establishes the right to strike, provided that it is implemented in accordance with the laws of each country. The Republic of Uzbekistan acceded to this Covenant in accordance with the Resolution of the Oliy Majlis of the Republic of Uzbekistan dated August 31, 1995 No. 126-I "On accession to the International Covenant on Economic, Social and Cultural Rights of December 16, 1966". In addition, a number of ILO documents refer to the right of workers to strike. In particular:

- Resolution, concerning the repeal of anti-union Legislation by ILO Member States (1957) - calls on States to ensure "the effective and unrestricted exercise of trade union rights, including the right of workers to strike";- ILO Convention No. 105 (ratified by Decree No. 498-I of the Oliy Majlis of the Republic of Uzbekistan dated August 30, 1997) - indicates that "it is prohibited to use forced or compulsory labor as a punishment for participating in strikes";
- Resolution concerning trade Union rights and their relation to civil liberties (1970) - requires the governing body to request the Director-General "to prepare reports on the law and practice in matters relating to freedom of Association and trade Union rights and related civil liberties within the competence of the ILO, focusing on a number of issues, including ..... the right to strike".The right to strike is enshrined in the constitutions of the vast majority of countries, including those formed in the former Soviet Union (Rossiya, Azerbaijan, Armenia, Belarus, Moldova, Kyrgyzstan, Georgia, Kazakhstan, Ukrainea, Lithuania, Estonia). In some countries (USA, New Zealand, Tajikistan) the right to strike is not reflected in the constitutions, but is enshrined in the legislation. For example, this right is contained in Article 323 of the Labor Code Tajikistan. Only in the legislation of two countries (Uzbekistan and Turkmenistan), from among those formed in the post-Soviet space, the right to strike is not even mentioned. Moreover, the Criminal Code of the Republic of Uzbekistan contains article 218, which provides for responsibility for leading a prohibited strike, without defining which strikes are not prohibited. It turns out that for any strike, its leaders can be brought to criminal responsibility. Obviously, this approach has a negative impact on the positions of the Republic of Uzbekistan in international ratings and indexes, would prevent the implementation of the tasks set in the decree of the President of the Republic of Uzbekistan from 02.06.2020 № 6003 "On the improvement of the position of the Republic of Uzbekistan in international ratings and indexes, as well as the introduction of a new mechanism of systematic work with them in public institutions and organizations".

FOREIGN EXPERIENCE

As noted above International Covenant on Economic, Social and Cultural Rights (article 8), which provides for the right to strike, states that the conditions for exercising this right are determined соответствии in accordance with the laws of each country. This rather flexible

approach allows for different models of legal regulation of strikes in the legislation of different countries, as an extreme way to resolve collective labor disputes. However, despite all the differences, there are two main approaches to solving the issue under consideration.

The first approach is based on fixing very small restrictions on the conduct of a strike. The second approach, which provides for the right of workers to strike, sets out a number of conditions only under which this right can be exercised. In fact, we are talking about the establishment of certain restrictions on the right to strike. These restrictions (they differ from country to country) these include:

- the possibility for employees to strike only in order to protect their social and labor interests. A strike may not be held for any other purpose (including political ones).
- prohibition of strikes if the collective labor dispute has not passed all conciliation and mediation procedures provided for by law(conciliation commission, mediation, labor arbitration);
- stipulating the requirement that the parties to a collective labor dispute must comply with the decisions of labor arbitration. Consequently, employees can only go on strike if the labor arbitration court has considered a collective labor dispute, but has not been able to make a decision on this dispute;
- defining in the legislation a list of areas of activity where the employeedoes not have the right to strike;
- -prohibition of strikes during natural disasters, epidemics, pandemics, as well as during natural and man-made emergencies or martial law;
- regulation of procedures for declaring and holding a strike, failure to comply with which serves as grounds for declaring the strike illegal;
- granting the employer, prosecutor, state labor inspector the right to apply to the court with an application for declaring the strike illegal and suspending the strike for the period of consideration of the case by the court;
- the possibility of including in the collective agreement and (or) in the collective agreement conditions on the refusal of employees to hold strikes for the duration of the collective agreement (agreement) and the resolution of a collective labor dispute solely through the use of conciliation and mediation procedures;
- determination of the possibility of declaring the strike illegal by the court;
- legislative consolidation of the provision on the inadmissibility of abuse of the right to strike by employees.

CURRENT LEGISLATION

According to article 281 of the Labor Code of the Republic of Uzbekistan was stated in the following wording: "Collective labor disputes —conflicts are disagreements between an employer (an association of employers) and collectives of employees (their representative bodies) regarding the establishment of new and changes in existing working conditions, the conclusion, modification and implementation of collective agreements and agreements. The procedure for resolving collective labor disputes concerning the establishment of new or changing existing working conditions is established by law".

Recall that the Resolution of the Supreme Council of the Republic of Uzbekistan dated January 4, 1992, No. 481-XII "On ratification of the Agreement and Protocol on the Establishment of the Commonwealth of Independent States" provided that "until the adoption of relevant legislative acts of the Republic of Uzbekistan, the laws of the former USSR are applied on its territory in part that does not contradict the Constitution of the Republic of Uzbekistan and its legislation". In the USSR on October 9 , 1989 The Law "On the Procedure for Resolving Collective Labor Disputes (Conflicts)" was adopted, and a new version of this Law was approved on May 20, 1991. This Law provided for the procedure for considering collective labor disputes. It turned out that formally exist the right to strike and the procedure for considering collective labor disputes in Uzbekistan.

According to article 281 of the Labor Code, the last resort for resolving a collective labor dispute is judicial proceedings, and trade unions can take part in protecting the rights and interests of workers. Article 35 of the Law on Trade Unions of 2019 confirms that trade unions and other organizations protecting the interests of workers can take part in resolving collective labor disputes, and article 45 notes that trade unions have the right to defend the interests of workers in the courts.

CONCLUSION

A new Labor Code of the Republic of Uzbekistan is currently being developed. The first two bills published for public discussion (the first version dated September 23, 2019, the second version dated October 14, 2019 and the third version dated October 19, 2020) not only defined collective labor disputes, but also regulated the procedure and its conduct in detail. The latter types of disputes are resolved through a conciliation commission, which includes the employer, employees and representatives of both sides. Moreover, if the conciliation commission does not achieve anything, then the parties to the collective agreement can create a labor arbitration - a temporary body to resolve disputes. If neither the conciliation commission nor the labor arbitration helped, parties can file a lawsuit.

REFERENCES

1. Miryokub, R. (2020). CONSTITUTIONAL AND LEGAL STATUS OF SELF-EMPLOYED CITIZENS IN THE REPUBLIC OF UZBEKISTAN. *Review of law sciences*, *3*(Спецвыпуск).
2. Ismoilov, S. A. The Last Tendencies of Liberalization of Labor and Employment Legislation of the Republic of Uzbekistan. *JournalNX*, 539-547.
3. Бурханходжаева, Х. (2019). APPLICATION OF LABOR LEGISLATION IN ENTREPRENEURIAL ACTIVITY. Юридик фанлар аҳборотномаси, (3), 46-49.
4. Рахимкулова, Л. (2020). ПРИНЦИПЫ РАЗРЕШЕНИЯ ИНДИВИДУАЛЬНЫХ ТРУДОВЫХ СПОРОВ. Review of law sciences, 1(Спецвыпуск).
5. Karimjonov, M. (2017). Experience of foreign countries with regard to the regulation of disability pensions. Review of law sciences, 1(1), 13.
6. Юсупов, Н. (2021). Факторы формирования и развития патриотического духа у студентов. Общество и инновации, 2(2/S), 339-348.

9. Пандемия: нуждается ли трудовое законодательство в реформах? М Рахимов - Review of law sciences, 2020.
10. Хакбердиев, А., & Абдуллаева, Р. (2021). ВОПРОСЫ ДОСУДЕБНОГО УРЕГУЛИРОВАНИЯ ИНДИВИДУАЛЬНЫХ ТРУДОВЫХ СПОРОВ В РЕСПУБЛИКЕ УЗБЕКИСТАН. Scientific progress, 1(6), 786-791.
11. Хожабеков, М. (2020). ПРАВОВОЙ СТАТУС ГОСУДАРСТВЕННОГО СЛУЖАЩЕГО. Review of law sciences, 1(Спецвыпуск).
12. ҲАМРОҚУЛОВ, Б. (2020). ИТАЛИЯ ВА БЕЛЬГИЯДА МАЪНАВИЙ ЗИЁННИ Қоплаш Қонунчилиги Ва Суд Амалиёти. Юрист Ахборотномаси, 1(1), 32-38.
13. Муродуллаев, Д. (2020). ЗНАЧЕНИЕ МЕЖДУНАРОДНО-ПРАВОВЫХ СТАНДАРТОВ В ОБЛАСТИ ОХРАНЫ ТРУДА. Review of law sciences, 4(Спецвыпуск).
14. Sultonmurodovich, A. B. The Regulation of Fixed-term Employment Contracts in Uzbekistan. JournalNX, 573-579.