

Theoretical and Practical Aspects of Formalizing an Employment Contract

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Abstract: This article examines the concept of an employment contract, its specific features and the procedure for its execution in the light of the new Labor Code of the Republic of Uzbekistan. It also analyzes the legal consequences of masking labor relations through civil law contracts and international experience. At the end of the article, proposals are put forward to improve national legislation.

Keywords: Employment contract, employer, employee, Unified National Labor System, latent employment, social protection, International Labor Organization (ILO) standards.

Introduction: Today, within the framework of democratic reforms being implemented in Uzbekistan, the system of protection of human dignity and labor rights has reached a new level. Article 42 of the Constitution in its new edition and the Labor Code, which entered into force on April 30, 2023, are the basis for regulating relations in this area. However, the informal sector of the economy and the problem of "hidden employment" still hinder the sustainable development of the labor market. Scientific analysis of the procedures for formalizing an employment contract is of great importance in the legal elimination of these problems.

METHODOLOGY

The research used methods of logic, comparative legal analysis, systematic approach and statistical data generalization. In particular, the norms of the Labor Code of the Republic of Uzbekistan were compared with the conventions of the International Labor Organization (ILO).

MAIN PART

Legal nature of the employment contract and modern requirements. According to the definition given in Article 103 of the Labor Code, an employment contract is the main document that determines the mutual obligations between the employee and the employer.

Theoretically, an employment contract is a bilateral, voluntary and gratuitous agreement. Coercion is prohibited when concluding an employment contract. An employment contract is distinguished from other agreements by its duration and social subordination.

An employment contract is concluded only in writing. The contract must specify such items as the place of work, job duties, start date, terms of payment and working hours. Employment contracts are, as a rule, concluded for an indefinite period. Fixed-term contracts may be concluded for a period of up to 5 years only in cases specified by law (for example, for seasonal work or replacing a temporarily absent employee). A probationary period of up to 3 months (up to 6 months for managers) may be established for new employees.

When drawing up an employment contract, Uzbekistan relies on generally recognized principles of international law. In particular, ILO Convention No. 158 (On Termination of Employment Relationships at the Initiation of the Employer) and Convention No. 122 (On Employment Policy) form the basis of our national legislation.

The norms of equality of labor rights and prohibition of discrimination set forth in Article 4 of the New Labor Code are directly consistent with these international documents. In theory, the employment contract is the

main instrument ensuring the social protection of the employee.

A distinctive feature of modern legal regulation is the digitalization of labor contracts. The "Unified National Labor System" (UNLS), introduced by the Resolution of the President of the Republic of Uzbekistan No. PQ-4502 dated October 31, 2019, has created a transparent mechanism for formalizing labor relations. Currently, all labor contracts in Uzbekistan are required to be electronically registered through the "Unified National Labor System" (my.mehnat.uz). Starting from 2025, the procedure for concluding electronic contracts directly in the system and confirming them through an electronic digital signature (EDS) is being improved. This will help put an end to the "shadow economy" and informal employment.

If we analyze foreign experience in this regard, we can see that in Germany, employment contracts are often regulated by sectoral collective agreements; in the experience of Poland and the Czech Republic, the number and total duration of fixed-term contracts are strictly limited (for example, no more than 33 months); and in Italy, non-standard employment contracts (for example, teleworking) are widely used to reduce informal employment.

Negative trends in the lack of formalization of labor relations. In practice, employers tend to conclude civil law agreements (contracts, assignments, contracts) instead of labor contracts in order to reduce the tax burden. This is called "disguising labor relations" in law.

Misclassification of employees is a restriction of an employee's labor rights and social guarantees by an employer by concluding a civil law contract (contract, service, assignment) with an employee with whom an employment relationship actually exists. This problem is currently one of the most pressing issues in Uzbek and international labor law.

Through disguise, employers seek to avoid the following obligations due to economic interest:

- avoiding taxes and social payments due to higher social taxes and other mandatory payments in the employment contract;
- not paying annual paid leave, temporary disability (sick) benefits, and severance pay as stipulated in the Labor Code;
- avoid limited working hours (40 hours per week) and overtime pay;
- be able to "fire" an employee (in effect, terminate the contract) more easily.

Article 11 of the new Labor Code establishes a strict norm: "Concluding contracts of a civil law nature that actually regulate labor relations is prohibited."

According to this, if a court or the State Labor Inspectorate finds a contract to be "disguised," it is recognized as an employment contract and the employer is obliged to pay the employee past vacation, benefits, and other payments for the entire period of his or her employment.

Based on the above and the requirements of the Labor Code, an employment contract must be formalized, and unformalized labor relations lead to the following consequences:

- **For the employee:** Non-recognition of length of service, lack of annual leave, and non-payment of sick leave.
- **For the state:** Reduction in receipts to the Social Insurance Fund and increase in wages under the "convert" method.

Legal liability issues Article 49 of the Code of Administrative Offenses provides for sanctions for violation of labor legislation. However, international experience (for example, Germany and France) shows that the problem cannot be solved only with an administrative fine. In these countries, the principle of "presumption" of recognition of labor relations applies. That is, if an employee works regularly, subject to a certain discipline, and receives regular remuneration, then it is recognized as an employment contract, even if there is no written contract.

CONCLUSION

The following conclusions were drawn from the research:

1. Legislative amendments: It is necessary to introduce into the Labor Code a simplified mechanism for prohibiting the replacement of labor relations with civil law contracts and recognizing such contracts as labor contracts in court.
2. Digital control: Creating a system for automatic monitoring of the basis of each regular payment by integrating the YMMT system with interbank transfers.
3. Digitalizing the process of familiarizing the employee with the collective agreement and internal regulations before signing the contract (via the confirmation button).
4. Legally strengthening the more clearly indicating in the contract the criteria for the employee's "non-compliance" during the probationary period.
5. Introducing automated indicators for identifying "disguised labor" by the State Labor Inspectorate.
6. Legal literacy: Strengthening social awareness on the topic "Employment contract - a guarantee of the future" for protecting employees' rights.

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