

COMPLIANCE WITH THE PRINCIPLES OF LABOR LEGISLATION AS A CONDITION FOR THE DEVELOPMENT OF THE COUNTRY

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Abstract: *This article is devoted to the disclosure of all the principles of labor law, a comparative legal analysis of the principles enshrined in the old Constitution and in the inclusion of new amendments made to the New Constitution of the Republic of Uzbekistan is carried out, the fundamental principles of international documents such as the Covenant, the ILO Convention on the Right of the everyone to work, to protection from unemployment are considered. In addition, this article provides statistical data on the changes carried out in the recent years and the adoption of various kinds of programs aimed at prohibiting forms of child labor and others.*

Key words: *principles of labor law, ILO Convention, the right to decent work. free choice of profession, prohibition of forced labor, social partnership at work.*

The strategic goal of Uzbekistan is to build a developed state, and the algorithm of all actions and reforms is systematically focused on this. It should be noted that it is typical for developed countries that people have a high standard of living, advanced technological infrastructure, and a developed economy. Economic development usually expresses a high gross domestic product, gross national product, income of the population, the pace of industrialization, the number of developed infrastructures and the general standard of living. According to the classification of the International Monetary Fund, Uzbekistan belongs to the group of developing countries. The transition from a developing State to a list of developed countries requires the implementation of a number of reforms in the field of economy, welfare of the population, human rights and freedoms. In reforms, the right choice of an action strategy and unwavering adherence to it is of great importance. To date, according to experts, only the Baltic States (Estonia, Latvia, Lithuania) have moved from the former Union to the group of developed countries that, after leaving the Union, followed the path of rapid reforms, and the results achieved also contributed to their inclusion in

the European Union⁶.

Thanks to the change of political power that took place in Uzbekistan in 2016, as well as the strong political will to reform, several important documents were adopted in the country. In particular, as an example of this, we can cite the Action Strategy for the five priority areas of development of the Republic of Uzbekistan for 2017-2021⁷, The Development Strategy of the New Uzbekistan for 2022-2026, consisting of seven priority areas, the Strategy “Uzbekistan – 2030”, consisting of five priority areas⁸.

In the documents defining this strategy, the development of the social sphere, the implementation of a fair social policy, the development of human capital, the creation of suitable conditions for each person to realize their potential are identified as priority areas. It is noteworthy that the place of the social sphere is systematically emphasized in the development of the state and society.

It should also be noted that as part of the reform of the social and labor sphere in the country, concrete steps have been taken to update the Constitution and labor legislation. In particular, the adoption of a new version of the Constitution of the Republic of Uzbekistan at a referendum held on April 30, 2023, served to strengthen the constitutional foundations of the creation of a New Uzbekistan. Also on the same day, for the second time in the history of independent Uzbekistan, the new Labor Code came into force⁹.

It should be noted that one of the characteristic aspects of the new version of the Constitution was that in article 1 of the Constitution Uzbekistan was designated as a social state¹⁰. The model of the welfare state is aimed at a fair redistribution of material and spiritual resources in accordance with the principle of social justice in order to mitigate social inequality and provide support to those in need, to achieve a decent standard of living for

⁶Country Composition of WEO Groups.<https://www.imf.org/en/Publications/WEO/weo-database/2023/April/groups-and-aggregates>

⁷ Ўзбекистон Республикаси Президентининг 2017 йил 7 февралдаги “Ўзбекистон Республикасини янада ривожлантириш бўйича ҳаракатлар стратегияси тўғрисида”ги ПФ-4947-сон Фармони // Ўзбекистон Республикаси қонун ҳужжатлари тўплами, 2017 й., 6-сон, 70-модда.

⁸Ўзбекистон Республикаси Президентининг 2023 йил 11 сентябрдаги “Ўзбекистон – 2030” стратегияси тўғрисида”ги ПФ-158-сон Фармони // Қонунчилик маълумотлари миллий базаси, 12.09.2023 й., 06/23/158/0694-сон.

⁹ Ўзбекистон Республикасининг 2022 йил 28 октябрдаги ЎРҚ-798-сонли “Ўзбекистон Республикасининг Меҳнат кодексини тасдиқлаш тўғрисида”ги қонуни // Қонунчилик маълумотлари миллий базаси, 20.10.2022 й., 03/22/798/0972.

¹⁰ Ўзбекистон Республикаси 2023 йил 1 майдаги ЎРҚ-837-сон “Ўзбекистон Республикаси Конституцияси тўғрисида”ги Конституциявий қонуни// Қонунчилик маълумотлари миллий базаси, 01.05.2023 й., 03/23/837/0241-сон.

every citizen¹¹.

The social state model is based on the principle of social justice, while labor rights are considered the most important element of this principle. The announcement of the construction of a social state enriched the Constitution of the Republic of Uzbekistan with new content, re-including a number of rights related to the right to work and the exercise of labor activity. These include the right to decent work, the right to freely choose a profession and type of activity, the right to work in working conditions that meet the requirements of safety and hygiene, fair remuneration without any discrimination at work and not less than the established minimum remuneration, the right to protection from unemployment in accordance with the procedure established by law (article 42), the right to vocational training and retraining (article 43), the prohibition of forced labor, the prohibition of any form of child labor (article 44), the right to rest, the right to limited working hours (article 45).

It should be noted that the view of the basic rights and duties of an employee as principles of labor law was widely spread in the thirties of the XX century¹². Despite the fact that almost a century has passed, these views have still not lost their relevance for modern labor law.

Therefore, it is appropriate to note separately the amendments made to the Constitution of the Republic of Uzbekistan in a new edition concerning the right to work. First of all, it should be noted that the right to work has been replaced by the “right to decent work”. As part of the constitutional reforms, the right of citizens to work has acquired a new look and has been supplemented with the word “worthy”. Now, “decent work” means jobs with fair wages, adequate working conditions and reliable social protection¹³. For example, in this regard, Shukhrat Ganiev, an independent human rights activist who has been following the cotton harvesting process together with the International Labor Organization for several years, says: “We need to focus on creating decent jobs. In Uzbekistan, people need a job with decent wages and good working conditions”¹⁴. It is appropriate to recognize that Uzbekistan has the right to decent work, that is, work corresponding to the profession, qualifications and specialty, as well as work

¹¹ <https://ru.wikipedia.org/wiki>

¹² Гасанов М.Ю. Трудовое право Республики Узбекистан. Общая часть. –Т.: Издательство «LESSON PRESS», 2016. –С.133-134.

¹³ Янгиланаётган Конституция.100 саволга 100 жавоб.Ўзбекистон Республикаси Президенти ҳузуридаги Қонунчилик ва ҳуқуқий сиёсат институти. –Тошкент: “Адолат” миллий ҳуқуқий ахборот маркази, 2023. 72-б.

¹⁴ Uzbek cotton is free from systemic child labour and forced labour // https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_838396/lang--en/index.htm

paid in accordance with the quantity and quality of labor, employment with favorable working conditions. The importance of this right for the eradication of existing unemployment and low wages in our country will continue to increase in the coming years.

The next innovation was to change the choice of a free profession to “free choice of profession and type of activity”. It should be noted here that the right to choose a profession is the realization of the right to work only by concluding an employment contract. On the other hand, the right to work can also be realized in such forms as engaging in entrepreneurial activity, concluding civil law contracts for the performance of works and the provision of services, entering the civil service, self-employment. Consequently, not only the profession, but also the inclusion of the right to free choice of the type of activity corresponds to the content of the basic social rights of citizens.

Another important aspect is related to the right to work in fair working conditions, enshrined in article 37 of the Constitution of the Republic of Uzbekistan, which has become invalid. Based on the fact that this right is a general concept, clarifications have been made to article 42 of the Constitution of the Republic of Uzbekistan in a new version. That is, the right of every person to work in comfortable working conditions that meet the requirements of safety and hygiene was introduced.

Another important innovation is that the right to a fair wage is defined as a constitutional norm, without any discrimination on the part of the employee for his work and not lower than the established minimum remuneration for work. There was also a long debate about the inclusion of the rule that the minimum wage is determined taking into account the need to ensure a decent standard of living for a person.

Also, the new version of the Constitution established a separate norm prohibiting any form of child labor. We can say that this norm represented a strong political will in our country to ensure that child labor is no longer allowed.

It is worth noting that since April 30, 2023, a new labor code has entered into force in Uzbekistan. This code has updated the regulatory document of the same name, adopted thirty years ago. It should be said that this regulatory act can be adopted in response to new challenges in the social and labor sphere. In this code we see new changes in the legal regulation of labor relations. One of them is that article 3 of the Labor Code lists for the first time the basic principles of regulating labor relations. They included:

equality of labor rights, prohibition of discrimination in the sphere of

work and occupation;

freedom of work and prohibition of forced labor;

social partnership in the field of labor;

guarantee of labor rights and performance of labor duties;

inadmissibility of deterioration of the legal status of the employee¹⁵.

It should be noted that the above-mentioned principles practically correspond to the fundamental rights and principles in the field of work provided for in the ILO Declaration adopted on June 18, 1998. In particular, this Declaration contains the following basic rights and principles in the field of labor:

recognition of freedom of association and recognition of the right to collective bargaining;

prohibition of all forms of forced labor;

prohibition of child labor;

non-discrimination in the sphere of work and occupation¹⁶.

These basic rights and principles are reflected in the 8 main ILO conventions (№29, 87, 105, 98, 100, 111, 138, 182), All of which have been ratified by Uzbekistan. It is also worth noting that the basic rights and principles in the Declaration were not only labor rights, but also constitutional rights and principles.

We have the opportunity to clearly see the importance of observing the principles of labor legislation in the economic development of our country by the example of ending forced labor and child labor.

According to researchers M.Rakhimov, N.Kuryanov, forced labor in Uzbekistan is widespread in the forms of cotton picking and other agricultural work, cleaning and landscaping, repair work at workplaces and other places, construction, recreation and participation in duty on holidays¹⁷.

Over the past seven years, since the beginning of the process of reforming the cotton sector in the country, about two million children have been freed from child labor, half a million elderly people from forced labor. According to the data, forced labor in cotton cultivation in Uzbekistan has decreased from 14% in 2015 to 1% by 2021¹⁸.

Uzbekistan is the sixth largest cotton producer in the world. Under the leadership of President Sh. Mirziyoyev, modernization of the former model of

¹⁵ Ўзбекистон Республикасининг Меҳнат кодекси. –Т.: “Yuridik adabiyotlar Publish”, 2022. –Б.13.

¹⁶ https://www.un.org/ru/documents/decl_conv/decl1990.shtml

¹⁷ M.Rakhimov, N.Kuryanov.Prohibition of forced labor//Science and Education, Volume 4, Issue 1. P.1148.

¹⁸ Uzbek cotton is free from systemic child labour and forced labour // https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_838396/lang--en/index.htm

the country's agrarian economy began and forced labor and child labor, previously used in cotton harvesting, were abandoned. According to the Director General of the ILO G. According to Ryder, Uzbekistan has stopped the systematic use of forced labor and child labor in cotton growing, which will allow the country to take a higher place in the production and supply chain, as well as create millions of permanent decent jobs in the textile and clothing sector.

It is worth noting that for the first time a boycott of Uzbek cotton was announced in 2009. Since then, 331 brand and clothing companies, including such as Adidas, Zara, C&A, Gap Inc., H&M, Levi Strauss & Co., Tesco and Wal mart, have announced a boycott of Uzbek cotton. For 2021, based on the results of independent monitoring of the cotton harvest conducted by the Uzbek Forum for Human Rights¹⁹, The Cotton Campaign coalition has canceled the boycott of Uzbek cotton. On April 9, 2021, Uzbekistan received the status of a beneficiary of the Common System of Privileges "GSP+" of the European Union²⁰. This decision was made in 2021 due to the fact that child and forced labor in the cotton harvest was not allowed in the country²¹. In May 2022, the International Labor Organization and the World Bank completed a project for independent monitoring of cotton harvesting, and at the request of the Government of Uzbekistan, the Union of Workers and Employers, a new program "Better Work" was launched in the country. In Tashkent, a memorandum of understanding was signed on the launch of this program, as well as measures of cooperation on sustainable development for 2023-2024 between Better Cotton and the National Commission for Combating Human Trafficking and Forced Labor. A special mention of these achievements was made by the President of the Republic of Uzbekistan at his speech at the 78th session of the UN General Assembly.

The "Better Work" program, launched in Uzbekistan, allows local companies to establish partnerships with global brands. For example, on March 25, 2023, the world-famous Disney company published a list of supplier countries, which also included Uzbekistan. It should be noted that one of the main conditions for cooperation with global brands is the availability of a Better Work program in a particular country. The goal of this

¹⁹ Мустақил мониторинг ХМТ шафелигида Европа Иттифоқи, АҚШ давлат департаменти, Швейцария ва Германия ҳукуматлари ёрдамида амалга оширилган.

²⁰ Пахта йиғим-терими мавсумида Касаба уюшмалари Федерацияси томонидан миллий мониторинг ўтказилади//https://uza.uz/uz/posts/paxta-yigim-terimi-mavsumida-kasaba-uyushmalari-federaciyasi-tomonidan-milliy-monitoring-otkaziladi_523034

²¹ <https://www.gazeta.uz/uz/2022/03/10/cotton-campaign/>

program is to improve product supply chain management and ensure systematic and reliable compliance with standards. For example, a similar program has also been launched in countries such as Pakistan, Haiti, Ethiopia, Nicaragua²².

Стоит отметить, что существуют также проблемы в реализации принципов трудового законодательства. В частности, в 2021 году некоторые сотрудники компании UzAutoMotors в городе Асака объявили коллективную забастовку, чтобы выразить свое недовольство низкой заработной платой. После этого события бросилась в глаза еще один пробел в законодательстве²³. This gap or omission was due to the fact that there was no right of workers to strike in the legislation. However, the right to strike was included in the draft of the new Labor Code of the Republic of Uzbekistan. Later, this norm was removed during the adoption of the Labor Code. At the same time, it should be noted that the Government should come to a positive decision on the recognition of the right to strike. One of the reasons for this is that according to the International Covenant on Economic, Social and Cultural Rights, to which Uzbekistan is a party, it is stated that the participating States are obliged to ensure the right to strike.

The fact that the principles provided for by the Constitution of the Republic of Uzbekistan and the Labor Code are called "basic principles" should be perceived as conditional. However, a number of other important principles are applied in the social and labor sphere. In particular, they include the right to paid leave, equal access to promotion, the right of employees and employers to unite to protect their rights, the right of employees to participate in the management of organizations, the coordinated application of state and contractual regulation, the obligation to compensate an employee for damage caused in connection with the performance of work duties, the existence of state supervision over employers and guarantees to ensure their rights.

In the legal regulation of labor relations, the principles of labor law have an important socio-political significance. The principles of labor law reflect the inviolability of human rights and their provision, the content of international human rights standards, the inviolability of human life, health, personal rights and freedoms and their protection by law. The principles of labor law are of great importance for the development of the state and society. They express the whole essence and content of labor legislation in

²²Программа Better Work официально представлена в Узбекистане// <https://www.gazeta.uz/ru/2023/05/30/uztekstil/>

²³ Иш ташлаш ҳуқуқи Ўзбекистон учун тақикдами? // <https://kun.uz/10829628>

close connection with the economy and public policy. Consequently, these principles in the social and labor sphere point to the state policy not only of today, but also to its future development. In this sense, all strategic goals of Uzbekistan also dictate compliance with the principles of the branches of law.

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