

OCCUPATIONAL RISKS IN LABOUR LAW: KAZAKHSTAN'S LEGAL PRACTICE AND PROSPECTS FOR DEVELOPMENT**Abstract**

The purpose of the article is to consider production risks as an independent and significant object of legal regulation in the context of the current legislation of the Republic of Kazakhstan. The topic is relevant due to the need for a legal transformation in approaches to ensuring safe working conditions, especially at high-risk enterprises where traditional safety measures often prove inadequate. Understanding occupational risks requires more than technical or organizational analysis—it demands a comprehensive legal perspective, including clear regulatory criteria, standardized assessment procedures, effective risk management systems, and mechanisms of legal accountability.

The article presents a critical review of current laws and regulations governing occupational risk management, identifying legal gaps, inconsistencies, and institutional obstacles that hinder the effective implementation of risk-based approaches. It is found that the lack of a unified certification methodology, fragmented legal norms, and poorly defined oversight functions weaken the legal impact and limit preventive measures.

The author argues for a unified and sustainable legal framework for regulating occupational risks, grounded in the principles of prevention, legal clarity, non-discrimination, fairness, and proportionality. Legislative improvements are proposed, including the adoption of a dedicated legal act on risk-based labor protection, enhancement of state supervision, modernization of inspection procedures, and clearer employer liability. Emphasis is also placed on strengthening labor inspectorates, improving legal literacy, and fostering collaboration between the state, employers, and workers to better prevent occupational risks and uphold labor rights.

Keywords: occupational risks, legal regulation, labor law, occupational safety, risk-based approach, labor protection, legislation of the Republic of Kazakhstan.

Introduction

Occupational safety and health (OSH) have become critical components of modern labor policy, especially in sectors characterized by hazardous working conditions. The Republic of Kazakhstan, a nation with a significant workforce employed in industries such as mining, construction, and chemical production, faces unique challenges in ensuring the safety and well-being of its workers. Historically, Kazakhstan's approach to occupational safety has relied heavily on a list-based mechanism - an approach where specific professions or industries are designated as hazardous, entitling workers to certain predefined social guarantees, such as reduced working hours or additional compensation.

In the period from 2021 to 2023, employers spent about 631 billion tenge on benefits and compensation for work in harmful and other unfavorable working conditions. At the same time, the number of employees working in harmful and/or hazardous labour conditions in 2023 increased by 2.5% compared to 2022. The most voluminous costs are incurred in the mining industry - 218.9 billion tenge [1].

Nevertheless, the disadvantages of this list approach are becoming more and more noticeable. Despite the fact that it covers a wide range of protection measures, this format is often not able to respond quickly to changing working conditions and individual risks faced by employees. In contrast, a number of developed countries have implemented a system based on risk assessment principles. This approach provides a more flexible and accurate response, allowing for real-time analysis of working conditions and building security measures under the actual threats in a particular workplace.

This paper aims to explore the ongoing transformation of Kazakhstan's occupational safety mechanisms, focusing on the shift from a traditional list-based model to a risk-oriented system. By comparing Kazakhstan's current framework with international best practices, this research highlights the benefits of adopting a risk-based approach to enhance worker safety and social

protections. The study emphasizes the importance of fostering a culture of prevention, increasing transparency, and leveraging technological advancements to improve occupational health outcomes in hazardous industries.

Kazakhstan's transition to a risk-based occupational safety system is not just an adjustment of the legislative framework, but a profound transformation of the approach to occupational safety. This reflects global trends that focus on reactive occupational risk management, employee engagement in safety processes, and the use of digital technologies to assess working conditions. The conducted research helps to understand more deeply how such structural changes can affect the realization of labor rights, fairness in the professional environment and the general well-being of employees in the context of ongoing socio-economic reforms.

Materials and methods of research

This study is based on a comprehensive analysis of national legislation and international experience in the field of occupational safety and health in conditions of increased industrial danger. It is based on legal and comparative legal approaches aimed at a comprehensive study of the Labor Code of the Republic of Kazakhstan, regulatory government resolutions, orders of relevant ministries, as well as specialized sectoral acts regulating labor guarantees and working conditions.

The key method is a documentary analysis, which examined more than ten regulatory legal documents that establish forms of compensation, support measures, and certification standards in the field of occupational safety and health in hazardous and hazardous industries. Comparative analysis with foreign practices is also actively used, in particular in the countries of the European Union — the Netherlands, Germany, France, Lithuania — and the United States, which has made it possible to identify successful mechanisms for replacing the list approach with a risk-based one.

Statistical information provided by the Bureau of National Statistics of Kazakhstan was used to substantiate the conclusions. Data on the types of professions entitled to shorter working hours and additional leave were analyzed by industry, which revealed structural distortions and inconsistencies.

In addition, the study takes into account expert assessments and practical proposals from industry associations, including the Republican Association of Mining and Metallurgical Enterprises, in order to assess the potential effectiveness of implementing a risk-based approach.

Thus, the work uses an interdisciplinary methodology combining legal, political, analytical and statistical tools, which makes it possible to formulate sound proposals for reforming the labor protection system and strengthening social guarantees for workers at industrial risk.

Results and discussion

According to Article 1 of the Labour Code of the Republic of Kazakhstan [2], «guarantees» are defined as means and conditions ensuring the realization of employees' rights in the sphere of social and labour relations. As prescriptive guarantees for workers in heavy and harmful jobs, the Labour Code establishes the following requirements:

- Reduction of working hours (art. 69);
- Granting additional paid annual leave (art. 89);
- Increased wages (art. 105);
- Free provision of milk, special clothing and personal protective equipment (art. 182).

It is revealed that despite the transition to a risk-oriented model of labour protection, the regulatory policy retains a list approach, which does not meet modern social demands. Legislative regulation is not optimal, as the norms are scattered in various normative legal acts, such as:

- List No. 1 and No. 2 of industries and occupations with harmful working conditions (Government Decree No. 1930 of 19 December 1999) [3];
- Rules for mandatory periodic certification of production facilities for working conditions (Order of the Minister of Health and Social Development of 28 December 2015 No. 1057) [4];
- Lists of occupations entitling to reduced working hours and other benefits (Order of the Minister of Health and Social Development No. 1053 of 28 December 2015) [5];

- On Approval of the Rules for issuing to employees milk or equivalent food products and (or) specialised products for dietary (therapeutic and preventive) nutrition, special clothing and other personal protective equipment, providing them with means of collective protection, sanitary and household premises and devices at the expense of the employer's funds (Orders of the Minister of Health and Social Development No. 1054 and No. 1056 of 28 December 2015) [6];

- Rules for the implementation of mandatory occupational pension contributions (Government Resolution No. 520 of 30 June 2023) [7].

In addition, industry standards and bylaws developed and approved by the relevant state bodies and organisations are in force.

Professions with additional paid annual leave by professions eligibility is a total of 8,940 professions across 43 industries have been listed as eligible for additional paid annual leave. The leave is categorized into different durations (ranging from 6 to 36 days), which are allocated based on the nature of the hazardous working conditions and industry-specific risk factors.

There is a notable disparity in the number of days granted across industries, particularly for mining works and coal and shale industry have a balanced distribution, with some workers receiving up to 36 days of leave, reflecting the high-risk nature of these professions. Non-ferrous metallurgy has the highest number of professions eligible for additional leave (1,151 professions), indicating the significant occupational risks in these sectors. However, the majority of these professionals only receive 12 days of leave. Chemical Production also stands out with 1,030 professions eligible, with the most common leave duration being 12 days, which suggests that while the industry is acknowledged for its hazards, the compensation in leave days might not be proportionate to the level of risk [8].

Longer leave allocations are rare and only a limited number of professions are granted the maximum of 36 days. For instance, mining works has only 7 professions that receive 36 days of leave. Coal and shale industry provide 36 days of leave to 15 professions out of a total of 181. Healthcare, despite being a high-risk environment, grants 36 days of leave to only 6 professions out of 189.

Across almost all sectors, the majority of workers are eligible for 12 days of additional paid leave. For example, black metallurgy has 591 professions receiving 12 days. Textile and light industry have 204 professions eligible for 12 days. Building materials production also provides 12 days of leave to 278 professions.

This pattern indicates a general under-provision of leave for potentially high-risk environments, suggesting that while the professions are recognized as hazardous, the compensation might be insufficient in addressing the occupational risks comprehensively.

A total of 1,561 professions across different sectors are eligible for reduced working hours, which is a significant but relatively small proportion compared to those eligible for additional paid leave. Chemical production stands out with 329 professions eligible for reduced working hours, which reflects the high occupational hazards involved in chemical processing and manufacturing. Electrical production and healthcare are also notable, with 85 and 123 professions respectively, indicating a moderate level of occupational risk acknowledged in these sectors.

On the contrary, many other industries with significant numbers of professions eligible for additional leave (such as non-ferrous metallurgy and the food industry) have much lower numbers of workers eligible for reduced working hours, indicating a potential inconsistency in how occupational risks are managed between different compensation mechanisms.

Certain sectors, such as forestry, woodworking, and jewellery production, do not have professions eligible for reduced working hours despite the clear hazardous nature of these work environments. This suggests that the list-based approach currently applied in Kazakhstan may overlook some aspects of occupational health risks when determining eligibility for specific types of compensation. The data reveals a lack of uniformity and possibly an arbitrary determination of compensation between additional paid leave and reduced working hours. For example,

metallurgical production (particularly black metallurgy) has a large number of professions eligible for additional leave but lacks equivalent provisions for reduced working hours.

The results of the study of legal regulation of the EU countries showed that the majority of labour legislation norms are of imperative nature and are aimed at the implementation of ILO principles in local national regulations.

Of particular interest is the legal regulation of labour safety and health issues of the Kingdom of the Netherlands, through:

- The Act of the Kingdom of the Netherlands «On Working Time» of 23 November 1995 [9];

- Act «On Working Conditions» [10] of 18 March 1999, which regulates the implementation of the working conditions policy through the assessment of occupational risks, as well as the fundamental conditions for the application of social protection measures.

In more detail, the issues of regulating the implementation of the legal rights of active workers in the field of occupational safety and health are disclosed in: Law on Financing of Social Insurance of 16 December 2004 [11] (disclosing the issues of financing of workers' insurance, together with the regulation of financing of national insurance schemes); Law on Work and Income Depending on Capacity of 10 November 2005 [12] (facilitating the performance or resumption of work in accordance with the working capacity of insured persons who are partially incapacitated and establishing the procedure for obtaining income for these persons, as well as for insured persons who are fully and permanently incapacitated

The experience of the Republic of Lithuania has shown that the issues of providing employees with social protection are regulated in the LC of 14 September 2016, No. XII-2603 [13], the Law on State Social Insurance Pensions of 18 July 1994 No. I-549 [14], the Law on Workers' Safety and Health of 2017, the Resolution of the Government of the Republic of Lithuania of 20 February 1995 No. 267 «On Approval of the Procedure for Calculation and Payment of Compensation for Special Working Conditions» [15], and ensure the implementation of ILO principles.

Thus, the provision of Article 39 «Assessment of the state of safety and health of workers» of the Law «On Safety and Health of Workers» regulates that the state of safety and health of workers is assessed depending on the compliance of the means of labour, working conditions in the enterprise with the requirements for safety and health of workers established by the normative legal acts on safety and health of workers by assessing the occupational risk at workplaces or other places of the enterprise where the worker may be during working hours.

Labour law relations in France are mainly regulated by the Labour Code (Code du Travail) 2016 [16] (amended as of 2024). This legal act is the most voluminous and covers virtually all conditions of labour activity and contains a number of norms and rules ensuring occupational health and safety for various industries. The Labour Code includes as annexes the conventions and recommendations of the International Labour Organisation relating to the application of labour, which have been ratified by the French Republic.

Of interest is the regulation of the working hours of workers who work continuously in consecutive shifts in a continuous cycle, the effect of increasing coefficients for harmful working conditions from 0.5% to 2% of the risk category.

For example, in the USA, this coefficient of allowance for work in hazardous labour conditions makes up from 8 to 25 % of the rate, in Germany, the size of allowances to wages - from 5 to 15 %. It should be noted that the final equivalent of the allowance is regulated by collective agreements or agreements between employers and trade unions. It should be noted that there are severe penalties for poor assessment of labour conditions, subjectivity of the expert.

Thus, the practice of advanced countries has shown the positive effect of providing social guarantees to workers employed in harmful and (or) hazardous working conditions on the basis of a risk-based approach based on the results of the assessment of working conditions. This aspect allowed to:

- increase the culture of safe labour;
- ensure transparency of the assessment;
- development of preventive measures aimed at reducing the impact of harmful production factors;
- increasing the participation of employers in the development of preventive measures;
- increasing the safety culture among employees;
- development of scientific potential.

According to the data provided by the European System of National and Regional Accounts [17] (ESA 2010), net social contributions include actual social contributions of employers, actual social contributions of households, imputed social contributions and additional social contributions of households. Charges for services under the social insurance programme are subtracted from the above items to obtain net social contributions. There are two types of social contributions paid by employers in favour of their employees: actual and imputed:

- Employers' actual social contributions consist of payments made by employers in favour of their employees to insurers (social security funds, public and privately funded schemes). These payments cover statutory, customary, contractual and voluntary contributions in respect of insurance against social risks or needs;

- imputed employer social contributions are the equivalent of unfunded social benefits paid directly by employers to their employees or former employees and other eligible persons without involving an insurance company or an autonomous pension fund and without creating a special fund or a separate reserve for this purpose. Both of these types of payments made by the employer are treated in the national accounts as part of the remuneration of employees.

The review of regulatory norms applied in the provision of guarantees to workers employed in harmful and/or hazardous working conditions in developed countries, taking into account the risk-oriented approach, has shown the adherence of foreign governments to the standards of the International Labour Organization, striving for detailed regulation of certain issues related to the effectiveness of providing workers with social protection based on the results of occupational risk assessment. At the same time, the legislator determines that national legal acts define minimum standards, and gives priority to stimulating the development of social dialogue between employers and employees (employee representatives) by working out issues within the framework of employment agreements.

We also note that in the countries studied, instead of the usual medical and preventive nutrition, nutrition programmes are conducted, part of which includes information materials on proper nutrition. Workers and their families have access to appropriate meals at workplace food outlets, often with financial support from employers.

In addition, lawmakers have made it up to the discretion of the employer to determine the amount of a worker's allowance for hazardous working conditions. There is no set amount of hazard pay to which workers are entitled in the United States, nor is there a law requiring employers to pay hazard pay: both the amount of pay and the conditions under which it is paid are determined by the employer. The Fair Labor Standards Act [18] (FLSA) does not address hazard pay, except to require that it be included in a federal employee's regular rate of pay when calculating overtime pay. Some employers provide additional pay to employees who perform hazardous duty or physically demanding work. An employee generally receives hazardous duty pay only for the hours worked under hazardous conditions. For example, if an employee works an eight-hour shift and four of those hours are spent in an air-conditioned office and four hours are spent on a construction site in 100-degree heat, only the hours worked in the heat will be paid at the hazard pay rate.

In Germany, hazardous duty pay is paid to workers who have to work in dirty, damp or cold environments. The allowance is your own financial compensation for unfavourable working conditions. It is paid in addition to the basic salary stipulated in the employment contract. For the payment of the allowance, the characteristics of the profession and the conditions of the work tasks

are taken into account: toxic and harmful substances; dust and dirt; rubbish; dirty sewage; extreme heat or cold; high humidity or high noise levels. Generally, the payment of a benefit demonstrates not only recognition from the employer, but is also a factor in attracting new employees to work in challenging environments. However, since the legislator does not regulate the specific amount of the allowance, it is determined by the terms of the labour or collective agreement or company contract and is usually paid for each hour of work in unfavourable conditions or may be a lump sum:

- for lighter cleaning work wearing gloves, the allowance is 5% of the basic wage;
- for work with respiratory masks - 10%;
- for cleaning rooms with unpleasant odours - 12%;
- for work involving contact with faeces or unusual contamination - 18%, while the allowance for work in hazardous conditions is subject to taxation and social security calculations.

The analysis of the table highlights several key disparities in the allocation of occupational safety benefits between different industries. Despite the fact that many employees are formally entitled to additional paid leave, in most cases its duration is limited to 12 days, which often does not correspond to the actual degree of occupational risk. A similar situation is observed in the issue of reduced working hours — its provision is uneven, and a number of industries with a high level of industrial danger are not actually covered.

The analysis of the data obtained indicates the need to introduce a more accurate and fair mechanism based on a realistic assessment of occupational risks. This approach assumes that compensation measures — whether extended leave or shortened working hours — will be directly correlated with specific working conditions and the level of threats in the workplace. In this regard, the existing system based on fixed lists of professions is insufficient to effectively account for a variety of risk factors. The implementation of the risk-based model proposed in this study is able to fill these systemic gaps and ensure a more equitable distribution of social guarantees among workers employed in hazardous and harmful industries.

Analyzing the provided data on professions with hazardous or dangerous working conditions reveals significant disparities in the allocation of additional paid annual leave and eligibility for reduced working hours across different industries.

The regulatory analysis of provisions for guarantees to workers employed in heavy, hazardous, and dangerous conditions in Kazakhstan revealed several key insights, focusing on the so-called list-based approach. This approach defines guarantees based on pre-established lists of professions, highlighting limitations in adapting to contemporary labor conditions.

Under Article 1 of the Labor Code of the Republic of Kazakhstan, the concept of «guarantees» refers to the means, methods, and conditions by which the rights of workers in socio-labor relations are upheld.

The analysis identified socio-economic problems, legal barriers, and restrictions in providing guarantees to workers employed in hazardous conditions. In particular, applications are often received from employees whose positions are not included in the current lists, which raises reasonable doubts about the fairness of their compilation. The comparative analysis showed that individual names of professions are partially duplicated, and there are inconsistencies in the lists themselves, making it difficult to form accurate analytics on the allocation of compensation costs.

Practice has also revealed the need to review certain elements of the social security system. Thus, representatives of the oil and gas industry have made proposals to replace the provision of milk with alternative means, such as sugar or specialized food additives, which indicates a desire to move to more modern and relevant forms of employee nutrition.

In addition, shortcomings were identified in the certification process of production facilities. In some cases, the submitted documentation contains distortions or inaccuracies, which leads to management errors and unnecessary financial costs. The main reason for such situations is the low level of quality of the assessment of working conditions, as well as subjectivity on the part of experts conducting these procedures. In such cases, conscientious employers fulfill their social

guarantee obligations based on collective agreements, which underscores the presence of legal barriers.

Experts, including representatives from the Republican Association of Mining and Metallurgical Enterprises, have argued for abandoning the list-based approach. With or without this approach, employers continue to face significant financial burdens related to providing social guarantees.

An analysis of international experiences showed that European Union countries have moved away from compensation systems for hazardous and dangerous working conditions, which remain in some post-Soviet states. EU countries avoid additional payments for hazardous work, not due to a lack of understanding of their motivational effect but based on ethical considerations - finding it inappropriate to financially incentivize workers to accept known risks.

Most European countries have implemented legislative measures to maintain workers' well-being, such as setting a statutory workday length, guaranteed paid leave, minimum wage, and employment security. In the USA, the Ethical Code of Industrial Hygienists [19] excludes financial rewards for hazardous work, advocating preventive measures instead.

Conclusion

The current list-based system lacks optimization and is unsuitable for adapting to the actual conditions faced by workers in hazardous environments. There is a critical need for reform, moving towards a model that factors in real-time assessments of occupational risks. Revisiting the types of social guarantees offered is essential, particularly nutritional provisions like milk, to adapt these measures based on interdisciplinary research and the suggestions of social partners, considering international experiences. The results of the study served as the basis for the development of methodological approaches to determining the amount of social guarantees for workers employed in harmful and dangerous industries, taking into account the level of occupational risk. The proposed model, based on the principles of risk assessment, will make it possible to correlate the benefits provided with actual working conditions, thereby creating a fair and targeted compensation system focused on the real needs of employees.

An analysis of the current distribution of social guarantees by industry in the Republic of Kazakhstan revealed pronounced inconsistencies, indicating the limitations and inefficiency of the existing list approach. The presented data emphasize the need to move towards a more accurate and flexible policy based on occupational risk assessment in specific production conditions. The introduction of a risk-based model will significantly increase the level of industrial safety, ensure more equal treatment of various categories of workers and strengthen the culture of risk prevention at all levels.

The implementation of such changes requires a revision of the regulatory framework, the introduction of modern technologies for assessing working conditions, and the development of an institutional culture that focuses on prevention rather than subsequent compensation. To achieve these goals, it is necessary to actively cooperate with all stakeholders — government agencies, employers and trade unions — to ensure that workers' rights and safety are given priority in occupational safety and health policy. This, in turn, will ensure the formation of safer, fairer and more sustainable working conditions in the long term. The research of current practices in advanced countries with a high level of safe labour culture has shown the relevance of differentiating the workplace by the degree of occupational risk and the scope of social guarantees will depend on the degree of risk: high risk - full package of guarantees.

The level of protection varies from a minimum level corresponding to a low risk level to a maximum level at a very high risk level.

The new approach assumes that the type and scope of social guarantees will be differentiated according to the degree of occupational risk.

Thus, the integral assessment of occupational risks (IAOR) is based on a clear sequence of three indicators P1, P2 and P3. Where P1 is determined automatically by the results of individual risk assessment of each profession taking into account the specific weight of structural

subdivisions, P2 - Automatically analysed information by integrating AIS «OTIB», HR. enbek.kz and stat.gov.kz, and P3 - determined by the results of a check-list containing 15 questions, placed in the ODA module of AIS «OTIB» by the employer, confirmed by the special organisation conducting the integral assessment of occupational risks.

Thus, automation of analysis and control of the results of the IAOR will allow solving a set of tasks: monitoring, analysis of indicators, forecasting of the main trends, modernisation of reporting, formation of a data bank, etc. This model provides for the automation of the processes of identifying potential recipients of social guarantees, minimising the risks associated with human participation in determining the class of working conditions. Since all necessary data are integrated from the systems of the state-authorised labour body, employers. According to the results of the IAOR, social guarantees will be assigned only from the average class of labour conditions (3.2).

Effective management of occupational risks is impossible without the transformation of the state mechanism of social guarantees in respect of persons employed in harmful working conditions. The essence of the new ideology is that all elements of the safe labour system should be interconnected and aimed at ensuring the implementation of the constitutional right of every citizen of the Republic of Kazakhstan to work in decent and safe working conditions.

It should be noted that the issue of integration of information systems of mining and metallurgical enterprises was considered by Galiev S.J., Galiev D.A., Uteshev E.T., Tekenova A.T. [20], Edilbaeva L.I., Muzgina V.S., Mustapaev A.K. [21]

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ПРОИЗВОДСТВЕННЫЕ РИСКИ КАК ОБЪЕКТ ПРАВОВОГО РЕГУЛИРОВАНИЯ: КАЗАХСТАНСКАЯ ПРАКТИКА И ВЕКТОРЫ СОВЕРШЕНСТВОВАНИЯ

Аннотация

Цель статьи рассмотреть производственные риски как самостоятельный и значимый объект правового регулирования в контексте действующего законодательства Республики Казахстан. Актуальность темы обусловлена необходимостью правовой трансформации подходов к обеспечению безопасных условий труда, особенно на предприятиях с повышенной степенью опасности, где традиционные меры охраны труда нередко оказываются недостаточными. Научное осмысление производственных рисков выходит за рамки исключительно технического или организационного анализа и требует комплексного, междисциплинарного правового подхода, включающего разработку чётких нормативных критериев, унифицированных процедур оценки, системной методологии управления рисками, а также эффективных механизмов юридической ответственности.

Проведён критический анализ действующих правовых норм и подзаконных актов, регулирующих управление профессиональными рисками, а также выявлены пробелы, правовые коллизии и институциональные барьеры, препятствующие эффективному внедрению и практическому применению риск-ориентированных подходов в трудовых отношениях. Установлено, что отсутствие единой методологии аттестации рабочих мест, фрагментарность и несогласованность нормативной базы, а также недостаточная регламентация функций и полномочий надзорных органов значительно снижают результативность правового воздействия и ограничивают возможности для профилактики производственного травматизма.

Автор подчёркивает необходимость формирования целостной и устойчивой концепции правового регулирования производственных рисков, основанной на принципах профилактики, правовой определённости, недопущения дискриминации, справедливости и пропорциональности. Предлагаются конкретные направления совершенствования законодательства, включая разработку и принятие специализированного нормативного акта, регламентирующего систему риск-ориентированного управления в сфере охраны труда, усиление государственного контроля, модернизацию инспекционной деятельности, а также развитие механизмов правовой ответственности работодателей за нарушение требований по обеспечению безопасности. Особое внимание уделено необходимости институционального укрепления инспекционных органов, повышению юридической грамотности всех участников трудовых отношений и созданию условий для эффективного взаимодействия между государством, работодателями и работниками в целях предупреждения профессиональных рисков и защиты трудовых прав.

Ключевые слова: производственные риски, правовое регулирование, трудовое право, охрана труда, риск-ориентированный подход, безопасность труда, законодательство Республики Казахстан.

ӨНДІРІСТІК ТӘУЕКЕЛДЕР ҚҰҚЫҚТЫҚ РЕТТЕУДІҢ НЫСАНЫ РЕТІНДЕ: ҚАЗАҚСТАН ТӘЖІРИБЕСІ ЖӘНЕ ЖЕТІЛДІРУ БАҒЫТТАРЫ

Андатпа

Мақала мақсаты - өндірістік тәуекелдер Қазақстан Республикасының қолданыстағы заңнамасы аясында құқықтық реттеудің дербес әрі маңызды нысаны ретінде қарастыру. Тақырыптың өзектілігі, әсіресе қауіп-қатер деңгейі жоғары кәсіпорындарда еңбек қауіпсіздігін қамтамасыз ету бойынша қолданыстағы тәсілдердің жеткіліксіздігінен, осы салада құқықтық трансформация қажеттігімен айқындалады. Өндірістік тәуекелдерді ғылыми тұрғыдан түсіну тек техникалық немесе ұйымдастырушылық талдаумен шектелмей, нақты нормативтік өлшемшарттарды, біріздендірілген бағалау рәсімдерін, тәуекелдерді басқарудың жүйелі әдістемесін және заңды жауапкершілік тетіктерін қамтитын кешенді құқықтық тәсілді қажет етеді.

Кәсіби тәуекелдерді басқаруды реттейтін қолданыстағы заң нормалары мен қосалқы нормативтік құқықтық актілерге сыни талдау жүргізіліп, тәуекелге негізделген тәсілдерді еңбек қатынастарына тиімді енгізуге кедергі келтіретін олқылықтар, құқықтық қайшылықтар мен институционалдық тосқауылдар анықталды. Жұмыс орындарын аттестаттаудың бірыңғай әдістемесінің болмауы, нормативтік базаның бытыраңқылығы мен келісілмеуі, сондай-ақ бақылаушы органдардың функциялары мен өкілеттіктерінің жеткіліксіз регламенттелуі құқықтық ықпалдың тиімділігін төмендетіп, өндірістік жаракаттанудың алдын алу мүмкіндіктерін шектейді.

Автор өндірістік тәуекелдерді құқықтық реттеудің алдын алуға, құқықтық айқындыққа, кемсітушілікке жол бермеуге, әділеттілік пен үйлесімділік қағидаттарына негізделген біртұтас әрі тұрақты тұжырымдамасын қалыптастырудың маңыздылығын атап өтеді. Еңбек қауіпсіздігін қамтамасыз етудегі тәуекелге бағдарланған басқару жүйесін реттейтін арнайы нормативтік актіні қабылдау, мемлекеттік бақылауды күшейту, инспекциялық қызметті жаңғырту, сондай-ақ еңбек қауіпсіздігі талаптарын бұзғаны үшін жұмыс берушілердің заңды жауапкершілігін арттыру сияқты заңнаманы жетілдіру бағыттары ұсынылады. Сонымен қатар, еңбек инспекциясы органдарының институционалдық әлеуетін арттыру, еңбек қатынастарына қатысушылардың құқықтық сауаттылығын көтеру және кәсіби тәуекелдердің алдын алу мен еңбек құқықтарын қорғауға бағытталған мемлекет, жұмыс берушілер мен жұмыскерлер арасындағы тиімді ынтымақтастықты қалыптастыру мәселелеріне ерекше назар аударылады.

Негізгі сөздер: өндірістік тәуекелдер, құқықтық реттеу, еңбек құқығы, еңбекті қорғау, тәуекелге бағдарланған тәсіл, еңбек қауіпсіздігі, Қазақстан Республикасының заңнамасы.

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