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THE POSITION OF LABOR CODES IN THE STRUCTURE OF REGULATORY LEGAL ACTS OF THE MEMBER COUNTRIES OF THE EURASIAN ECONOMIC UNION

Abstract. The article deals with regulatory legal acts in the field of labor legislation of the member states of the Eurasian Economic Union. The purpose of the study is to formulate a definition of the labor Code on the basis of a comparative analysis of the national legislation of the member countries of the Eurasian Economic Union, to determine the place of labor codes in the system of labor legislation of the designated states, as well as to develop proposals for improving the normative legal acts of a separate norm in the field of labor of the member countries of the Eurasian Economic Union. The methods that were investigated were carried out on the basis of a comparative legal method and an analysis of the labor legislation of the member countries of the Eurasian Economic Union. The author presents the results of comparing the current norms of labor legislation of the Republic of Kazakhstan, the Russian Federation, the Republic of Belarus, the Kyrgyz Republic and the Republic of Armenia in terms of regulating labor relations and summarizes the legal definitions of the term "code" in four of these five countries. As a result, the definition of the Labor Code was formed, the problems of the correlation of the labor code and other normative legal acts adopted in the member countries of the above-mentioned union were identified. The conclusion is made about the absence of a conflict of laws rule on the priority of the Labor Code and about which regulatory legal act should have priority over all other laws.

Key words: Eurasian Economic Union, codification, code, labor code, regulatory legal acts, labor legislation.

Introduction. May 29, 2014 The Russian Federation (hereinafter – the Russian Federation), the Republic of Belarus (hereinafter – the code) and the Republic of Kazakhstan (hereinafter – RK), it was decided to improve the common economic space and create the Eurasian economic Union (hereinafter – EAEU), in which would continue the work on strengthening the Eurasian integration with existing experience and modern level of development of member States. This topic is relevant today, as the EAEU countries are currently actively forming their legal framework. At the same time, the labor legislation of the EAEU member states (Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic (hereinafter – The Kyrgyz Republic) and the Russian Federation) currently differ significantly both in the system and types of existing regulatory legal acts, and in the content of norms, the construction of labor codes (hereinafter - LC) and many other features. All this requires comparative legal research in order to identify differences, develop optimal models that can be used in the further process of harmonization of labor legislation of the EAEU member states. The formation and maintenance of integration between states is possible through the maximum convergence of national legislations and the creation of a unified regulatory framework. It is in this connection that the basis of integration should be the harmonization of norms aimed at regulating various aspects of interaction between the member States of the Union. This issue has been raised repeatedly in the scientific literature. Its study is necessary in order to unite the labor market, the labor market for citizens of the EAEU member states, as well as to build a unified approach to the legal regulation of labor relations of workers of the Eurasian regional integration member states.

Material and methods of research. Comparative-legal, logical-legal, as well as system-structural methods were used in the study.

Results The legal system of the EAEU member states inherited many of its features from the Soviet legal family, and today it is codified legislation belonging to the Romano-German legal family. In the theory of law, one of the distinctive features of any independent field of law is the law that makes up the system-turning code [1].

The Code is the result of the codification of legislation in a certain area of public relations. In this regard, it is necessary to support scientists in the field of social security law, as they have been working for many years on the Social Code, the Pension Code (E.M. Machulskaya) or the Social Security Code (Social Protection) (Yu.V.Vasilyeva, S.I. Kobzeva, Ya. Pozhogo, E.G. Tuchkova and others) [2].

Let's compare the legal definition of the term "code" in some member states of the EAEU, in the normative legal acts of which this definition is given.

According to paragraph 5 of Article 5 of the Law of Armenia "On Legal Acts" (hereinafter referred to as the "On RLA"), the Code is a law that systematically and decently regulates uniform public relations, establishes all or the basic norms of law.

The legal definition of the Code is set out in Section 4 of Article 2 of the Law of the Republic of Belarus "On RLA". The Code of the Republic of Belarus (codified normative legal act) is a law that provides for full systematic regulation of a specific area of public relations. The definition of the concept of "codification" is given in art. 1 of the Law "On RLAs". In turn, according to Part 1 of Article 4 of the Law "On RLA of the Kyrgyz Republic", the Code is a normative legal act that provides for the systematic regulation of homogeneous public relations. As we can see, the legislator of the Kyrgyz Republic does not use the word "full", since it can be called a code that regulates the relevant social relations. At the same time, the legislation of the Kyrgyz Republic mentions "homogeneous social relations". For comparison: in accordance with paragraph 11 of Article 1 of the Law of the Republic of Kazakhstan "On RLA", the Code is a law that unites and systematizes the norms of law governing the most important public relations provided for in Article 8 of this Law. From this definition it can be seen that our legislator supplemented their significance with a sign of the homogeneity of social relations. Such inconsistencies in the subject of the code fully correspond to the dogmatic provisions of the theory of common law. However, there are differences between the views of scientists on this issue. In particular, N.N. Senyakin's statement that codification acts unite "legal norms. At the same time, codes are not always related to the area of law.

Article 8 of the Law of the Republic of Kazakhstan have been adopted to regulate them. It also includes labor relations (clause 11 of Article 8 of the same Law). It is noteworthy that our legislator excluded "labor-related social relations" from the subject of the code (in this case, the LC). It’s worth-noting that in accordance with art. 3 of the Labor Code of the Republic of Kazakhstan the purpose of the labor legislation of the Republic of Kazakhstan is legal regulation aimed at protecting labor and other relations directly related to labor relations, protecting the rights and interests of the parties to labor relations, establishing minimum guarantees of rights and freedoms in the workplace. There is a clear discrepancy between the Labor Code of the Republic of Kazakhstan and the Law of the Republic of Kazakhstan. To eliminate them, it is necessary to supplement paragraph 11 of Article 8 of the Law of the Republic of Kazakhstan "On RLA" with the words "and directly related to labor". The broad definition of codification allows some theoretical scientists to refer to codified acts not only codes, but also acts of the president, foundations, decrees and rules. V.I. Mironov calls for the formation of a package of laws as a form of "continuous codification and consolidation of legislation" [3].

At the same time, some experts in the field of labor law explain the concept and the codification process too broadly. In particular, G.A. In 1985, Rogaleva defined the codification of labor legislation as "the highest form of legislative activity of the state with the participation of trade unions, which led to the improvement and systematization of relations regulating labor and related legal provisions, based on general principles and in accordance with the legislative work plan."

In turn, codification in the narrow sense, first of all, contributes to the in-depth development of part of the law, partly and other legal acts, which leads to the emergence of a new systematic legislative act called the code.

As a result of comparative analysis and as a result of identifying the features of the topic under study, we conclude that: LC is a codification law designed to ensure maximum (systematic, comprehensive) regulation of labor and (close or direct) relations with them.

The current regulatory and legal practice in the EAEU member states (for example, the existence of temporary decrees having the force of law and mandatory decrees of the President of the Republic of Belarus in the field of the contract system of employment, containing conflicts with the provisions of the law; the existence in Kazakhstan, along with the LC, of the Criminal Code of the President of the Republic of Kazakhstan, having the force of constitutional law; parallel to the LC of Armenia, the effect of Resolutions of the Government of the Republic of Armenia having the force of law, containing norms of labor law, etc.) often does not correspond to this important theoretical statement. According to Part 6 of Article 10 of the Law "On RLA of the Republic of Belarus", the Code has greater legal force in relation to other laws. An extensive and systematic interpretation of Article 10of this Law in combinations with Articles 85, 111, 139 of the Constitution of the Republic of Belarus allows us to conclude that the LC has greater legal force in relation to other laws (except constitutional ones) and to other RLAs having the force of law (decrees of the President of the Republic of Belarus), binding force (most decrees of the President of the Republic of Belarus). This conclusion is extremely important for resolving hierarchical conflicts between the LC and other legislative acts. In this regard, we propose, taking into account the legislatively fixed hierarchy of RLAs in Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation (with various national modifications), to fix the rule of priority (supremacy) in each of the LC in Chapter 1 LC in the system of labor legislation of the relevant state. The following formulation of such a norm is proposed: "In case of contradiction between the LC and other normative legal acts (with the exception of the Constitution, generally recognized principles of international law, constitutional laws, as well as international treaties ratified by law), this Code applies." Discussion In the practice of the EAEU member States and foreign organizations, the term "code" is used to refer to certain types of local and quasi-local regulations (rules of conduct, corporate codes, etc.).

At the same time, the phrase "Code of Rules" is widely used in the information resources of the International Labor-Organization on Occupational Safety and Health (for various sectors of the economy). We believe that the use of the term "code" is possible only if it is applicable only to local regulations arising from the systematization of local legal norms applicable to a specific organization in a specific area of public relations. In other cases, it is recommended to use other names of corporate documents (rules, instructions, etc.) [8].

Many post-Soviet republics are characterized by codified labor legislation (only Latvia and Estonia are special, which are ignored by some authors). On the contrary, this difference is not typical for Western European countries: labor law is regulated by the adoption of ordinary, infrequent, consolidated labor laws in some institutions of labor law, and civil labor codes (collections) are still partially applied to employment. The LC, which entered into force in 2008, differs only in France, where it combines the features of consolidation and incorporation.

In all five comparison countries of the EAEU, a new LC was adopted during the period of independence. Let's place the existing LC in chronological order:– The Labor Code of the Republic of Belarus [10];– LC of the Russian Federation (adopted by the State Duma on December 21, 2001, approved by the Federation Council, dated 26 December 2001, signed by the President on December 30, 2001, entered into force on 2 February 2002) [11]; – LC CU (adopted Legal Jogorku Kenesh 25.05.2004 G., signed by the President 04.08.2004 G., entered into force 01.07.2004 g) [12]; – LC Armenia (adopted

by the National Assembly of the Republic of Armenia 09.11.2004 G., signed by the President on December 14, 2004, entered into force on 21 June 2005); – The Labor Code of the Republic of Kazakhstan (adopted by the Parliament of the Republic of Kazakhstan on 05.11.2015, signed by the President on 23.11.2015, entered into the force on 01.01.2016).

Russian scientist I.A. Shestyakov mentioned seven symbols that characterize the features of codification as a form of legal labor activity: 1) adoption of the Labor Code during the judicial process; 2) regulation of significant and socially significant spheres of public relations (labor and related); 3) a significant and complex structure (sections, chapters, articles) based on internal unity, regularity, integrity and consistency of norms; 4) technical registration of the labor law system; 5) will become the basis for the consistent development of the industry; 6) the supremacy of the labor Code in labor legislation; 7) stability, which implies the inclusion of labor law norms in long-term employment codes [4]. In general, in accordance with the above criteria, not all of them are required to recognize labor law as a code. The first sign should be supplemented by the adoption by the legislative body (Parliament), the sixth and seventh signs, which we will see in the future, will not be taken into account and often will not be maintained by the EAEU member states. The theoretical code (including the labor code) should be a permanent law that has been adopted for decades, not one or two years. Nevertheless, there is a close connection between the law and the economy, as well as instability in the economic sphere (financial and economic crises that led to an increase in unemployment, a decrease in household incomes, etc.), occurring over the past decade, affects the state of labor, civil and some other areas of law. Even after the French government adopted a new Labor Code in 2008, the economy of the Fifth Republic had to carry out a number of reforms in labor legislation for workers, despite a very stable situation (during the presidency of N. Sarkozy and F. Hollande) [5].

Recall that since the entry into force of the Labor Code of the Republic of Belarus, 24 changes have been made to it. On average, the RB LC makes about 1 amendment per year.

This is less than in other countries. If in the first five years (from 2000 to 2004) the Belarusian code was stable (without changes and additions), then in the next 13 years (from 2005 to 2019) all 24 laws were introduced to make certain changes and additions. If we consider the number of amendments and additions (Law No. 272-Z of 20.07.2007 and Law No. 131-Z of 08.01.2014), then we will single out two of these 24 laws that may be related to the two main reforms of the labor legislation of the Republic of Belarus (2007/2008 and 2014, respectively). For comparison: over 17 years of the Labor Code of the Russian Federation (from February 2002 to December 2019), changes and additions were made about 127 times. Within one day, on July 3, 2016, the President of the Russian Federation signed six Federal Laws amending and supplementing the Labor Code (amendments and Additions No. 348-FZ, 347-FZ, 305-FZ, 272-FZ, 239-FZ, 236-FZ). That is, on average, about 6.6 federal laws are introduced, which annually amend the Labor Code of the Russian Federation. This variability is explained by the provisions of art 5p.5 of the Labor Code of the Russian Federation. Accordingly, if the newly adopted Federal Law contains norms of labor law and contradicts this Code, then this Federal Law will be applied only if appropriate amendments are made to the Labor Code of the Russian Federation. A number of leading Russian scientists in the field of labor law (A. Kurennoy, T.Yu. Korshunova, E.B. Khokhlov and others) doubted the prospects of adopting a new Labor Code of the Russian Federation.

The Labor Code of the Kyrgyz Republic, which entered into force in mid-2004 (as of December 2019), has been changed 30 times in 15 years. The KR on average changes the LC twice a year. In Armenia, the LC of 12/14/2004 is in force, in which 28 changes have been made over 15 years. As you can see, the frequency of adjustments in the Labor Code of Armenia is on average the same as in the Labor Code of the Kyrgyz Republic, which is about two laws per year. Until 01.01.2016, the "Labor Law of the Republic of Kazakhstan" of 1999 was inforce in our republic for 8.5 years, which was replaced by the Code that entered into force on 02.06.2007. During the period of its validity, 14 amendments were

made to the Labor Code of the Republic of Kazakhstan, while the largest (45amendments) changes and additions were made by the Law of the Republic of Kazakhstan dated 27.06.2014, refers to Law No. 212-V. Thus, as of January 2020, the oldest codified Labor laws out of five comparable codes are the Labor Code of the Republic of Belarus (20 years old), in second place – The Labor Code of the Russian Federation (18 years old), in third place – the Labor Code of the Kyrgyz Republic and Armenia (16 years old), the Labor Code of the Republic of Kazakhstan is about 5 years old, and it is the youngest of the five codes. Based on an arithmetic comparison of the number of laws that make changes and additions to the LC of the five EAEU member states, the Belarusian LC is the most stable, the LC of Armenia and the Kyrgyz Republic is "in second place", and the Russian LC is very often amended. It is still difficult to say about the stability of the Labor Code of the Republic of Kazakhstan in 2015. Reason – he is only 5 years old. From 2015 to 2020, our LC was amended 13 times.

The frequency of amendments to codified legal norms aimed at ensuring the stability of the sphere of labor law and, more importantly, the regulation of labor and related social relations is negative. The momentum of nascent public relations should, first of all, be provided by amending the current uncodified legislation and eliminated by law only in case of obvious conflicts between existing laws and the LC.

Unfortunately, in the practice of the EAEU member States, the completeness (consistency, complexity) of the regulation of labor law relations in the development of the current LC was not always possible. Let's look at some examples. Deviations from the above-mentioned feature in relation to the Labor Code of the Republic of Belarus, which currently does not regulate employment of the population (however, paragraph 5 of Part 1 of Article 4 refers them to the subject of regulation of the Labor Code), as well as in the Republic of Belarus the status and activities of trade unions (paragraph 2 of Part 1 of Article 4 of the same Code) are regulated in some laws (the Law "On Employment of the Population of the Republic of Belarus" and the Law "On Trade Unions" (1992). The Labor Code of the Republic of Belarus also does not regulate public relations that determine the legal status of relations between employers and labor collectives; participation of employees in the management of an organization; relations concerning the conclusion, amendment and termination of a student contract; protection of personal data of employees and self-defense of their labor rights. These public relations are areas of violation of the current national legislation of the Republic of Belarus, since these groups of subjects of labor law (paragraphs 1, 2 and 4 of Part 1 of Article and 4 of the Labor Code of the Republic of Belarus) are not regulated in any comprehensive way by the legislation of the Republic of Belarus. In this regard, we can agree with the opinion. The fact that the developers of the RB LC could not fully implement the idea of creating a direct action code [6]. The above-mentioned Belarusian legal scientist, who took an active part in the development of the draft LC, proposed the idea of creating a direct code of action in 1997. L.Ya. Ostrovsky correctly wrote about the shortcomings of the structure of the LC RB and the excessive number of reference norms. This trend occurred in 2007/2008, during the reform of the Labor Code of the Republic of Belarus, then many norms of direct effect were replaced by Law No. 272-Z of July 20, 2007 (for example, wage indexation, categories of employees whose main leave is granted for a period of more than 24 calendar days). In addition, entire sections of the Labor Code are excluded (for example, Article 38 on the employer's liability for damage caused to the life and health of employees in the performance of their duties). These shortcomings of the LC of the Republic of Belarus must be eliminated during the new codification of the LC.

Examples of deviations from the complexity of the regulation of labor and related relations can be found in the LC of other EAEU member states. For example, Part 2 of Article 1 of the Labor Code of the Kyrgyz Republic does not regulate relations (including the provisions of Article 409) in the implementation of public control over compliance with labor legislation, as well as the legal status of trade unions and employers' associations. In Chapter 24 of the Labor Code of Armenia, relations regarding the settlement of individual labor disputes are settled very briefly (Chapter 11 of the Labor

Code for collective labor disputes). In addition, there is no separate section or, at least, a chapter on the specifics of regulating labor with certain categories of employees (minors, women and persons with family responsibilities, disabled people, etc.), which indicates the inferiority of special labor legislation norms. As for our LC 2015, Part 1 of Article 8 "scope of thisCode" does not speak about the scope, but about the subject of regulation by the Code, A.K. also drew attention to this. Nadirov [19].

In accordance with this norm, the Labor Code of the Republic of Kazakhstan regulates the following relations: 1) labor relations; 2) directly related to laborrelations; 3) social partnership; 4) labor safety and health relations. The disadvantage is that, firstly, labor protection and safety are fully covered by labor relations; secondly, social partnership relations, as a rule, are closely related to labor relations and, thirdly, the groups of public relations directly related to labor and included in the subject of LC regulation are not allocated in our country. Systemic errors in our LC are also expressed in the fact that, along with the norms of labor law, it also includes the norms of administrative law (for example, the entire Chapter 2 "State regulation in the field of labor relations", consisting of four articles, is devoted to the competence of republican and local state bodies). The Labor Code of the Republic of Kazakhstan does not regulate employment relations, relations on the protection of personal data of employees and self-protection of labor rights, does not determine the legal status of trade unions and employers' associations.

A more complete regulation of labor and directly related relations is presented in the current Labor Code of the Russian Federation, although it is not without drawbacks.

Back in 1991, the Russian scientist S.P. Mavrin correctly justified that in the new economic conditions, cardinal transformations of the legal mechanism of labor management at the enterprise are necessary, including by "giving the republican labor codes the character of the main regulations of direct effect" [9].

The Labor Code is intended to play the role of a kind of "labor constitution" in the social and labor sphere of the state, to determine the direction of development of all labor legislation.

Results and their discussion. At one time, the Belarusian scientist V.I. Krivoy reasonably proposed to fix in the LC "a general rule on the inadmissibility of including norms regulating labor relations in other laws, except in cases where this is directly provided for in the LC itself" [10]. In fact, this proposal was implemented in Article 5 of the Labor Code of the Russian Federation. It can be concluded from the interpretation of the legislation of some other EAEU member states. According to Part 4 of Article 3 of the Labor Code of the Kyrgyz Republic, in case of a contradiction between this Code and other laws containing norms that worsen the situation of employees, the norms of this Code are applied. In addition, in accordance with Article 6 of the Law "On RLAs of the Kyrgyz Republic", dedicated to the hierarchy of RLAs; according to the degree of legal force, RLAs are located in the following hierarchy: 1) The Constitution, the law amending and supplementing the Constitution; the Constitutional Law; 2) the Code; 3) The Law; 4) The Decree of the President; 5) The Resolution of the Jogorku Kenesh; 6) The Decree of the Government [5]. Such a clear hierarchy of the RLA, placing codes (including the LC) in second place after the Constitution and Constitutional Laws and above ordinary laws, Presidential Decrees, Parliamentary and Government resolutions, seems very successful and could be borrowed by other EAEU member states. The hierarchy of RLAs in Article 10 of the Law of the Republic of Kazakhstan "On RLAs" of 2016 has also been sufficiently thought out. According to Part 1 of this article, the Constitution of the Republic of Kazakhstan has the highest legal force [6]. In Part 2 of Article 10 of the same Law, a detailed hierarchy of RLAs is built, starting from the Constitution and ending with subordinate RLAs. According to this norm, codes (including the LC) are hierarchically inferior only to the Constitution, constitutional laws and Decrees of the President of the Republic of Kazakhstan, which have the force of constitutional law. Accordingly, the codeshare higher in legal force than consolidated and ordinary laws, Decrees of the President of the Republic of Kazakhstan having the

force of law, regulatory Government resolutions, regulatory legal decrees of the President and a number of other. A similar, though less detailed hierarchy of the RLA is also enshrined in Article 10 of the Law "On the RLA of the Republic of Belarus" (the issue of the correlation of laws, decrees and decrees of the President of the Republic of Belarus is not resolved as clearly as in the Kyrgyz Republic and the Republic of Kazakhstan).

Many legal scholars correctly write about the dominant meaning of the LC or more broadly codified laws among legislative acts. At the same time, as V. Khnykin notes, the Labor Code of the Russian Federation has not become in the full sense an act of direct action [11].

In Part 3-5 of Article 5 of the Labor Code of the Russian Federation, the rules defining the relationship of the Labor Code of the Russian Federation with other federal laws are fixed. The Russian legislator proceeds from the formal priority the Labor Code of the Russian Federation. As S.P. Mavrin correctly notes in one of the comments to the Labor Code of the Russian Federation, "the Labor Code has legislative priority in regulating labor and other directly related relations in comparison with any other laws and regulations of federal, regional or local significance."

It has to be stated that four out of the five EAEU member states (with the exception of Russia) do not reflect the conflict of laws rule on the priority of the LC in relation to other laws and other RLA. However, in national laws on regulatory (legal). There are norms in the acts of the Republic of Belarus, the Republic of Kazakhstan and the Kyrgyz Republic that allow giving priority to the LC in comparison with other laws and some other RLAs; in Armenia there is a clear gap in this part.

Conclusions.

Despite the presence of general rules in the laws on regulatory legal acts, it is appropriate to apply the experience of Russia and the Kyrgyz Republic in all the LC of the EAEU member states and include a rule on the priority of the LC in relation to other laws, regulatory legal acts of the President, the Government, the state body for labor, social protection and employment, local authorities and self-government.

The huge volume of subordinate rulemaking, due to the frequent use of reference norms in the Labor Code, as well as the adoption by the presidents of decrees and (or) decrees allowed by the constitutions of the Republic of Kazakhstan and the Republic of Belarus, competing in legal force with the laws and sometimes conflicting with the Labor Code and other laws, entail an increase in the number of conflicts of labor law norms, difficulties in their resolution by law enforcers.

Based on the above, justifying the subordination in the hierarchy of national sources of labor law by legal force, we recommend fixing the priority value of the Labor Code among the acts of labor legislation.

References

1 Alekseev S.S. General theory of theology. S.S. Alekseev. - M.:, Publishing house "Prospect", 2008. - 472 p.

2 Kerimov D.A. Legislator of Technical sciences: scientific-methodical and educational manual; Academy of Social Sciences, Institute of Social and Political Research of the Russian Academy of Sciences, Mironov V.I. Labor law: theory and practice / V.I. Mironov. - M.: R. Valent, 2000. - 93 p.

3 Kasumov, A.M. Comparative analysis of the internal structure of the Customs Code of the Azerbaijan Republics and the Customs Code of the Russian Federation: issues of differentiation and further improvement / A.M. Kasumov // Labor law in Russia and abroad. - 2011. - No. 2. - pp. 17, 18.

4 Shestyakov I.A. Codification in the sphere of labor of the states of Eurasian integration / I.A. Shestyakov // Harmonization of social and labor legislation in the field of protection of the rights, freedoms and interests of citizens in the conditions Eurasian Economic Union: Theory, Practice, opportunities: Materials of the International Scientific Conference, April 29-30. 2014 - Almaty: Kazakh University, 2014. - p. 229, 230.

5 Filipov A.I.A. Reform of the French labor legislator of 2016 / I.A. Filipova // Labor and social insurance. - 2017. - No. 1. - pp. 36-39.

6.Krivoy V.I. Improvements only made it worse / V.I. Krivoy // Belarusian market. - 1999. - No. 1. - p. 19, 20.

7 Ostrovsky L.Ya. The system of the Labor Code and its components: a comparative analysis of the concepts of the Labor Code of the Russian Federation and the Labor Code of the Republic of Belarus // Guarantees of the realization of citizens' rights in the field of labor and social security. The practice of applying labor legislation and legislation on social security: materials of the International Scientific and Practical Conference - Moscow: Publishing House "Prospect", 2006. - pp. 263-267.

8 Nadirova A. K. The New Labor Code of the Republic of Kazakhstan: concepts and problems of its norms / A.K. Nadirova // Labor and social insurance.

- 2016. - No. 1. - p. 38, 39.

9 Mavrin S.P. Labor management: Theoretical and legal aspects: abstract. dissertations of Doctor of Law / S.P. Mavrin. - St. Petersburg: Publishing House of St. Petersburg State University, 1991. - 40 p.

10 Krivoy V.I. Codification of the labor legislation of the Republic of Belarus / V.I. Krivoy. - Minsk: "Professional", 1997. - 9 p.

11 Orlovsky Yu.P. Problems of improving labor legislation a / Yu.P. Orlovsky // Journal of Russian Law. - 2005. - No. 9. - pp. 40-43.

СРАВНИТЕЛЬНЫЙ АНАЛИЗ ТРУДОВЫХ КОДЕКСОВ СТРАН-УЧАСТНИЦ ЕВРАЗИЙСКОГО ЭКОНОМИЧЕСКОГО СОЮЗА

Аннотация. В статье рассматриваются нормативные правовые акты в области трудового законодательства государств-членов Евразийского экономического союза. Цель исследования - сформулировать определение трудового кодекса на основе сравнительного анализа национального законодательства стран -членов Евразийского экономического союза, определить место трудовых кодексов в системе трудового законодательства обозначенных государств, а также разработать предложения по совершенствованию нормативных правовых актов отдельной нормы в сфере труда стран - членов Евразийского экономического союза. Методы, которые были исследованы, были проведены на основе сравнительно-правового метода и анализа трудового законодательства стран-членов Евразийского экономического союза. Автор представляет результаты сравнения действующих норм трудового законодательства Республики Казахстан, Российской Федерации, Республики Беларусь, Кыргызской Республики и Республики Армения с точки зрения регулирования трудовых отношений и обобщает юридические определения термина "кодекс" в четырех из этих пяти стран. В результате было сформировано определение Трудового кодекса, выявлены проблемы соотношения трудового кодекса и других нормативных правовых актов, принятых в странах-членах вышеупомянутого союза. Делается вывод об отсутствии коллизионной нормы о приоритете Трудового кодекса и о том, какой нормативный правовой акт должен иметь приоритет перед всеми остальными законами.

Ключевые слова: Евразийский экономический союз, кодификация, кодекс, трудовой кодекс, нормативные правовые акты, трудовое законодательство.

ЕУРАЗИЯЛЫҚ ЭКОНОМИКАЛЫҚ ОДАҚҚА ҚАТЫСУШЫ ЕЛДЕРДІҢ ЕҢБЕК КОДЕКСТЕРІНЕ САЛЫСТЫРМАЛЫ ТАЛДАУ

Аңдатпа. Мақалада Еуразиялық экономикалық одаққа мүше мемлекеттердің еңбек заңнамасы саласындағы нормативтік құқықтық актілер қарастырылады. Зерттеудің мақсаты-Еуразиялық экономикалық одаққа мүше елдердің ұлттық заңнамасын салыстырмалы талдау негізінде Еңбек кодексін айқындауды тұжырымдау, еңбек кодекстерінің белгіленген мемлекеттердің еңбек заңнамасы жүйесіндегі орнын айқындау, сондай - ақ Еуразиялық экономикалық одаққа мүше елдердің еңбек саласындағы жекелеген норманың нормативтік құқықтық актілерін жетілдіру жөнінде ұсыныстар әзірлеу. Зерттелген әдістер Еуразиялық экономикалық одаққа мүше елдердің еңбек заңнамасын салыстырмалы-құқықтық әдіс және талдау негізінде жүргізілді. Автор еңбек қатынастарын реттеу тұрғысынан Қазақстан Республикасы, Ресей Федерациясы, Беларусь Республикасы, Қырғыз Республикасы және Армения Республикасы Еңбек заңнамасының қолданыстағы нормаларын салыстыру нәтижелерін ұсынады және осы бес елдің төртеуінде "кодекс" терминінің заңды анықтамаларын жинақтайды. Нәтижесінде Еңбек кодексінің анықтамасы қалыптастырылды, Еңбек Кодексі мен жоғарыда аталған одаққа мүше елдерде қабылданған басқа да нормативтік құқықтық актілердің арақатынасы проблемалары анықталды. Еңбек кодексінің басымдығы туралы коллизиялық норманың жоқтығы және басқа заңдардан қандай нормативтік құқықтық актінің басымдығы болуы керек деген қорытынды жасалады.

Негізгі сөздер: Еуразиялық экономикалық одақ, кодификация, кодекс, еңбек кодексі, нормативтік құқықтық актілер, еңбек заңнамасы.

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