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## EMPLOYMENT PROBLEMS IN KAZAKHSTAN: A COMPARATIVE ANALYSIS

**Abstract.** This article is devoted to the archived problem of modernity - the problem of unemployment and the mechanism of legal regulation in the Republic of Kazakhstan. This article discusses the problems of unemployment in the Republic of Kazakhstan, since in any civilized state the level of unemployment and employment is an indicator of the country's economy. The article analyzes the regulatory framework for regulating labor relations, including relations in the field of employment of the population, which allows to clearly regulate the relations in question in the legal field. The Government of the Republic of Kazakhstan is constantly working to reduce the unemployment rate in the country, a whole system has been developed to eradicate unemployment, but the main challenge not only for Kazakhstan, but also for the entire world community has become the COVID-19 pandemic. The conditions of total quarantine, the transition to a remote format of work, the closure of borders between states "hit" the usual and stable activities of many enterprises, which, accordingly, led to job cuts. The purpose of this article is to disclose legal problems in the field of employment in the Republic of Kazakhstan, a comparative analysis with similar legislation of other countries. The article discusses the key stages of state legal activity in the field of employment provision.

**Key words:** unemployment, labor relations, employment, state, legal.

### Introduction.

One of the priority problems around the world is the problem of employment of the able-bodied population, as it is associated with the prospect of economic and social stability of any state. The apparatus of the Government of each country should carry out a detailed analysis of the state and trends of employment of the population and take measures to regulate and ensure employment of the population.

Unemployment is a socio-economic phenomenon in which the able-bodied part of the population cannot find work and becomes an excessive population. According to the definition of the International Labor Organization, an unemployed person is a person who wants to work, can work, but does not have a job [1].

**Material and methods of research.** Unemployment is a complex and serious problem even for economically developed countries.

The Republic of Kazakhstan has established a legislative framework for the legal regulation of labor and employment of the population. Issues of regulation of labor and employment of the population are reflected in the Constitution of the Republic of Kazakhstan, in the Labor Code of the Republic of Kazakhstan and in the Law of the Republic of Kazakhstan "On Employment of the Population" dated 06.04.2016.

The directions of the State's policy in the field of employment promotion are also contained in international legal acts. Thus, an indication of the need for the State to create conditions for the fullest existence of the right to work is also contained in the International Covenant on Economic, Social and Cultural Rights (article 6).

The Universal Declaration of Human Rights of 1948 in Article 23 proclaims the right of everyone to work, to free choice of work, to fair and favorable working conditions and to protection

from unemployment, while Article 25 of this document indicates the right of everyone to count on a standard of living that would allow them to form and manifest themselves as a person, take a direct part in the production of material and spiritual goods [2].

**Results and their discussion.** Chapter 3 of the Law of the Republic of Kazakhstan "On Employment of the Population" provides for the norms for determining the status of an unemployed person, his rights and obligations, the rules for registering unemployed people in territorial employment centers, as well as the procedure for de-registration of unemployment.

The website of the Statistics Committee of the Ministry of National Economy of the Republic of Kazakhstan provides express information, which states that "The number of unemployed in January 2022, according to estimates, amounted to 457.6 thousand people, the unemployment rate is 5.1%" [3].

The Law of the Republic of Kazakhstan "On Employment of the Population" in paragraph 19 of Article 1 contains definitions of the concept of unemployed, based on this definition, an individual who is looking for work and is ready to start work is considered unemployed [4].

During the quarantine, the level of registered unemployed in Kazakhstan has increased 8 times, the number of unemployed employed has increased 11 times compared to the beginning of the year [5].

It seems that it is necessary to conduct a comparative legal analysis of the mechanism for solving the issue under consideration in other countries.

Different states give different definitions of the status of unemployed, for example, in Japan, an unemployed person is considered to be a person who has not worked a single hour for one week. In the United States, unemployed persons are considered to be those who have not worked for one week, as well as persons who have been temporarily dismissed or hired for a new job, but are in a waiting state for 30 working days. The UK gives a similar definition on this issue.

The legislation of the Russian Federation and the Republic of Kazakhstan are similar in determining the status of the unemployed, they lack any temporary properties or obligation to register in employment centers.

From the analysis of paragraph 19 of Article 1 of the Law of the Republic of Kazakhstan "On Employment of the Population", in order to recognize a person as unemployed, it is necessary to be an individual with legal capacity, does not belong to the category of employed persons, which are designated in Article 4 of the ZRK "On Employment of the population" and be ready to start work.

The definition of the concept of unemployment is also given in paragraph 20 of Article 1 of the Law of the Republic of Kazakhstan "On Employment of the population", from which unemployment should be understood as a socio-economic phenomenon caused by the lack of demand for a part of the labor force in the labor market.

The labor legislation of the Republic of Kazakhstan has undergone many reforms over the years of independence, and all these reforms have also touched on the problems of employment and unemployment. State regulation in the field of employment in the Republic of Kazakhstan is carried out by the Government of the Republic of Kazakhstan, the Ministry of Labor and Social Protection, territorial departments of Labor, Social Protection and Migration, employment centers. Chapter 2 of the Law of the Republic of Kazakhstan "On Employment of the Population" provides for the competence of the above-mentioned state bodies in the field of employment and employment of the population.

The problem of employment of the population is not a problem of a single state, but of the entire world community as a whole, also many international organizations are involved in the employment system, one of which is the International Labor Organization. During the active activity of the International Labor Organization, more than 185 Conventions have been developed and adopted, 180 member countries of this organization, for which the ILO conventions and recommendations are a platform for creating an internal system to protect the population from unemployment.

G. Agliullina in her work gives the following definition of employment as an economic category, which is a set of economic relations related to the provision of jobs for the able-bodied population and human participation in the production process and economic activity [6].

According to V.A. Pivlenkov, employment to the population is citizens who have passed the age designated by law and are currently doing work that brings them income in kind or in cash [7].

E. V. Shuvaeva writes that employment is the most important fundamental element of the system of labor relations [8].

I would like to agree with the opinion of E.V. Shuvaeva that employment is an integral part of labor relations, which needs clear state regulation. An effective labor market policy on the part of the state contributes to an increase in employment opportunities [6].

The state, implementing employment policy at the national and regional levels, should pursue strategic and tactical goals. The strategic goal is to achieve a high standard of living, create conditions for comprehensive human development based on improving the efficiency of the economy. The tactical goal is to balance the supply and demand of labor on the basis of the demand and supply of jobs, ensuring full, productive and effective employment [9].

State support for unemployed citizens in the Republic of Kazakhstan is carried out in the form of consulting work on education and employment, providing advanced training courses, vocational training and retraining, search and assistance in employment, including the organization of youth policy.

Professional development, vocational training and retraining in Kazakhstan are regulated by the norms of labor legislation and are ways of state regulation of employment provision.

One of the ways of social protection by the State is the payment of unemployment benefits, this method is regulated not only by the norms of domestic legislation, but also by the Convention Section VI "On the Promotion of Employment and protection from Unemployment" adopted at the 25th session on June 21, 1988 by the General Conference of the International Labor Organization.

Social payments in case of job loss in Kazakhstan are regulated by the norms of the chapter of the Law "On Compulsory Social Insurance" dated December 26, 2019. Article 22 of the CC provides for the size and timing of payment, but the maximum payment period for this type of payment is 6 months.

The procedure for registering as unemployed in the Republic of Kazakhstan is indicated in the Rules for Registration of Job Seekers, the Unemployed and the Implementation of labor mediation provided by employment centers of June 19, 2018 No. 259.

The amount of social benefits for job loss in our country is calculated by multiplying the average monthly income by the income replacement coefficient and the length of participation in the compulsory insurance.

The situation regarding the payment of social unemployment benefits is different in Germany, for a year a person recognized as unemployed is entitled to receive benefits in the amount of 60% of wages, and for persons with young children - 67%.

In Canada, this type of benefit is paid to persons who work at least 15 hours a week and the amount of earnings is at least 113 Canadian dollars, the maximum benefit payment period is 50 weeks. The amount of the benefit and the duration of the payment depends on the amount of wages, the rate of unemployment growth, etc..

The employment model in Canada is mainly focused on creating a system of vocational guidance and employment of the population. Recently, new forms of professional orientation have been introduced here (designed not only for students, but also for adult workers), a close relationship is being established with other areas of state regulation of the training and use of labor.

Independent classes in specialized vocational guidance centers ("center of choice") become the most important form of knowledge of the "world of professions" for young people. This is a new, special type of institutions with automated information systems, video equipment, electronic examiners [10].

The main tasks of the UK employment Service are: providing assistance in finding a job; providing special assistance to disabled people (programs and encouragement of employers); monitoring those receiving benefits (apply 1 every 2 weeks); detecting fraud when receiving benefits (inspection group). In the UK, a person who applied to employment services in search of work is recognized as unemployed from the first day of application [11].

The unstable development of the world economy and the constantly changing conditions of social modernization put forward updated standards for the labor market and the promotion of employment of the population, and accordingly the state should develop high-quality and maximally productive measures and programs to promote employment and employment of citizens.

In one of his speeches, the President of the Republic of Kazakhstan K. Tokayev voiced the problem of youth unemployment. This fact is influenced by several factors: the ambition of young professionals, the reluctance to start a career from the bottom, the requirement of employers to have work experience for vacant positions.

In reality, the problem of unemployment in the Republic of Kazakhstan is not limited only to the age limit, but has signs of gender, since, according to official statistics, 65% of the unemployed are women.

This fact is caused by various factors, for example, some regions of Kazakhstan are oil and coal-producing regions, respectively, the work of women in this area is limited, it is also necessary to take into account the reluctance of employers to hire women with young children. At the moment of the development of labor legislation and Kazakh legislation in general, the problems of legal regulation of women's labor still remain unresolved in many industries. For example, according to the results of a study by the Gender Economics Research Center of Narkhoz University, the situation with wage inequality in Kazakhstan has not changed since 2010. According to the results of the study, it was revealed that Kazakh women are paid 35% less.

We see this situation as discrimination of constitutional, labor rights of women, violation of the principles of labor legislation on ensuring the right to remuneration for work.

In many countries of the world community, there is a radical rethinking of the social role in society, priority measures are being determined to ensure its rights and opportunities.

The equal participation of women in the political and economic life of the country is considered by the democratic public as a necessary condition for achieving progress in socio-economic development, in solving urgent political, socio-cultural, racial, ethnic and other problems.

Today, according to the World Labor Organization, there is an increase in the number of employed women in the world labor market.

It should be noted that the mechanism for protecting women's labor rights in Kazakhstan requires improvements, despite the legislative consolidation of the norms of international conventions and agreements, in practice their implementation requires strict state regulation by executive bodies, raising the level of legal awareness of each individual employer, and society as a whole.

With the development of the market economy in Kazakhstan, a considerable proportion of economically active citizens have moved from the number of employees to the category of individual entrepreneurs, persons receiving income from activities under civil law contracts, as well as the self-employed, which significantly reduced the burden on the state in the field of employment and employment.

By itself, this phenomenon contributes not only to the growth of the country's economy, but also to the state of employment of the population, since, if previously an individual carried out wage labor, then in the current conditions, it passes into the category of employers.

But despite the development of small and medium-sized businesses, the Government of the Republic of Kazakhstan is closely engaged in increasing the level of employment. For example, on April 2 of this year, the Minister of Labor and Social Protection of the Population B. Nurymbetov at a conference call of the Government of the Republic of Kazakhstan said that "the main tool for ensuring employment of the population will be a new Employment Roadmap, the implementation of which provides 1 trillion.tenge. The program will cover more than 7 thousand projects, of which more than 300 projects are productive, promising projects that will make it possible to create new permanent jobs" [10].

### **Conclusion.**

In implementing the principles of the new Roadmap, the Government of the Republic of Kazakhstan plans to actively involve local executive bodies, form a more productive use of electronic resources of territorial employment centers by akimats. The main target audience of this Program is unemployed youth.

In general, it is necessary to note the positive dynamics of the state's response in the field of employment to external and internal socio-economic factors affecting the level of employment and employment of the population. But at the same time, it should also be noted that according to experts, the unemployment rate in Kazakhstan remains at a high level and the situation in the world today requires the state to take drastic measures to grow the economy. It is necessary to revise the maintenance of static unemployment data because it is noted that the real figures and official unemployment statistics have clear differences.

Summing up the above, it should be noted that despite the fact that a certain part of the able-bodied population of the country are self-employed or have income in the field of small and medium-sized businesses, it should be taken into account that trends in the development of the market of services, technologies, substitution of one sphere of activity with another do not make the "arena" of self-employment stable, and therefore the share of responsibility in the sphere of regulation of employment and employment of the population should be entrusted to the state.

### **References**

- 1 Frolova T.A. Economic theory: lecture notes. - Taganrog: TTI SFU, 2009.
- 2 Human rights: A collection of international documents. - M., 1986. – pp.10-12
- 3 Unemployment in Kazakhstan remained at 4.8% in February. [Electronic resource] // URL: <https://zonakz.net/2020/03/16/bezrabotica-v-kazaxstane-v-fevrle-soxranilas-na-urovne-48/>
- 4 Law of the Republic of Kazakhstan dated April 6, 2016 No. 482-V "On employment of the population" (with amendments and additions as of 01.01.2020)
- 5 The number of unemployed has increased 8 times during the quarantine in Kazakhstan.// URL: [https://tengrinews.kz/kazakhstan\\_news/bezrabotnyih-stalo-v-8-za-vremya-karantina-kazahstane-411630/](https://tengrinews.kz/kazakhstan_news/bezrabotnyih-stalo-v-8-za-vremya-karantina-kazahstane-411630/)
- 6 Agliullina G. R. Employment of the population as an economic category // Bulletin of UISTU. 2016. No. 1 (73). URL: <https://cyberleninka.ru/article/n/zanyatost-naseleniya-kak-ekonomicheskaya-kategoriya> (Date of application: 17.02.2022).
- 7 Pavlenkov V.A. Labor market. Busyness. Unemployment. Moscow: MSU, 2004. 584 p.
- 8 Shuvaeva E. V. Employment as the most important element of labor relations // Actual issues of economic sciences : materials of international. scientific conference — Ufa : Summer, 2011.
- 9 Bogdashkina Irina Vyacheslavovna, Kusanova Adema Yerzhanovna Effectiveness of state programs in solving employment problems // Actual problems of our time: science and society. 2014. No. 4 (5). URL:

<https://cyberleninka.ru/article/n/effektivnost-gosudarstvennyh-programm-v-reshenii-problem-zanyatosti-naseleniya> (accessed: 02/20/2022).

10 Shaikin, D. N. Socio-economic aspects of the use of youth labor in the Republic of Kazakhstan (on the example of the North Kazakhstan region) : dis. ... Candidate of Economic Sciences / D. N. Shaikin. – Omsk, 2005. – 179 p.

11 Tsapova N. Y. Foreign experience of employment regulation // Science of man: humanitarian studies. 2010. No.5. URL: <https://cyberleninka.ru/article/n/zarubezhnyy-opyt-regulirovaniya-zanyatosti> (accessed: 02/20/2022).

12 The implementation of the "Employment Roadmap" will cover 7 thousand projects - the Ministry of Health of the Republic of Kazakhstan // Official information resource of the Prime Minister of the Republic of Kazakhstan // URL: <https://primeminister.kz/ru/news/realizaciya-dorozhnoy-karty-zanyatosti-ohvatit-7-tys-proektov-mtszn-rk-234737>

## ҚАЗАҚСТАНДАҒЫ ЖҰМЫСПЕН ҚАМТУ МӘСЕЛЕЛЕРІ: САЛЫСТЫРМАЛЫ ТАЛДАУ

**Аңдатпа.** Бұл мақала қазіргі заманның мұрағат мәселесіне - жұмыссыздық және Қазақстан Республикасындағы құқықтық реттеу тетігінің проблемаларына арналған. Бұл мақалада Қазақстан Республикасындағы жұмыссыздық мәселелері қарастырылады, өйткені кез келген өркениетті мемлекетте жұмыссыздық пен жұмысқа орналасу деңгейі ел экономикасының көрсеткіші болып табылады. Мақалада еңбек қатынастарын, оның ішінде жұмыспен қамту саласындағы қатынастарды реттеудің нормативтік-құқықтық платформасы талданады, бұл құқықтық салада қарастырылған қатынастарды нақты реттеуге мүмкіндік береді. Қазақстан Республикасының Үкіметі елдегі жұмыссыздық деңгейін төмендету бойынша тұрақты жұмыс жүргізуде, жұмыссыздықты жою бойынша тұтас жүйе әзірленді, бірақ тек Қазақстан үшін ғана емес, бүкіл әлемдік қоғамдастық үшін де басты сын - қатер COVID-19 пандемиясы болды. Жаппай карантин шарттары, қашықтан жұмыс істеу форматына көшу, мемлекеттер арасындағы шекаралардың жабылуы көптеген кәсіпорындардың әдеттегі және тұрақты қызметіне "соққы берді". Осы мақаланың мақсаты ҚР-да халықты жұмыспен қамту саласындағы құқықтық проблемаларды ашу, басқа елдердің ұқсас заңнамасымен салыстырмалы талдау болып табылады. Мақалада халықты жұмыспен қамту саласындағы мемлекеттік құқықтық қызметтің негізгі кезеңдері қарастырылады.

**Негізгі сөздер:** жұмыссыздық, еңбек қатынастары, жұмыспен қамту, мемлекеттік, құқықтық.

## ПРОБЛЕМЫ ЗАНЯТОСТИ В КАЗАХСТАНЕ: СРАВНИТЕЛЬНЫЙ АНАЛИЗ

**Аннотация.** Данная статья посвящена архиважной проблеме современности - проблемы безработицы и механизма правового регулирования в Республике Казахстан. В данной статье рассматриваются проблемы безработицы в Республике Казахстан, так как в любом цивилизованном государстве уровень безработицы и трудоустройства является показателем экономики страны. В статье анализируется нормативно-правовая платформа регулирования трудовых отношений, в том числе отношений в сфере занятости населения, позволяющая четко регламентировать рассматриваемые отношения в правовом поле. Правительством Республики Казахстан ведется постоянная работа по снижению уровня безработицы в стране, разработана целая система по искоренению безработицы, но главным вызовом не только для Казахстана, но и для всего мирового сообщества стала пандемия COVID - 19. Условия тотального карантина, переход на дистанционный формат работы, закрытие границ между государствами «ударили» по привычной и стабильной деятельности многих предприятий, что соответственно, повлекло сокращение рабочих мест. Целью данной статьи является раскрытие правовых проблем в сфере занятости населения в РК, сравнительный анализ с аналогичным законодательством других стран. В статье рассматриваются ключевые этапы государственной правовой деятельности в сфере обеспечения занятости населения.

**Ключевые слова:** безработица, трудовые отношения, занятость, государство, правовые.

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