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**Legal Aspects of Labor Regulation for Individuals Performing
Non-Standard Employment Functions**

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Abstract. Changes brought about by digitalization and the introduction of artificial intelligence into our lives require new approaches to regulating labor relations, in particular, expanding the role of the employment contract in regulating labor relations, including those arising in the sphere of non-standard employment.

This article examines the problematic aspects of labor regulation for individuals performing non-standard work, including digital nomads. Currently, labor law scholarship and the labor legislation of the Republic of Kazakhstan (hereinafter referred to as RK) lack a unified concept of what constitutes non-standard employment or what forms such employment takes. Consequently, there is no systematization of these types of labor activity. The legal status of digital nomads remains poorly understood. Therefore, this article focuses on ideas aimed at developing a national concept for digital nomads, which should help overcome gaps in the legislative regulation of this form of employment.

An analysis of labor legislation aimed at expanding the role of the employment contract in the sphere of non-standard employment allowed us to examine the capabilities of the existing electronic unified system for recording employment contracts and identify some shortcomings in its operation. This article was based on current national codified legal acts, as well as materials obtained during the project work. An analysis of individual provisions of these documents allowed identifying problematic aspects of current labor legislation, leading to recommendations for its further improvement. The authors' ideas presented in the article can be used to develop a concept for legal regulation of precarious employment, including digital nomadism.

Keywords: precarious employment, digital nomads, employment contract, civil law contract, labor legislation.

Introduction

Current trends in the development of labor relations in our country and globally demonstrate that digitalization and the introduction of information technology are significantly changing not

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only the traditional understanding of the work process but also the mechanisms for formalizing relationships between its participants. Today, precarious employment is becoming a regular form of work for many, and one of the factors driving the spread of such employment is the growth of digital labor platforms. However, legislation has not kept pace with changes in the labor market.

Non-standard employment is understood as a system of social and labor relations that has a number of characteristics that distinguish these relations from classical labor relations, stipulated by subparagraph 21) of paragraph 1 of Article 1 of the Labor Code of the Republic of Kazakhstan (hereinafter referred to as – LC RK), where the employee and the employer establish and regulate relations within the legal framework [1]. These characteristics contain differences, due to which such employment is called “non-standard”: firstly, the absence of formal labor relations with the mandatory conclusion of an employment contract; secondly, a different working regime, for example, a certain duration of working hours, informal employment, work under a civil law contract, self-employment, digital work, etc. At the same time, the concept of “employment” gives the term a specific meaning: we are talking about a type of labor activity with socially useful consequences aimed at creating public goods. Therefore, non-standard employment can be considered one of the elements of the social organization of labor.

Labor law science has today seen a breakthrough in the study of non-standard forms of employment, with numerous original scientific concepts on the types and forms of non-standard employment. However, determining the legal status of individuals performing non-standard work requires a key consideration of the current legislation in the country, which requires further improvement. This is particularly true for so-called “digital nomads.”

Methodology

This study examines the legal aspects of the activities of individuals performing precarious work functions based on officially published materials, research findings, and traditional methods. The article draws on current national codified legal acts applicable to the legal regulation of precarious work activities: the Labor, Civil, and Tax Codes of RK, as well as other relevant documents, and materials obtained during research on the topic. An analysis of individual provisions of these documents allowed identifying the key problematic aspects that are the subject of this study. To determine the extent of research on the topic, a review of scientific publications by domestic and international scholars devoted to the issues of precarious employment and digital nomadism was conducted. The article also includes a brief analysis of the information resource of the Ministry of Labor and Social Protection of the Population of the Republic of Kazakhstan (hereinafter referred to as MLSP RK), which contains official information on labor relations regulation.

The methodological approach of the study is based on a dialectical approach to understanding reality. Substantiation of the findings was made possible by general scientific research methods, as well as specific legal methods, such as formal legal and systemic methods, the method of interpreting legal norms, and the comparative legal method. Formal logic was used to identify the legislative provisions being analyzed. The systemic approach facilitated the study of precarious employment as an element of the overall system of social relations in the sphere of labor. Using methods of interpreting legal norms and comparative law, the key issues in the sphere of legal regulation of the activities of individuals performing labor functions in the form of precarious

employment are interpreted in the context of the transformation of labor relations and the development of digital labor platforms.

Results and Discussion

The sudden shift to mobile work following the pandemic has increased society's dependence on digital technologies, leading to a rapid expansion of precarious employment. New forms of precarious employment have emerged, some of which are either not formally defined in current Kazakhstani legislation or have been formalized under different names. In practice, in addition to the forms of work stipulated by labor legislation (fixed-term employment contracts; part-time work; providing personnel services; platform employment; hourly work; seasonal work; external part-time employment; secondment), we also encounter forms of precarious employment not regulated by law (digital workers; working simultaneously for several employers, or so-called "polyworking"; leasing work (outsourcing, outstaffing, secondment); project-based employment; self-employment or flexible work, or so-called freelancing, etc.). Thus, Kazakhstan's labor legislation does not yet cover all forms of non-standard employment encountered in practice. However, most new forms of non-standard employment today rely on or are based on digital technologies. Digital nomads are of particular interest in this regard.

The types of non-standard employment encountered in practice can be classified as follows:

<i>№</i>	<i>A form of non-standard employment</i>	<i>Type of non-standard employment</i>
1	Temporary employment	fixed-term employment contracts for the duration of certain work, project work, seasonal work, casual work, or day work
2	Part-time work	polyworking (external co-employment with two or more employers), home-based work, on-call work
3	Multilateral labor agreements	borrowed labor, provision (leasing) of personnel, outstaffing, outsourcing
4	Provision of services and dependent self-employment	work under a civil contract, platform work, self-employment (freelance)
5	Digital work	remote work, digital nomadism

Among the types of non-standard employment listed in the classification, digital nomads occupy a special place, which is due to the development of digitalization and artificial intelligence, and the growing interest of countries in highly skilled labor.

Numerous studies by authoritative international organizations, including the International Labour Organization, the World Economic Forum, the Organization for Economic Cooperation and Development, the United Nations, the McKinsey Global Institute, Deloitte, the World Bank, and the European Commission, have explored potential scenarios for the development of labor relations. All of these studies raise universal challenges and opportunities that the rapidly evolving world of work creates for virtually all countries. They examine the impact of modern computer technologies, digitalization, globalization, and growing demographic processes on the workforce and labor processes. The research findings demonstrate the inevitable erosion of classical understandings of jobs, forms, and skills of labor [2].

International experts' forecasts are reflected in international legislation; digitalization and the introduction of artificial intelligence dictate entirely new approaches to legislative decisions regulating social and labor relations. Head of State K. Tokayev noted that "to attract leading foreign specialists in the field of artificial intelligence, it is necessary to launch a special Digital Nomad Residency program... we need to transform the country into a magnet for 'digital nomads' from around the world [3].

Who are 'digital nomads' and how is the labor of this group of workers regulated? The growing global trend of digital nomadism is the result of the influence of digitalization processes on changes in the employment structure in the labor market. As a factor in the development of the social and labor sphere, this phenomenon requires detailed legal regulation, since individuals engaged in precarious employment have equal access to social protection of their rights. According to the ILO, precarious or informal employment accounts for almost 60% of the global labor market [2].

The importance of digital nomads has been noted by many authors [4, 5, 6, 7, 8, 9, 10, etc.], as the concept of "digital nomads" emerged long before the pandemic. The authors' research focuses on various aspects of digital nomads' activities, such as:

- challenges of establishing connections between digital nomads and the state, the practical processes and difficulties of becoming an experienced digital nomad through the prism of tax, civil and visa legislation of different countries, the interest in conducting borderless transnational business on e-commerce platforms (e.g., Amazon, eBay or Shopify) and conflicts with state bureaucracy [4];

- issues of rationalizing mobility despite restrictions during the pandemic, when digital nomads continued to travel to preserve their identity, avoid border closures and lockdowns, tried to maintain their group identity through movement, since the new geopolitical conditions created both barriers and loopholes for digital work [5];

- the impact of the pandemic on the work of digital nomads, which accelerated the normalization of many aspects of their lifestyle, blurring the traditional boundaries between work, leisure, home and travel; the adaptive superiority of the digital nomad lifestyle in global scenarios already under the pressure of digitalization is emphasized [6];

- an analysis of digital nomadism as a phenomenon that has attracted considerable attention over the past two decades due to the development of digital technologies, remote work opportunities and changing employment paradigms; the concept of digital nomadism has undergone a transformation: digital nomadism, historically associated with the tourism and leisure sector, has now expanded to encompass ecosystems of digital platforms that play a decisive role in this transformation, and, as a result, the number of non-standard forms of labor organization, such as remote work, home-based work, project-based employment and others, has increased significantly and has become widespread throughout the world [7];

- the factors that make cities attractive from the point of view of digital nomads were investigated: high-quality internet access for work; it is not necessary to use coworking spaces or residential premises to perform their duties, public places that offer Wi-Fi access are also suitable; city legibility and ease of movement; city infrastructure, as well as the attitudes and behavior of the local community; identification of sources of information on the destinations most frequently used by digital nomads [8];

- digital nomads' concerns about the level of social responsibility of their former and new employers are noted; the experience of Portugal, which approved a bill creating a "digital nomad visa" for remote work, is discussed [9];

– a comprehensive definition of a digital nomad is provided, with the authors rethinking previously formulated definitions of a digital nomad published in previous articles; the article assesses the significance of this concept for practitioners [10].

The term “digital nomad” was first used by Makimoto and Manners in their work “Digital Nomad” (1997), who proposed their concept of a variety of mobile work based on technology and remote communication [11]. Since then, “digital nomadism” has developed and is now studied from both a legal and economic perspective. Moreover, a system of innovations has emerged that has affected a number of countries. For example, digital nomadism “has given rise to a multitude of specialized visas (digital nomad visas)” [12]. These innovations have also affected Kazakhstan. Our project research shows that more than 50 countries worldwide have already introduced such special visas for remote workers.

Kazakhstan introduced the Digital Nomad visa in 2024 and is available to citizens of countries that maintain a visa regime with Kazakhstan. The Digital Nomad Visa (BD-1) is issued for one year and can be applied for online. Valid medical insurance in Kazakhstan is required. Starting in 2025, the Digital Nomad Visa allows not only work but also permanent residence in Kazakhstan. However, only IT specialists are eligible. The visa was introduced as a strategic step to attract qualified remote workers.

Another visa, the Neo-Nomad (B12-1), is aimed at remote workers from all sectors. It is issued for up to one year with the possibility of an additional year of extension. It is processed in no more than five business days. However, it does not grant the right to permanent employment in Kazakhstan. Digital nomads must confirm a stable income from foreign sources, provide a certificate of no criminal record from their country of citizenship, valid health insurance for the entire stay, and a tax return from their country of citizenship. Unlike the first visa, the Neo-Nomad Visa allows applicants to include family members for the same length of stay, while the minimum income requirements remain the same.

Thus, two different models for attracting digital nomads have been created in Kazakhstan, but their goal is the same: integrating advanced foreign specialists into the country’s economy. This goal requires the creation of an effective legal mechanism for regulating all types of non-standard labor activity, including digital nomadism.

The renowned Kazakhstani scholar Ye.N. Nurgaliyeva addresses the issue of digital nomadism in her work, noting that the concept of “digital nomads” must be considered in both wide and narrow senses [13]. In our opinion, the author introduces a completely new concept of digital nomads, which is based on dividing digital nomads into different groups based on their level of mobility: the first group consists of digital nomads with limited mobility; the second group consists of those who move occasionally; and the third group consists of constantly traveling professionals. However, in her opinion, “in Kazakhstan, the primary focus is on third-level digital nomads” [13]. According to the researcher, it is precisely these professionals who can fully contribute significantly to the development of Kazakhstan’s economy, utilizing all the advantages of digitalization.

This concept is also supported by the visa programs for digital nomads introduced in the country. One of the key axioms of this concept is the notion that the concepts of “digital nomad” and “digital migrant” should not be confused. This distinction between the legal statuses of labor market participants helps determine the most effective mechanism for regulating the labor of such a category of workers as digital nomads.

We believe that Ye.N. Nurgaliyeva’s classification of digital nomads facilitates the legal regulation of the activities of individuals performing precarious work in the context of

digitalization. The key value of a broad understanding of digital nomadism lies in its ability to encompass all forms of precarious employment regulated by Kazakhstan's labor and civil legislation.

Digital nomads are defined as individuals, regardless of nationality, who are attracted to non-standard digital employment, who carry out mobile work in the form of an unlimited multinational business using ecosystems of digital platforms, or who are ready to accept suitable job offers from employers, regardless of their country of origin, providing earnings or income.

The legal status of digital nomads mainly depends on their form of employment: entrepreneur, employee, or performer. The difference between these statuses is determined at the legislative level and is as follows:

- if a digital nomad is a businessman, then as an entrepreneur, depending on the type and nature of the activity, the norms of the civil, entrepreneurial and tax legislation of the Republic of Kazakhstan are applied;

- if a digital nomad has chosen the status of an employee and has concluded an employment contract with a Kazakhstani employer, then the terms of employment are determined by the content of the employment contract concluded between the parties within the framework of labor legislation;

- if a digital nomad has chosen the status of a customer or contractor and has concluded a civil law contract with a partner, then the terms of employment are determined by the content of a civil law contract concluded between the parties (for example, a service agreement) within the framework of civil law;

- if a digital nomad decided to choose a visa option and settled on one of the visas introduced in Kazakhstan – «Digital Nomad» or «Neo-Nomad», then the legal status of such a person is fully determined by the requirements of the chosen visa.

The chosen legal status of a digital nomad determines the scope of their rights and obligations, access to social protection mechanisms and other opportunities provided for by the legislation of Kazakhstan. However, in order to attract highly qualified personnel, additional legislative bonuses are needed that will attract them to the country's economy.

Articles 19 and 21 of the LC RK define the parties to labor relations and establish the grounds for the emergence of labor relations. These provisions establish requirements for participants in labor relations, which are not always acceptable for individuals performing precarious work. By normatively defining the distinguishing features of an employment contract from other types of contracts, the legislator apriori outlined the requirements for labor relations.

In 2023, Article 146-1, "Particularities of regulating the labor of employees hired by an individual entrepreneur or legal entity operating using internet platforms and/or a mobile platform employment application," was included in LC RK. This ensured compliance with minimum social labor standards for the relevant group of employees. Furthermore, paragraph 2 of Article 146-1 of LC RK provides for the conclusion of an employment contract between the parties to the employment relationship for a specified period, without the limitation stipulated by subparagraph 2) of paragraph 1 of Article 30 of LC RK; that is, the parties determine the term of the contract based on their interests [1].

The parties to the employment contract have the right to independently determine the duration of daily work or shifts. However, when determining the system and conditions of remuneration, duration, and procedure for recording employees' working hours, the legislator requires compliance with generally established labor legislation. Thus, employers using internet

platforms and mobile platform employment applications to attract workers are obligated to conclude employment contracts with employees. Consequently, Kazakhstan's labor legislation has guaranteed the labor rights of a significant portion of so-called digital workers. However, this is insufficient to legally regulate the labor activities of individuals performing precarious work or to determine their legal status.

Article 27 of LC RK specifies that one of the characteristics of an employment contract, distinguishing it from other types of contracts, is "personal performance of obligations with subordination to the work schedule." In non-standard employment, while maintaining the personal nature of the performance of work duties, subordination to the work schedule may have certain peculiarities. For example, according to subparagraph 55-2) of paragraph 1 of Article 1 of LC RK, as well as subparagraph 3) of paragraph 1 of Article 28 of LC RK, in the case of remote work, the location of work is not specified; therefore, certain deviations in the work schedule are possible [1]. Therefore, the question may arise here as to the extent and whether all representatives of the non-standard employment sphere can conclude an employment contract in the classical format stipulated by national labor legislation. Based on international experience, it is possible to consider the possibility of legislative regulation of the right of the parties to conclude in the sphere of non-standard employment, such types of employment contracts that are maximally adapted to the conditions of atypical work.

It should be noted that we do not exclude work under a civil contract as a form of non-standard employment. Moreover, in recent years, Kazakhstan's legislation has advanced in protecting the rights of individuals operating under a civil contract, becoming more effective in terms of social contributions and health insurance. The new Tax Code of the Republic of Kazakhstan (hereinafter referred to as TC RK) separately regulates the taxation of self-employed individuals, who enjoy a "special tax regime for the self-employed," with subparagraph 1) of paragraph 2 of Article 718 of TC RK defining the types of activities for which this regime is permitted [15, 16].

At the same time, it should be noted that the conclusion of a civil contract, in particular a service contract, has in practice been abused by employers for various reasons, including reducing employee costs and reluctance to respect employees' rights to social security and other social benefits stipulated by current legislation. Moreover, employers themselves acquire a different legal status in such relationships, becoming "service providers," with the attendant consequences.

Currently, it is difficult to determine real statistics on digital nomads in Kazakhstan, as those engaged in precarious employment are located in the so-called "grey" sector, and legislative regulation of this form of employment still contains many gaps.

As part of a research project, we are conducting research on legal support for digital nomads in the context of accelerating digitalization and AI. Individual meetings and interviews with government officials reveal a common problem in virtually all regions of the country: there are no specific statistics on the number of people engaged in precarious employment, the types and forms of their activities, or analytical materials highlighting problematic aspects of their work.

As one of the official sources for identifying the situation on the labor market in the sphere of non-standard employment, we turned to the data of the unified electronic system of MLSPP RK "Enbek.kz" – <https://www.enbek.kz/ru>, which includes the following services: "Enbek Skills" (Training in new skills and career development opportunities), "Enbek Business" (Support for starting or expanding a business), "Enbek HR" (Registration of employment contracts and organization of the employment process online), "Enbek Career" (Building your career path),

“Enbek Migration” (Management of migration flows in Kazakhstan), “Enbek Mansap kompany” (Choice of profession and management of career trajectory) [14].

Other government agencies are also integrated with this electronic database, contributing their data on labor, employment, and social security matters. The system began operating during the pandemic as a pilot project in Astana and Karaganda. Then, after testing, it was rolled out nationwide. Overall, this system contains extensive data on social and labor relations, which were previously fragmented. Through research and interviews with representatives of resource centers and employment agencies, we confirmed that this database accumulates a significant amount of information on labor, employment, and social security issues. The system’s operation is also reflected in labor legislation.

The creation of an application within Enbek.kz electronic resource, which requires employers to enter information on concluded employment contracts into the Unified System for Recording Employment Contracts (hereinafter referred to as USREC), can be considered an achievement in regulating labor relations and protecting the social and labor rights of employed citizens. While the initial focus was on large employers, primarily government organizations, today this resource is available to all employers officially hiring labor for their business activities in accordance with the laws of RK.

The operation of this electronic resource has facilitated the introduction of important amendments to the LC RK aimed at upholding employee rights:

1) in accordance with subparagraph 25) of paragraph 1 of Article 22 of LC RK, employees have the right to receive from USREC “information on the employment contract and their work activity,” meaning that employees no longer have to worry about properly documenting their employment;

2) in accordance with subparagraph 27) of paragraph 2 of Article 23 of LC RK, employers are required to enter into USREC “information on the conclusion and termination of an employment contract with the employee, amendments and/or additions made to it,” as well as “information on the provision of vacations,” which has significantly impacted the quality of labor process administration [1, 17].

These amendments to the labor legislation have raised numerous questions regarding the rules for entering information on facts related to the work activities of employees, including foreign workers. Today, such a practice has already been generally established (*see the responses of MLSPP RK to subparagraph 27) of paragraph 2 of Article 23 of LC RK*). However, the issue of legal regulation of the labor of persons performing labor functions in the form of non-standard employment remains unresolved. The issue of defining an employment contract as the main form of legal recording of their activities is indisputable, with the exception of cases of carrying out activities on the basis of concluding civil law contracts (provision of paid services, contracts, etc.). This presupposes the functioning of USREC and regulations obliging employers to enter information on their employees in a timely manner. Compliance by employers with the rules established by law for the registration of employees hired is facilitated by paragraph 3 of Article 33 of LC RK [1], Article 86 of LC RK on Administrative Offenses [18].

It should be noted that the current legislation of the Republic of Kazakhstan, neither labor nor administrative, currently contains provisions stipulating employer liability for failure to submit or late submission of information on concluded employment contracts with employees or other information required to be entered into USREC. This creates conditions for the ineffectiveness of this system and the failure to meet expectations for its implementation.

In connection with the above, we propose to supplement Article 23 of the Labor Code of the Republic of Kazakhstan «Basic rights and obligations of the employer» with paragraph 4 as follows: «For non-entry or late entry of information on concluded employment contracts with employees, other information to be entered into USREC provided for in subparagraph 27 of paragraph 2 of Article 23 of the Labor Code of the Republic of Kazakhstan, the employer bears administrative responsibility in accordance with Article 98 «Violation of the legislation of the Republic of Kazakhstan in the field of employment, as well as the procedure for entering information into the unified labor contract accounting system» of the Code of the Republic of Kazakhstan on Administrative Offenses dated July 5, 2014 No. 235-V».

Furthermore, the system itself contains certain shortcomings that, in our opinion, require improvement. Some were known from the outset, and we expressed our opinion on this during our presentation of USREC to members of the Human Rights Commission under the President of RK. Others became apparent during the research conducted during a demonstration of the system by representatives of resource centers and employment agencies under the jurisdiction of MLSPP RK.

Here is one such point: in the system, all entities participating in social and labor relations and entering into employment contracts (after all, the system, judging by its name, assumes the registration of employment contracts) are defined as “enterprises and employees”, while Articles 19, 21, 22, 23, 24 of LC RK specifically define the parties to labor relations as the employee and the employer. Legal entities and individual entrepreneurs who have passed state registration can act as employers (according to paragraph 2 of Article 35 of the LC RK, the presence of hired employees is an indicator of entrepreneurial activity). Let us make a reservation that individuals are not subject to state registration in three cases: 1) the person receives income that is taxed at the source of payment; 2) when receiving income subject to taxation by an individual independently (for example, leasing real estate); 3) the person is classified as self-employed and pays taxes on their income within the framework of a special tax regime [19]. The term “enterprise” is defined by Article 119 of LC RK, and it cannot act as a party to any relationship, as it is an object, not a subject, of the relationship [20]. Therefore, in this electronic resource, the concept that unites employers under the name “enterprises” is recommended to be amended, depending on the functional meaning, to “legal entities” or “employers – legal entities.”

Conclusion

Changes brought about by digitalization and the introduction of artificial intelligence into our lives require new approaches to regulating labor relations, in particular, expanding the role of the employment contract in regulating labor relations, including those arising in the sphere of non-standard employment. Persons engaged in non-standard activities realize their labor abilities, which, in accordance with subparagraph 14) of paragraph 1 of Article 1 of LC RK, is recognized as a socially useful activity aimed at “creating material, spiritual, and other values necessary for life and meeting the needs of individuals and society” [1]. Consequently, the principles of labor legislation enshrined in Article 4 of LC RK, such as the inadmissibility of limiting human and civil rights in the sphere of labor and the equality of rights and opportunities for employees, also apply to work in the sphere of non-standard activities.

The above allows identifying key recommendations for improving labor legislation in the context of digitalization:

1) legislatively defining the types and forms of non-standard employment and then systematizing them;

2) expanding the role of the employment contract to regulate labor relations involving individuals performing non-standard work;

3) developing conceptual ideas for legally regulating the status of digital nomads from the perspective of the labor legislation of the Republic of Kazakhstan;

4) monitoring current issues in the sphere of social and labor relations in the context of digitalization, and developing a draft law on amendments and additions to the current legislation of the Republic of Kazakhstan on issues of legal regulation of labor of individuals in non-standard employment.

This article highlights only certain problematic aspects in the legal regulation of the labor of persons in the field of non-standard employment, including digital workers, under the legislation of the Republic of Kazakhstan, identified during the study conducted within the framework of a scientific project funded by the Ministry of Science and Higher Education of the Republic of Kazakhstan (IRN AP26198993).

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Contribution of the authors

Zharkenova S.B. – carried out analytical work, participated in the preparation of the main part of the work; contributed through the application of dialectical, comparative, systemic and formal-legal methods; prepared the final research results.

Galiakbarova G.G. – contributed through the application of dialectical, comparative, systemic and formal-legal methods; drafted sections of the introduction and conclusion; participated in the discussion and finalization of results.

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Стандартты емес жұмыспен қамту нысанында еңбек функцияларын жүзеге асыратын тұлғалардың еңбегін реттеудің құқықтық аспектілері

Андатпа. Цифрландырудан және біздің өмірімізге жасанды интеллектті енгізуден туындаған өзгерістер еңбек қатынастарын реттеудің жаңа тәсілдерін, атап айтқанда, еңбек қатынастарын, оның ішінде стандартты емес жұмыспен қамту саласында туындайтын қатынастарды реттеудегі еңбек шартының рөлін кеңейтуді талап етеді.

Мақала стандартты емес жұмыспен қамту нысанында еңбек функцияларын жүзеге асыратын тұлғалардың, оның ішінде цифрлық көшпенділердің еңбегін реттеудің проблемалық аспектілеріне арналған. Бүгінгі таңда еңбек құқығы ғылымында және Қазақстан Республикасының еңбек заңнамасында стандартты емес жұмыспен қамтудың анықтамасы және мұндай жұмыспен қамтудың нысандары туралы бірыңғай тұжырымдама жоқ. Тиісінше, еңбек қызметінің мұндай түрлерін жүйелеу де жоқ. Цифрлық көшпенділердің құқықтық мәртебесі аз зерттелген, осыған байланысты цифрлық көшпенділер туралы ұлттық тұжырымдаманы қалыптастыруға бағытталған идеяларға назар аударылды. Бұл жұмыспен қамтудың осы нысанын заңнамалық реттеудегі олқылықтарды жоюға ықпал етуі тиіс.

Стандартты емес жұмыспен қамту саласындағы еңбек шартының рөлін кеңейтуге бағытталған еңбек заңнамасының нормаларын талдау еңбек шарттарын есепке алудың қолданыстағы электрондық бірыңғай жүйесінің мүмкіндіктерін зерттеуге мүмкіндік берді, оның жұмысындағы кейбір кемшіліктер анықталды.

Мақаланы жазу барысында қолданыстағы ұлттық кодификацияланған құқықтық актілер, сондай-ақ жоба бойынша жұмыстарды орындау кезінде алынған материалдар қолданылды. Осы құжаттардың жекелеген ережелерін талдау қолданыстағы еңбек заңнамасының проблемалық аспектілерін анықтауға мүмкіндік берді, осыған байланысты оны одан әрі жетілдіру бойынша ұсыныстар анықталды. Мақалада баяндалған авторлардың идеялары стандартты емес жұмыспен қамту саласында, оның ішінде цифрлық көшпенділік саласында тұлғалардың еңбегін құқықтық реттеу тұжырымдамасын әзірлеу үшін пайдаланылуы мүмкін.

Түйін сөздер: стандартты емес жұмыспен қамту, цифрлық көшпенділер, еңбек шарты, азаматтық-құқықтық шарт, еңбек заңнамасы.

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Правовые аспекты регулирования труда лиц, осуществляющих трудовые функции в форме нестандартной занятости

Аннотация. Изменения, вызванные цифровизацией и внедрением в нашу жизнь искусственного интеллекта, требуют новых подходов к регулированию трудовых отношений, в частности расширения роли трудового договора в регулировании трудовых отношений, в том числе отношений, возникающих в сфере нестандартной занятости.

Статья посвящена проблемным аспектам регулирования труда лиц, осуществляющих трудовые функции в форме нестандартной занятости, в том числе цифровых кочевников. Сегодня в науке трудового права и трудовом законодательстве Республики Казахстан нет единой концепции о том, что представляет собой нестандартная занятость, каковы формы такой занятости. Соответственно, нет и систематизации таких видов трудовой деятельности. Малоизученным является правовой статус цифровых кочевников, в связи с этим уделено внимание идеям, направленным на формирование национальной концепции цифровых кочевников, что должно способствовать преодолению пробелов в законодательном регулировании такой формы занятости.

Анализ норм трудового законодательства, направленный на расширение роли трудового договора в сфере нестандартной занятости, позволил изучить возможности существующей единой электронной системы учета трудовых договоров, выявлены некоторые упущения в ее работе.

Источниками для написания статьи служили действующие национальные кодифицированные правовые акты, а также материалы, полученные при проведении проектных работ. Анализ отдельных положений этих документов позволил выявить проблемные аспекты действующего трудового законодательства, в связи с чем определены рекомендации по его дальнейшему совершенствованию. Идеи авторов, изложенные в статье, могут быть использованы для выработки концепции правового регулирования труда лиц в сфере нестандартной занятости, в том числе в сфере цифрового номадизма.

Ключевые слова: нестандартная занятость, цифровые кочевники, трудовой договор, гражданско-правовой договор, трудовое законодательство.

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