

The Decent Work Programme of Kazakhstan: Social and Labor Rights Protection from an Institutional Aspect of International Law

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1. Introduction

Since her independence in 1991, the Republic of Kazakhstan (hereinafter Kazakhstan) has actively participated in the international community. The Concept of the Legal Policy of the Republic of Kazakhstan between 2010 and 2020 has emphasized that foreign policy should maintain a balanced and prudent approach to international agreements and organizations, considering the socioeconomic, political, legal and other consequences. Kazakhstan should actively utilize international legal institutions in order to ensure her national interests in the regional and global society, by establishing a safe and stable Central Asia.

A promising area of international cooperation is the socio-labor spheres, whose objectives are to improve human well-being, socio-economic stability and social and labor rights.

This report aims to analyze the social and labor rights protection system of Kazakhstan from an institutional aspect of international law. It will mainly focus on the Decent Work Programs of Kazakhstan in connection with the International Labor Organization (“ILO”). This analysis will address new aspects for the protection of social and labor rights in Kazakhstan and the interaction of international and municipal law in this area.

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2. Supranationalism

International law, once ratified by States, prevails over their domestic laws.¹ If Kazakhstan decides to accept the binding nature of international organizations' decisions, such relevant acts will ultimately prevail over her domestic laws. This jurisprudence is based on the concept of 'supranationalism' which is the legal basis for any international organization; thereby allowing its continued existence without the express consent of the State so concerned.²

Supranationalism is "originated when member States transfer certain powers generally carried out by sovereign State to an international organization."³ According to G. Velyaminov, "non-regulatory provisions of the UN and optional nature of the decision without legal binding force, have great moral and political significance as they expand to whole global community."⁴

Supranationalism is a set of structural, functional and procedural features of an international organization. Herewith, international organization can make decisions binding Member States.⁵ Member States join the organizations in a voluntary manner, through ratification. The acts of international organizations contravening the fundamental law of a State shall not be thus applied.⁶

3. Decent Work Programme of Kazakhstan

The Decent Work Country Program in the Republic of Kazakhstan 2010-2012 (hereinafter the Program or "DWCY") is designed to promote a strategic development

¹ Vienna Convention on the Law of Treaties art. 26, May 23, 1969, 1155 U.N.T.S. 331.

² A. MOISEYEV, THE RATIO OF SUPRANATIONALISM AND SOVEREIGNTY IN CONTEMPORARY INTERNATIONAL LAW (IN THE CONTEXT OF GLOBALIZATION) [СООТНОШЕНИЕ СУВЕРЕНИТЕТА И НАДГОСУДАРСТВЕННОСТИ В СОВРЕМЕННОМ МЕЖДУНАРОДНОМ ПРАВЕ (В КОНТЕКСТЕ ГЛОБАЛИЗАЦИИ)] <available only in Russian> 9-10 (2007).

³ A. MOISEYEV, STATE SOVEREIGNTY IN INTERNATIONAL LAW [СУВЕРЕНИТЕТ ГОСУДАРСТВА В МЕЖДУНАРОДНОМ ПРАВЕ] <available only in Russian> 362 (2009).

⁴ G. VELYAMINOV, INTERNATIONAL ECONOMIC LAW AND PROCEDURE [Международное экономическое право и процесс] <available only in Russian> 97(2004).

⁵ M. BIRYUKOV, THE MODERN DEVELOPMENT OF THE EUROPEAN UNION: THE INTERNATIONAL LEGAL APPROACH [Современное развитие Европейского Союза: международно-правовой подход] <available only in Russian> 316 (2004).

⁶ A. KHAMZIN, THE INTERNATIONAL LEGAL FRAMEWORK FOR SOCIAL AND LABOR RIGHTS IN THE REPUBLIC OF KAZAKHSTAN [Международно-правовые основы обеспечения социально-трудовых прав человека в Республике Казахстан] <available only in Russian> 53 (2009).