Russian regional labour law on social partnership and labour protection

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Abstract. This article is devoted to the problems of formation and systematisation of labour legislation in key areas such as social partnership and labour protection. Based on the comparative legal characteristics of the regulatory legal acts of different regions in the field of labour, the conclusion is made about the need for a unified approach to the development of legislation in this area, the inadmissibility of duplication of federal normative acts, taking into account the specifics of the regions and the adoption of new legislative acts. The authors have developed the main directions for the systematisation of labour law and lawmaking in the regions, taking into account the current situation.

1 Introduction

Regional labour legislation is essential in achieving the goals of optimum harmonisation of the interests of the parties to social relations and can concretise federal legislation and create an effective system of incentives for employers to comply with labour legislation on a voluntary basis. Analysis of this area of legal regulation has taken on particular relevance in light of the adoption of amendments to the Russian Constitution related to enhancing the role of social partnership and protection of the "man of labour". However, the system of laws on labour law issues in Russian regions is formed somewhat spontaneously and is determined by the range of social relations that are most significant for a particular region.

A negative consequence has been the lack of systematic regional and sectoral normative acts and their actual obsolescence. A comparative legal analysis of the labour legislation of regions in the sphere of regulation of social partnership and labour protection indicates the presence of unresolved problems and shortcomings of legal regulation. Systematization of the norms of labour legislation in the regions will increase the effectiveness of regulatory acts, will lead to the best combination of mutual interests of all subjects of labour law. Further development of regional labour legislation should take place with the active participation of public organisations, be aimed at creating public control mechanisms and an integral, multi-level system of regulations, which would increase the level of observance of citizens' labour rights in each region of Russia.

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The regulatory body of law in the sphere of legal regulation of labour relations accumulated in the regions requires further systematisation, which should result in identifying and abolishing norms that contradict the Constitution of Russia and federal laws, as well as duplicating their prescriptions. The aim of this work is to conduct a comparative legal study of normative legal acts of the regions in the sphere of regulation of social partnership and labour protection, to identify the main directions of systematization of regional labour legislation. Achievement of the goal has necessitated the solution of problems related to the formation of a unified approach to the development of regional normative legal acts and analysis of the regulatory framework of the subjects of the Russian Federation.

2 Materials and methods

The problems of delimitation of authority between the Russian Federation and its constituent entities in various spheres have repeatedly been the subject of fundamental research in constitutional and municipal law. However, the systematisation of labour legislation in Russian regions has not been the subject of separate comprehensive scientific research. The above circumstances indicate insufficient scientific development of the research topic, which raises the need for further research and deepening. The methodological basis of this study is the general scientific research methods (analysis, synthesis, deduction, induction, concretisation), which provided analyse the labour legislation of the regions. The leading method of research should be called dialectical, as its application allowed to consider the labour legislation of the regions in development, to present its interrelation with the federal legislation, and to conclude that the legal regulation of various types of labour relations at the regional level should be synthesised into a general legal system of the Russian Federation. Along with general scientific methods of research (formal-legal, systemic, comparative-legal) were applied, thanks to which the features and the most effective directions of systematisation of labour legislation were identified and a comparative analysis of the legislation of various subjects of the Russian Federation was carried out.

3 Results and discussion

A contemporary trend in the development of society is the proliferation of forms of social interaction, the participants of which can be both public authorities represented by representatives and entrepreneurs, employers and employees. The term "partnership" implies voluntary and equal cooperation of the participants in order to achieve certain results, reduce the risks of exposure to economic fluctuations, distribution of resources, etc. In the second half of the XX century, the notion of partnership acquires more economic content and implies participants in joint activities in various spheres of the economy.

In the scientific literature on labor law, social partnership was rightly referred to the most promising areas for the implementation of their rule-making function in labor relations by the regions of Russia [1].

It is mentioned in the literature that over the past two decades Russia has come a long way in the introduction of market mechanisms and democratization of social and labor relations [2]. However, little has changed at the level of federal and regional administration and in the system of legal regulation of social and labor relations. It is time to partially delegate the rights of public authorities to the institution of social partnership in the sphere of social and labor relations, for which the social partners are ready, and the effective
implementation of the proposed changes will contribute to the sustainability of social and labor democracy.

The Constitutional Court of the Russian Federation in its judgment explains that the new Article 75.1 of the Russian Constitution seeks to achieve in state policy, in legal regulation and in law-enforcement practice an optimal balance between individual freedom and social solidarity.

The legislator emphasises the defining role of this institution, in particular for the regulation of labour relations. Note that the institution of social partnership is derived from labour legislation (Article 23 of the Labour Code of the Russian Federation).

In terms of legal provision for social partnership in Russia, the situation is quite favourable and a number of federal laws have been adopted setting out the legal basis for this activity. Achievement of objectives of the subjects of labor legal relations, creation of conditions for the overall effect, first of all, increase in labor productivity and employment, in modern conditions can be achieved by regulating the interaction of these subjects by means of social partnership. The relevance and relevance of such interaction is also due to the large number of citizens employed in labour relations.

The composition and size of the workforce in Russia according to official statistical indicators over the past four years has been quite stable, despite the adverse factors associated with the pandemic and economic risks (fig. 1), especially in comparison with the situation in the European community [3]. Most of the able-bodied citizens are employed, the number of the unemployed was increasing in 2020, but then the figure was decreasing.

![Number and composition of the workforce in Russia](image)

**Fig.1.** Number and composition of the labour force for Russia 2019-2021.

However, the statistics in the regions do not differ significantly from the overall figures for Russia (Figure 2).

It should be noted that although social partnership was initially limited to labour relations only, this institution has a broader meaning. As can be seen, the amendments to the Russian Constitution establish the special significance of the institution of social partnership without specifying the sphere of social relations in which it applies.

It has been rightly noted in the literature that social partnership should not be limited to labour legal relations. This institute is necessary in regulating a number of service legal relations [4]. The formulation of the developed amendment allows further eliminating the gaps that may arise in the practical application of legal norms enshrined in various normative-legal acts and regulating social partnership. The most effective way of closing
these gaps in the legislation would be to issue relevant federal laws or to amend already existing legal acts. And not only at the federal level, but also at the regional level.

![Number and composition of the labour force in the Orenburg region](image)

**Fig. 2.** Number and composition of the labour force in the Orenburg region in 2019-2022.

Partnership can manifest itself in different forms: interpersonal, commercial, social, public-private [5]. In 2015 a federal law dedicated to public-private and municipal-private partnership was adopted. Public-private partnership (hereinafter - PPP) is one of the ways to develop public infrastructure based on the long-term interaction between the state and business, in which a private party is involved not only in designing, financing, construction or reconstruction of an infrastructure facility, but also in its subsequent operation or maintenance.

Thus, social partnership and PPP have common principles of construction, a common goal, but the mechanisms of implementation of these relations differ (Figure 3).

There is a somewhat contradictory situation concerning the regional legislation in the sphere of social partnership. Before the adoption of the Labor Code of the Russian Federation (hereinafter - LC RF), social partnership was regulated by regional legislative acts, which filled the gaps of federal legislation.

However, with the adoption of the Russian Labour Code, Russia's regions have faced the need to bring their respective laws into conformity, while avoiding duplication with federal laws. In some regions, laws have been repealed, while departmental regulations, which actually regulate certain aspects of social partnership, have remained in force.

In most major regions, social partnership laws have been reintroduced or amended to take account of federal legislation (Moscow, Saint Petersburg, the Samara Region, the Sverdlovsk Region, the Krasnodar Territory, etc.).

For example, the Moscow City Law dated 11 November 2009, No. 4 "On Social Partnership in Moscow City" sets out a number of additional principles in comparison with the list in the Labour Code of the Russian Federation, namely: compliance with the conciliation procedures provided for by federal legislation when resolving collective labour disputes; ensuring the functioning of specialised organisations established by the parties to the social partnership; developing social partnership at all levels; the effectiveness of social partnership; independence in decision-making.
Fig. 3. Comparison of the main features of social partnership and public-private partnership.

The same Law provides for a form of social partnership that does not exist in federal legislation: participation of representatives of employees, employers and Moscow City executive authorities in various forms of pre-trial resolution of collective labour disputes. The law provides a list of bodies and organisations that are part of the social partnership system and their main powers.

Law of the Republic of Crimea No. 28-ZRK dated 17 July 2014 "On Social Partnership in the Republic of Crimea" establishes a system of social partnership bodies, namely: the procedure for their formation, activities, goals, objectives, rights, etc.

In the Orenburg region, the previously existing law on social partnership was abolished and there is still no general legislative act in the region. It appears that the adoption by the constituent entities of the Russian Federation of laws on social partnership is an important stage in the formation of regional legislation in this area because the laws establish a framework for the activities of social partnership subjects, fix the system of bodies as a whole as a single mechanism, outline the priorities of their work, provide the main goals and tasks of social partnership bodies at each level. Without the adoption of a basic
A legislative act dedicated to the main issues of social partnership in the region, all other acts will have a spontaneous and fragmented nature.

The next area of law-making in the constituent entities of the Russian Federation, which is characterised by a wide scope of application, is the legal regulation of labour protection.

Law No. 11 of 12 March 2008 "On Labour Protection in Moscow" specifies that it applies not only to employees in their traditional sense, but also to other persons, in particular: persons participating in the employer's production activities (when they perform any work on behalf of the employer or its representative or perform other lawful actions for the employer), which include: employees and other persons receiving education under a student contract; trainees, etc.

An analysis of regional legislative acts shows that in some cases the lawmaking activities of the state authorities of the constituent entities of the Russian Federation significantly enrich the federal labour legislation, creating a basis for its implementation by the constituent entities of the Russian Federation.

The Law of the Sverdlovsk region of 22 October 2009 No. 91-OZ "On labour protection" assigns to an authorized executive body of the Sverdlovsk region the function of collecting, processing and analyzing information on the condition and safety at work of the employers. A report on such information is submitted annually to the regional government.

The Law of the Chelyabinsk Region dated August 30, 2001 No. 29-ZO "On Labour Protection in the Chelyabinsk Region" provides a provision for scientific support of labour protection activities: programmes and measures on labour protection and occupational disease prevention are based on science and are developed and implemented with involvement of scientists and specialists. The programmes provide for mandatory scientific research on the most topical labour protection problems in relation to the specifics of labour activity in the region.

At the same time, there are significant discrepancies in the regional laws on the definition of the scope and content of labour protection powers in relation to the Governors and Governments of the constituent entities of the Russian Federation. For example, the powers of the Governor of Orenburg Oblast include:
- determining the authorised executive body of the Orenburg Region responsible for state occupational health and safety management;
- To organize interaction among executive agencies of the Orenburg Oblast on labour protection issues;
- Issuing regulatory legal acts of the Orenburg Region on issues which are not referred to the jurisdiction of federal government authorities.

The powers of the Governor of the Sverdlovsk Region in the field of labour protection include: organising the implementation of laws of the Sverdlovsk Region regulating labour protection relations in the Sverdlovsk Region; ensuring protection of the rights of citizens in the field of labour protection in the Sverdlovsk Region and other powers in this area.

In Moscow, all labour protection organisation powers are vested only in the collective authorities: the federal executive authorities: the Moscow City Government, the Moscow City executive authority authorised for labour protection, as well as other sectoral, functional and territorial executive authorities of Moscow within their powers. A similar situation is observed in the city of St. Petersburg.

Novosibirsk Region Law No. 344-OZ of 5 July 2013 "On Delineating the Powers of State Authorities in the Novosibirsk Region in the Field of Occupational Safety and Health" does not contain the powers of the Governor in the field of occupational safety and only the Legislative Assembly, the Government and the regional executive body of state authority in the Novosibirsk Region authorised to deal with labour protection.
The Law of Samara oblast No. 72-GD of July 10, 2006 "On granting the local authorities in Samara oblast with certain state powers in the field of labour protection" also lacks the governor's individual powers in the field of labour protection. It is specified that occupational safety management in Samara region shall be carried out on three levels: regional, territorial and local. At the regional level occupational safety and health management is performed by federal executive authorities and executive authorities of Samara region in the field of occupational safety and health. At the territorial level OHS management is performed by an executive authority of Samara region in the field of occupational health and safety. At the local level, occupational safety and health management is performed by employers, occupational safety services (OHS specialists) of employers.

Such approach to defining the powers of regional state authorities seems to be the most reasonable one, as labour protection is a complex institute of labour law, which accumulates the norms developed at different levels: federal, regional, branch, local, involving specialists from different fields of scientific knowledge, both legal and technical. As a result, it is practically impossible for individual authorities to make decisions and issue regulations in this area.

Therefore, legislation in some regions in the field of labour protection requires certain changes that would bring it to a new level of observing the rights of employees, make it more efficient and reflect the current trends in the development of labour legislation in this area [6].

First of all it concerns a new order of distribution of powers of state authorities in the sphere of labour protection with an accent on territorial and local levels and also institutes of social partnership. In addition, it is necessary to introduce effective mechanisms to control the compliance of employers with the standards in this area (for example, on the model of the Sverdlovsk region); to raise the educational level of citizens in the field of labor protection; to counteract the formal approach to the special assessment of jobs and to familiarize employees with the labor protection requirements.

The adoption by the constituent entities of the Russian Federation of such acts not only makes it possible to implement the federal norms in practice but also, in a number of cases, to secure a higher level of labour rights and guarantees for workers at the expense of the budgets of the constituent entities of the Russian Federation. This allows one to conclude that the adoption of such legal acts by the subjects of the Russian Federation is especially relevant now, since it creates a mechanism for the practical implementation of federal labour legislation at the regional level.

4 Conclusion

The study of Russian labour legislation leads to the conclusion that the traditional areas of law-making activity of the constituent entities of the Russian Federation are now supplemented by the sections on which the regions independently take the initiative and, in a certain sense, outstrip federal legislation. These include norms that establish: a system of measures to encourage employers to hire people in need of social support (people with disabilities, university graduates, etc.); systems of control over observance of labour legislation; bans on hiring foreign citizens in certain kinds of activities; subsidies and financial support for employers who observe labour legislation; legislation on approval of programmes and concepts for labour market development, employment promotion, improvement of labour conditions, and protection in a particular region. As a result of an analysis of both positive and negative effects of active law making in the regions with...
respect to the legal regulation of labour relations, the author has identified the following main directions for systematising the labour legislation of the constituent entities of the Russian Federation:
- updating normative legal acts to take into account changes in federal legislation and trends in the development of labour law;
- adoption of laws and other regulatory legal acts that contain labour law norms, on issues not included in the exclusive competence of the Russian Federation (part 1 of article 6 of the Russian Labour Code);
- adoption of laws and other normative legal acts containing labour law norms on issues not yet regulated by federal normative legal acts containing labour law norms (anticipatory law making);
- harmonisation of labour legislation in different regions, taking into account the specificities of each constituent entity of the Russian Federation, and the development of recommendations and model legislative acts;
- harmonisation of labour legislation in different regions, taking into account the specificities of each constituent entity of the Russian Federation; Development of recommendations and model regulations; and organisation of levels in the regional labour law system, from general to specific, and from laws to subordinate normative and departmental acts;
- consideration of the economic, production, climatic and other conditions of the region when drafting normative legal acts;
- exchange of positive experiences with other regions.

Regional labour legislation is important in achieving the goals of optimum harmonisation of the interests of the parties to labour relations; it can concretise federal legislation and create an effective system of incentives for employers to comply with labour legislation on a voluntary basis.

Further development and systematisation of regional labour legislation should take place with the active participation of trade union and voluntary organisations and be geared toward creating public control mechanisms and an integrated, multilevel system of regulations which helps to increase compliance with labour rights in each constituent entity of the Russian Federation.

References