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PROMOTING SOCIAL JUSTICE IN LABOR LAW

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SUMMARY

The article is devoted to the question of studying the idea of social justice and its importance for labor law and labor relations. It is pointed out that it is impossible to exist without normative consolidation, therefore the obligations of states and responsibility for implementation in the national general legislation and separately labor are underlined. It is analyzed that social justice can be disclosed through such methods as guaranteeing minimum labor standards and eliminating the imbalance of power between employers and employees. It is concluded that the issue of social validity is fundamental for the activities of the European Union and the International Labor Organization.

Key words: justice, social justice, labor law, labor legislation, labor relationships.

СОДЕЙСТВИЕ СОЦИАЛЬНОЙ СПРАВЕДЛИВОСТИ В ТРУДОВОМ ЗАКОНОДАТЕЛЬСТВЕ

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АННОТАЦИЯ

Статья посвящена вопросу изучения идеи социальной справедливости и ее значения для трудового права и трудовых правоотношений. Указана невозможность её существования без нормативного закрепления, поэтому подчеркнуты обязательства государств и ответственность за имплементацию в национальное общее законодательство и отдельно трудовое. Проанализировано, что социальная справедливость может быть раскрыта с помощью таких способов, как гарантирование минимальных трудовых стандартов и устранение дисбаланса власти между работодателями и работниками. Сделан вывод, что вопрос социальной справедливости является основополагающим для деятельности Европейского Союза и Международной Организации Труда.

Ключевые слова: справедливость, социальная справедливость, трудовое право, трудовое законодательство, трудовые правоотношения.

Theme actuality. Since ancient times, social justice has been the underlying human value, because it allows us to form an idea of the system of values and principles that underlie humanity's priorities.

This category has the closest connection with law, because its value is to express the ideas of social justice, otherwise the legal norms will be deprived of moral content and humanistic orientation. The implementation of social justice in modern labor relationships is necessary for the effective realization of rights and legitimate interests by their subjects. Indeed, labor law, on the one hand, acts as an effective instrument capable of neutralizing the contradictions between them, and on the other hand, it is suitable for ensuring peace and harmony in the labor collective, society and the state. It would seem that now the world community has the most developed legal methods and methods of balancing the interests of society and the individual, but scientists with

a new activity return to the study of social justice and the search for ways to implement it directly in the law.

The purpose is to research how labor law correlates with social justice, how this idea is enshrined in national legislation, and what significance it has for supranational institutions and international organizations.

Among **methods** of research used in the article is a general philosophical dialectic method, general scientific historical method and special-scientific method of comparative jurisprudence.

Presentation of the main research material. The scientific literature supports the position that social justice is centered around allowing individual citizens to live a 'good life', in accordance with their personal preferences, and thus aims at both the alleviation of individual suffering, as well as the promotion of individual aspirations [6, p. 25].

Social justice is decisive to labor law, because it creates opportunities for

the distribution of social benefits, produces the desire of members of society to be involved in the process of labor. And, finally, its implementation in labor relations is a guarantee of the highest level of their effectiveness, which implies unconditional compliance with the guarantees and the implementation of labor rights. Therefore, its existence in general and meaning for labor law is not denied by scholars.

For instance, Horacio Spector writes that undoubtedly, labor law can be viewed as an attempt to redistribute wealth in accordance with some ideal of social justice [5, p. 1195].

The existence of social justice in labor law writes also Brian Langille. She mentions that labour law's jurisdiction is defined, as is its content, by labour law's morality. Labour needs, does have, and will have a 'theory of justice' [2, p. 102].

One more point in this question is that provision of opportunity to work for



people and providing for dispensation of labor justice to them are important aspects of social justice responsibility of any state [3, p. 33]. So if it can be estimated as a responsibility of the state further it is appropriate to analyze promoting social justice in the legislation of countries, including labor law.

There is a thought that each state has the responsibility to guarantee justice for its own workers in two senses. First, in the substantive sense, justice has been guaranteed by minimum standards of working conditions that employers are required to satisfy (e.g., limits of working hours, safety, minimum wages, holidays and sick leaves) and it is the state's duty to enforce these standards. Second, in the procedural sense, the state has been responsible for remedying the power imbalance between employers and employees by guaranteeing workers' freedom of association, which includes the right to join workers' associations, the right to bargain collectively, and the right to strike. The state's responsibility to intervene in the labor market should be perceived first and foremost as a remedial responsibility, because it is premised on the recognition that an unregulated labor market would yield unjust consequences, leaving workers unprotected and unable to provide a minimum standard of living conditions and dignity for themselves [1, p. 453].

There is a great example of implementation the idea of social justice in national legislation. The Constitution of the Philippines 1987 gives fundamental significance to social justice. The Declaration of State Policies provides «the State shall promote social justice in all phases of national development». The Constitution devotes an entire article to «Social Justice and Human Rights». In particular reference to labor, Section 3 says that «the State shall afford full protection to labor». To underscore the obligation of the State to promote social justice the constitution directs that labor be accorded protection. Like other laws initiated by Congress, the Labor Code is an instrument to carry out constitutional mandates. As announced in its title, the Labor Code was enacted «to afford protection to labor, promote employment and human resources development and insure industrial peace based on social justice». According to then La-

bor Minister Blas Ople, the Labor Code can be summed up in one sentence: «it represents the updating of all our labor laws to make them more responsive to development and employment as well as social justice» [7, p. 737].

But not only national legislation can promote social justice in labor law, but also supranational. We are talking about such unification of states as the European Union.

During the 20th century, the Member States of the European Union (EU) developed their own models of social justice in private law. Each model is inherently linked to national culture and tradition. However, all models have a common thread, which is the use of the law by the (social welfare) state as a means to protect the weaker party against the strongest party, the employee against employer. Therefore, social justice is bound to the idea of the redistribution of wealth from richer to the poorer part of the society, individually and collectively. That is where the idea of social welfare state is located [8, p. 3].

The European Union has certain explicit values and upholds rights and freedoms, including in the labor and social fields. The EU is not just a Single Market or an economic and monetary union. It explicitly links its economic aims to social progress. The EU Treaties provide that the Union shall: combat social exclusion and discrimination, and promote social justice and protection, gender equality, solidarity between generations and protection of children's rights (Article 3 TEU) [9, p. 9].

As regards labour law, the EU complements policy initiatives taken by individual EU countries by setting minimum standards. In accordance with the Treaty - particularly Article 153 - it adopts laws (directives) that set minimum requirements for working & employment conditions, informing & consulting workers. Individual EU countries are free to provide higher levels of protection if they so wish. While the European Working Time Directive entitles workers to 20 days' annual paid leave, for example, many countries have opted for a more generous right to the benefit of workers [10].

Including that social justice is established as an aim, all EU activities are directed to provide it. There are criteria

(Social Justice Index), which give opportunity to estimate and compare level of social justice in EU Member States. Research has shown that the highest level of social justice in Labor market access have Denmark, Germany, United Kingdom, Austria, Sweden. As an evaluation criteria were used: Employment, Older Employment, Foreign-born To Native Employment, Employment Women/Men, Unemployment, Long-term Unemployment, Youth Unemployment, Low-skilled Unemployment, Involuntary Temporary Employment, In-work Poverty, Low Pay Incidence [14, p. 8, 35].

EU shares the same foundational values as the International Labour organization (ILO). The EU supports the promotion of decent work for all. The EU actively participates in ILO debates and negotiations on labour standards, frameworks, actions and supervision of standards. The EU supports ILO standards and the wider decent work agenda through mobilizing its internal and external policies and actions such as development, policy dialogue and trade [11, p. 2].

Going to the history, Versailles Treaty had concluded the First World War. That Treaty, which gave birth to the International Labour Office (later International Labour Organization (ILO)), was not merely concerned with a cessation of war, but sought to address the causes of war that were perceived to lie in aggressive economic competition between states in an increasingly global economy. One of the elements of this solution was to try to ensure social justice for workers by establishing minimum labour standards in binding international law, so that economic competition would not create intolerable economic hardship for ordinary working people and provoke a downward spiral of regulatory competition. The outcome of these deliberations was the creation of international labour standards through the International Labour Office that set both minimum mandatory standards and also protected the collective organization of workers for the purpose of collective bargaining [4, p. 54].

The Constitution of the International Labour Organization says, 'Universal and lasting peace can be established only if it is based upon social justice'. These words were echoed by the ILO's first



Director-General, Albert Thomas, who argued that 'Economic and social questions are indissolubly linked and economic reconstruction can only be sound and enduring if it is based on social justice' [12, p. 3]. The ILO Declaration on Social Justice for a Fair Globalization of 2008 reaffirmed the relevance of the ILO's mandate to promote social justice using all the means available to it, including the promotion of international labour standards [13].

Conclusions. Therefore, the results of the study have shown that the implementation of social justice is a fundamental idea of the construction of labor law. It is necessary for the effective realization of rights and legitimate interests by their subjects. But justice can not exist on its own without its legislative approval and control by the state for its implementation. Therefore, most scholars are talking about the responsibility of states and the obligation to implement social justice in national legislation, including labor law. The article highlights that there are two ways, which can be used in this case. First, social justice has been guaranteed by minimum standards of working conditions that employers are required to satisfy and it is the state's duty to enforce these standards. Second, the state has been responsible for remedying the power imbalance between employers and employees by guaranteeing workers' freedom of association, which includes the right to join workers' associations, the right to bargain collectively, and the right to strike. As for the direct formulation of social justice, it is possible both at the level of the constitution and labor law. The European Union and the International Labor Organisa-

tion has an important role in developing the idea of social justice. And this is not because the concept which is analysed in article mentioned in numerous normative documents as a prerequisite and purpose of the activity, but due to the constant monitoring and recommendations which they provide to the states.

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