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## ИЗВЕСТИЯ

НАЦИОНАЛЬНОЙ АКАДЕМИИ НАУК  
РЕСПУБЛИКИ КАЗАХСТАН  
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## NEWS

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OF THE REPUBLIC OF KAZAKHSTAN  
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## **FEATURES OF THE CONSIDERATION OF INDIVIDUAL LABOR DISPUTES IN THE EAEU COUNTRIES**

**Abstract.** The Eurasian integration project was originally based on the idea of creating a single economic space. The issue of political integration in the framework of the EAEU, including the creation of a Eurasian parliament, was discussed in preparation for the launch of the Eurasian integration project. During this period, the Kazakh political institution sought to maximize the number of participants in the Union. Political integration was seen as a way to strengthen Eurasian integration.

The creation of the EAEU allowed the free movement of labor across the territories of five member states, which increased the need for harmonized working conditions, and therefore, the issue of harmonization of labor law became relevant for five states. In particular, the resolution of labor disputes, the main elements of which consider the institution of labor law, including the definition and classification of disputes in the EAEU member states. According to the authors, the legal regulation of labor disputes in all member states is based on Soviet legal traditions, that is, similar legal models and concepts.

**Keywords:** employment contract, commonwealth, EAEU, member states, law conditions.

### INTRODUCTION

The EAEU is, first of all, a limited customs union, which managed to agree on external customs tariffs, abolish internal customs borders and transfer decision-making on tariffs to the level of the Union. However, a higher level of economic integration is unlikely to be achieved, as there is too much disagreement between member countries.

The main source of law of the Eurasian Economic Union (EAEU) is the Treaty on the Eurasian Economic Union (Treaty). Russia, Belarus and Kazakhstan signed the Treaty on May 29, 2014, and it entered into force on January 1, 2015. Armenia and Kyrgyzstan acceded to the Treaty on January 2, 2015 and August 12, 2015, respectively. Thus, the EAEU currently consists of five countries: Armenia, Belarus, Kazakhstan, Kyrgyzstan and Russia.

The agreement codified the provisions of pre-existing agreements governing the functioning of the Customs Union and the common economic space.

### MAIN PART

These agreements formed the basis of the Treaty, the purpose of which is to ensure their implementation and bring their provisions in line with the rules and regulations of the World Trade Organization. The implementation of the Agreement and the provisions included therein is scheduled for a 10-year period. This should lead to the transformation of the EAEU by 2025 into a full-fledged economic alliance (this implies the free circulation of goods, services, capital and labor, as well as the formation of a common market in the sectors of energy, finance, transport, etc.). Further deepening and expansion of

integration will depend on whether the EAEU member states have achieved all the goals set by the Treaty by 2025.

The agreement defines the main objectives of the EAEU, its competence, its institutional structure and the procedure for the formation and activities of the EAEU bodies. In addition, the Treaty regulates the mechanisms of economic integration of the EAEU member states and the obligation to pursue a single, conciliatory or agreed policy in certain sectors of the economy.

However, at the final stage of negotiations under the Treaty, the parties did not consider the possibility of expanding integration into the political sphere or creating supranational political bodies for the following reasons. First, Russia's interest in political integration declined after Ukraine signed an association agreement with the European Union. Secondly, Kazakhstan and Belarus were against political integration and the creation of a Eurasian parliament. Thus, the final version of the Treaty does not contain any provisions providing for expansion of integration in the political sphere or the creation of a supranational political body (parliament or interparliamentary assembly).

Today, the EAEU is primarily a limited customs union. Thus, he achieved three goals: harmonized external customs tariffs, abolished internal customs borders and transferred decision-making on tariffs to the level of the Union instead of individual member countries. Being a customs union (even limited) is already a significant achievement when comparing the EAEU with other regional organizations around the world: although the EAEU is not able to cope with this task compared to the EU, like any other regional organization in the world without exception, and for most non-European integration projects, even the customs union seems to be an elusive goal. Being a customs union, the EAEU is potentially capable of stimulating trade between member countries and, thus, stimulating economic growth. However, the EAEU was created at the least favorable moment to achieve these goals, that is, during the period of economic stagnation in Russia, which makes cooperation with this country not very attractive.

This stagnation is caused by fundamental factors that the EAEU is unlikely to change: weak protection of property rights, dominance of security interests in economic policy, high corruption, etc. The advantages of the EAEU for member states are not comparable with these serious problems that arise in the Russian economy.

There are also important problems associated with the design of the EAEU. Firstly, the EAEU still has many functions of a protectionist union, which introduces high tariffs to limit the access of foreign competitors to domestic markets. This type of protectionism, although it serves the goals of domestic lobbyists in Belarus and in Russia, is incompatible with the goal of economic modernization. The design of the customs union (where customs duties are set at the union level) limits the ability of individual countries to open their economies to world trade, even if they want to.

Secondly, the EAEU has not yet resolved the deep problem of non-tariff barriers. To gain access to the market of one of the EAEU countries, goods from another country still have to overcome numerous bureaucratic barriers. Finally, in order to benefit from international integration, the EAEU countries must change within the country: they need to reduce the degree of penetration of their economy into the state (which is the dominant entity in Belarus and very important in Russia). This has not happened, and is unlikely to change.

But for many observers, the main problem of the EAEU is not economic, but political: the EAEU is seen as a tool to consolidate and strengthen authoritarianism in Eurasia. Here, however, doubts are in order. The EAEU as such (due to Kazakhstan's tough stance) is a purely non-political entity: there are no references to any ideology in the EAEU documents, there are no political institutions such as general citizenship or parliament, and there are no political goals. This does not mean that the autocratic regimes of member countries cannot use the EAEU against internal opposition: since the idea of Eurasian regionalism is very popular in some EAEU countries, the EAEU can, for example, increase the popularity of existing employees. But these effects are limited and indirect.

The implementation of the EAEU digital agenda is another priority. Under the Russian chairmanship, we propose implementing several promising projects in the field of online trading, technology for tracking goods, creating transport corridors and industrial cooperation. A forum on these issues was recently held at the initiative of the President of Kazakhstan. We fully support this and will work together. Naturally, the relevant initiatives of our partners will be carefully considered. I just talked about one of them.

Of course, additional steps need to be taken to form the EAEU common services market. Last year, tourism, research and advertising joined other sectors operating under supranational rules. By the end of the year, 60 percent of the total volume of services will be regulated by Union law.

A new Declaration on further integration into the EAEU was adopted, and nine sectors were added to the single service market. This means that about 55% of the total volume of services provided in the EAEU member countries will be regulated in value terms.

Kazakhstan, more than anyone else in the EAEU, won in the free trade zone with Vietnam. This was reported to the news agency Sputnik.kz by the Russian ambassador to Kazakhstan, Alexey Borodavkin. In 2017, the Kazakh-Vietnamese trade turnover increased by 48% and amounted to 542 million dollars. Exports from Kazakhstan to Vietnam grew by 63% due to an increase in the supply of food, agricultural products and metals.

The economic union provides for freedom of movement of goods, services, capital and labor, a coordinated, coordinated or uniform policy in individual sectors of the economy. Harmonization of labor legislation within the framework of this international organization is not currently planned. Nevertheless, the logic of economic integration can cause the so-called spill-over effect (literally - "splashing effect"). This term in the framework of the older regional economic and political association - the European Union - is called the situation when the process of unification, originally designed only for economic integration, leads to closer interaction in the political and legal field.

In this regard, it is interesting to find out how individual legal institutions of labor law of the EAEU member countries are ready for harmonization today. Since the movement of workers within the EAEU states inevitably leads to the emergence of cross-border labor disputes, it seems relevant to analyze how the basic elements of the institution of labor dispute resolution - the conceptual apparatus and typology of labor disputes - are comparable with each other in the EAEU member states. In labor codes of all five EAEU member states, labor disputes are divided into individual and collective. At the same time, the concepts of individual and collective labor disputes are separately fixed in the Labor Code of Russia and Kyrgyzstan, but there is no generalizing concept of "labor dispute" (part 1 of article 381 and part 1 of article 398 of the Labor Code of Russia, part 1 of article 411 and part 1 of article 428 of the Labor Code of Kyrgyzstan). The Labor Code of Kazakhstan, on the contrary, provides for the definition of only the generic concept of "labor dispute" (Clause 16, Article 1), although it also operates with the categories of individual and collective labor dispute.

In the Labor Code of Armenia, the category of labor disputes is considered as paired with respect to the category of collective labor disputes, i.e. in fact, it refers to individual labor disputes; the definition of the concept of an individual labor dispute is given in part 1 of article 263, and collective - in part 1 of Art. 64. In h. 1 Article 377 of the Labor Code of Belarus contains a definition of the term "collective labor dispute", and individual labor disputes are only mentioned, but their definition is not given.

In any case, in all five countries, individual labor disputes are resolved by labor dispute commissions (in Kazakhstan, by a conciliation commission) and courts, and collective ones are resolved through conciliation and arbitration procedures (however, in Armenia, judicial consideration of collective labor disputes is also possible).

Obviously, the key delimiting feature of collective and individual labor disputes is the actors involved.

On the part of the employer, the subject of a labor dispute in all EAEU countries is either the employer (in Belarus, the employer), or its separate structural unit, or the association of employers. In this case, the impossibility of resolving disputes at the level of groups of legal entities affiliated with each other can be called a significant gap in the labor legislation of all EAEU member states.

The parent company may act as the owner of a group of legal entities and make decisions, for example, regarding the level of remuneration in all subsidiaries. But employees are deprived of the legal opportunity to submit claims to the parent company and can only address them to their immediate formal employer, who does not always have the competence to make the appropriate decision. In Kazakhstan, this body is called a conciliation commission, but its status is similar to the status of labor dispute commissions in other EAEU countries, and the name does not seem to accurately reflect the purpose of its activities.

## CONCLUSION

The subject of a labor dispute is very important not only for delimiting disputes over disputes about law and disputes about interests, but also for determining exactly what rights and interests of the parties a dispute arises. The ILO Freedom of Association Committee notes <1> that the professional and economic interests that workers protect through the right to strike relate not only to improving working conditions or meeting professional requirements, but also to finding solutions to issues and problems that arise at the enterprise and that directly affect interests of workers. The same can be said of labor disputes in general: the wider the legislatively established subject of a labor dispute, the more opportunities for workers to protect their rights and interests protected by law.

It seems that for the future harmonization of legislation on the resolution of labor disputes in the EAEU member states, it is not so much the refinement and coordination of the conceptual apparatus and typology of disputes that are important as the liberalization of the mechanisms for protecting individual and collective labor rights of workers.

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### ЕАЭО ЕЛДЕРІНДЕ ЖЕКЕ ЕҢБЕК ДАУЛАРЫН ҚАРАУ ЕРЕКШЕЛІКТЕРІ

**Аннотация.** Еуразиялық интеграциялық жоба бастапқыда бір ыңғай экономикалық кеңістікті құру идеясына негізделген. Еуразиялық интеграциялық жобаны іске қосуға дайындық барысында ЕАЭО шеңберінде саяси интеграция мәселесі, соның ішінде Еуразиялық парламент құру мәселесі талқыланды. Осы кезеңде қазақстандық саяси мекеме Одаққа қатысушылардың санын көбейтуге тырысты. Саяси интеграция еуразиялық интеграцияны нығайтудың тәсілі ретінде қарастырылды.

ЕАЭО құру бес елдің мүше мемлекеттерінің аумақтарында еркін еңбекке көшуіне мүмкіндік берді, бұл үйлестірілген еңбек жағдайлары қажеттілігі нарттырды, сондықтан еңбек заңнамасын үйлестіру мәселесі бес мемлекет үшін маңызды болды. Атап айтқанда, ЕЭО мүше мемлекеттердегі дауларды айқындау мен жіктеуді қоса алғанда, еңбек заңнамасының институтын қарастыратын еңбек дауларының шешімі. Авторлардың пікірінше, барлық мүше елдердегі еңбек дауларын құқықтық реттеу кенестік құқықтық дәстүрлерге негізделген, яғни ұқсас құқықтық модельдер мен ұғымдар.

**Түйін сөздер:** еңбеккелісім-шарты, Достастық, ЕАЭО, мүше-мемлекеттер, құқықтық жағдайлар.

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### ОСОБЕННОСТИ РАССМОТРЕНИЯ ИНДИВИДУАЛЬНЫХ ТРУДОВЫХ СПОРОВ В СТРАНАХ ЕАЭС

**Аннотация.** Проект евразийской интеграции изначально был основан на идее создания единого экономического пространства. Вопрос политической интеграции в рамках ЕАЭС, в том числе создания евразийского парламента, обсуждался в ходе подготовки к запуску евразийского интеграционного проекта. В течение этого периода казахстанское политическое учреждение стремилось максимально увеличить число участников Союза. Политическая интеграция рассматривалась как способ укрепления евразийской интеграции.

Создание ЕАЭС позволило свободно перемещаться рабочей силы по территориям пяти государств-членов, что повысило потребность в согласованных условиях труда, в связи с чем, вопрос гармонизации трудового права стал актуальным для пяти государств. В частности, разрешение трудовых споров, основными элементами которого, рассматривают институт трудового права, в том числе определения и



классификации споров в государствах-членах ЕАЭС. По мнению авторов, правовое регулирование трудовых споров во всех государствах-членах основано в советских правовых традициях, то есть схожих правовых моделях и концепциях.

**Ключевые слова:** трудовой договор, содружество, ЕАЭС, государства-члены, права условия.

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