

The Concept Of Seasonal Workers' Labor And The Legal Regulation Of Their Labor Bohcomparative Analysis Of The Child

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Abstract. In the article The concept of seasonal workers and the legal regulation of their work in Uzbekistan and in the legislation of various foreign countries are discussed. Comparative analyses are presented. A comparative analysis of the regulation of the labor rights of seasonal workers in Uzbekistan, Russia and other foreign countries (Argentina, Finland, New Zealand, the USA, Canada, France and the European Union documents) was conducted. The authors' opinions and the legislation of different countries were studied, and it was emphasized that the concept of seasonal workers' labor and the legal regulation of their work are based on the national legislation of each country.

Keywords: seasonal work, seasonal workers, legal regulation, employment contract, migrants, fixed-term employment contract, temporary work.

Introduction.

Chapter 28, paragraph 2 of the updated Labor Code of the Republic of Uzbekistan contains "Specific features of legal regulation of the work of seasonal workers". Article 491 defines seasonal work. According to it, seasonal work is defined as work performed during a certain period (season) due to climatic and other natural conditions. According to the document, the duration of seasonal work, as a rule, should not exceed six months [1].

Cabinet of Ministers Resolution No. 758 of November 14, 2024 to the decision ANNEX 9 includes activities carried out within a period of more than six months (season). Some seasonal jobs that can be increased. The list is given, and at the end of this document it is stated that "The maximum duration of seasonal work in this list cannot exceed eleven months. Employees engaged in seasonal work performed during a period (season) of more than six months not specified in this list are not considered seasonal workers" [2].

Article 492 states: It is established that the seasonal nature of the work must be specified in the employment contract, that a probationary period is not established when hiring seasonal employees, and that employment contracts with seasonal employees must be concluded for a period not exceeding the duration of the season.

Article 493 states: seasonal employees are entitled to paid leave of at least two calendar days for each month of work, if a seasonal employee has worked the full season, he is granted paid leave upon termination of the employment contract. In this case, the last day of the leave is considered the day the employment contract is terminated. Upon termination of the employment contract, instead of paid leave, the seasonal employee is paid monetary compensation at his discretion.

If an employment contract with a seasonal employee is terminated prematurely before the end of the season, it is stipulated that upon termination of the employment contract, compensation will be paid to him in proportion to the time worked for unused vacation.

Materials and methods.

According to the legislation of the Russian Government, seasonal work is work that is performed during a certain period (season) due to climatic and other natural conditions, usually not exceeding six months..

Currently, the Russian Government Decree No. 498 of July 4, 2002 "On the seasonal productions operating during the summer season" confirm the letter to "On" decision. When calculating seniority, its duration is taken as a full year for the relevant calendar year [3].

The list of seasonal work is also determined at the federal level on the basis of sectoral (inter-sectoral) agreements on social cooperation. These agreements determine the maximum duration of seasonal work. Seasonal work includes work that is performed during a certain period (season) due to climatic and other natural conditions, and usually this period should not exceed six months. In some cases, depending on local conditions, the duration of the season may exceed six months.

So, the Russian Federation forest. In the industrial agreement "On Labor Relations and Social Security" for 2015-2017 of the agricultural complex forest. The following seasonal work is recognized in the forestry sector: logging (extraction of resin, bars, round resin and juniper sulfur); logging (throwing wood into the water, stacking wood in the water, sorting, rolling wood out of the water, loading (unloading) wood onto ships) [4].

Car and city surface passenger transport for 2014-2016 to the intended federal network agreement. In order to regulate the work of seasonal workers, the Parties to the Agreement shall establish a seasonal work approves the list of:

transportation of passengers in resort areas in the summer-autumn season; transportation of passengers to recreation areas, summer villages and gardening associations (May - October) [5].

Research results.

Ohin UzbekistanAs in the USA, seasonal work abroad is determined by climatic and natural conditions, but it is not limited to this. Basically, this is carried out in summer camps, ski resorts, seasonal increase in the work of enterprises (for example, New Year's holidays), harvest, tourism, holiday parks and other similar areas. However, seasonal workers are also considered to be persons who work for a certain period of time, but are not temporary workers. For example, J. Reidy considers temporary workers to be those who work for a certain period of time, that is, a day, a week, a month, during the implementation of a project, during which the worker is not a permanent employee, and seasonal workers are those who work for a fixed period of time, which is repeated annually [6].

However, the understanding of seasonal workers in New Zealand is somewhat different. The term "seasonal workers" is not mentioned in national labour legislation, in particular in the Employment Relations Act 2000. This Act defines seasonal workers as temporary workers who enter into fixed-term employment contracts (section 66, "Fixed-term employment contract") [7]. According to representatives of the New Zealand labour law community, this is true, because the duration of seasonal cycles is often varies, but climatic and natural seasons repeat themselves regularly. For example, in New Zealand, the winter ski season is relatively long, but the need for employees varies depending on the type of sport and the snow conditions on the slopes. Thus, the employment contracts of such workers do not specify a specific date, since everything depends on weather conditions.

An interesting case was *Turner v Talley's Group Ltd* in 2013, involving a seasonal worker. The court found that the seasonal worker was working under fixed-term contracts, which did not comply with section 66 of the Employment Relations Act, because he worked 40 hours a week at a fish processing plant and the company had had such contracts with him for a continuous period of 10 years [8]. This was explained by the seasonal nature of the plant. The plant processed different types of fish and shellfish at different times. A new fixed-term contract was concluded with each product type. The last season was for mussel shelling, and the next season was for the extraction and processing of New Zealand mackerel. However, the worker was not accepted for this season. The court noted that although the company described the workers' work as seasonal, New Zealand law did not provide for such a contract, only fixed-term contracts. Such examples are found not only in fish but also in meat processing, which is also considered seasonal. Therefore, the court found that such employment contracts were consistent with Section 66 of the Labor Relations Act, despite the company's claim that the workers' work was seasonal.

The concept of seasonal worker is also included in European Union law. On 26 February 2014, Directive 2014/36/EU of the European Parliament and of the Council of 15 February 2014 on the conditions of entry and work of third-country nationals in the European Union as seasonal workers was adopted [9]. Member States were required to implement the Directive by 30 September 2016, but the United Kingdom, Ireland and Denmark refused to accede to it. The Directive defines seasonal workers as workers who are resident outside the European Union and who have concluded a fixed-term employment contract to work in the European Union during the season. The Directive also defines "seasonal activity" (season), i.e. an activity that is linked to a specific time of the year and is repetitive. During these periods, due to increased production intensity, additional labour is required. For example, tourism, agriculture, horticulture and other seasonal activities fall into such categories.

Member States may, in accordance with the law, provide additional guarantees to workers, but may not, for example, change the period of residence or the rules of entry. In order for a seasonal worker to enter the EU, he or she must have an employment contract or job offer, which sets out the details of the job. The worker must also have a return ticket, health insurance (if the employer does not provide it) and proof of accommodation. The seasonal worker must have sufficient funds to ensure that he or she does not pose a threat to public order and does not subsequently join illegal migrants. Seasonal workers can work in such work for five to nine months, after which they must return to the country. Workers can change employers during their period of residence. In some cases, the period of residence can be extended. The directive also provides that seasonal workers may be invited to work again for the following year if they have not violated the law and have complied with the stay procedure. In this case, the application process can be simplified, its processing can be accelerated and priority can be given to seasonal workers who have worked previously. According to the European Parliament, this should encourage workers to comply with current migration legislation. The directive establishes the right of seasonal workers to enter and stay freely, to be treated equally with nationals in terms of working conditions, to join trade unions, to social security, to education, to the recognition of diplomas and to tax benefits. However, the right to equal treatment may be limited in terms of family benefits, unemployment benefits, education and tax benefits.

Current Argentine labor law provides for this type of employment contract for seasonal work [10]. Labor law distinguishes between seasonal employment contracts and fixed-term employment contracts. Such employment contracts are not considered to be for a fixed term, but rather as contracts with periods of activity (seasons) and vacation periods. The worker has the right to start work at the beginning of each subsequent season, as he (or she) worked in the previous season. There are no obligations or agreements between the parties during the vacation period.

However, in foreign countries, such as Finland, seasonal workers also include those hired on a part-time basis for short-term jobs when companies need additional staff during a certain period, often during the New Year season. Large retailers such as Wal-Mart, Toys R Us, and Best Buy hire thousands of seasonal workers each year during the New Year season. In addition to retail, businesses in the service and delivery sectors also hire workers. Despite the short-term nature of the work, such workers are paid the

minimum wage and overtime. Such seasonal jobs are considered to provide workers with permanent jobs with the opportunity to earn additional income, i.e., work during free time, on weekends, or in the evenings [11].

Thus, in the USA, United Parcel Service Inc. (UPS) planned to hire an additional 95,000 temporary workers to sort parcels during the 2015 New Year's season, since in 2013 about 1 million mail items were not delivered [12]. This year, UPS hired about 90,000 temporary workers during the Christmas holidays in November and January [13]. A special feature of this year is that, despite the crisis, the company offered some temporary workers the opportunity to sign permanent employment contracts after the end of seasonal work [14]. As an additional income, temporary work is used not only by workers with no special education or low qualifications, but also by highly qualified workers.

In the literature, the use of university teachers in temporary jobs is noted as a trend [15]. Usually this is in the fall, during the grape harvest. This occurs during the rainy season and at the end of spring, when the cherries and hops are ripe. These teachers are not full-time teachers who do not have a permanent job and are not French citizens. They are forced to earn extra income from seasonal work because the employment contracts they sign do not offer the same guarantees as permanent contracts (such as paid sick leave, non-extension of the contract in the event of pregnancy, etc.).

In the United States, the Fair Labor Standards Act (FLSA) has been in effect since 1938 (as amended) for seasonal workers [16]. However, it does not regulate whether an employee's workday is full or part-time, leaving this to the employer. Typically, seasonal workers do not work a full day or week, but rather 30-32 hours per week. If an employee works on such a schedule for a year, he or she is eligible for health insurance benefits the following year. However, since 2013, employers have been cutting many seasonal workers' hours or limiting their workweek to 28 hours, thereby avoiding paying them insurance [17].

Since 2014, a bill has even been proposed (HR 5213) to clarify the issue of insurance payments for seasonal workers. This bill also proposed a legal definition of seasonal workers, which would include hiring workers who work less than six months in a given period, during recurring periods of the year. As proposed, it was necessary to simplify the calculation periods for insurance payments. This bill was co-sponsored by Jim Renacci (R-Ohio), Kurt Schrader (D-Ore.), Lynn Jenkins (R-Kan.), and Jim Costa (D-Calif.) [18]. It is important to note that since seasonal workers are subject to the Fair Labor Standards Act, they have the rights set out in this law, such as minimum wage, overtime pay, etc.

Seasonal workers from third countries in Canada are subject to special rules set out in the Temporary Foreign Worker Program (TFWP). Under this program, such workers are divided into four groups, each with its own characteristics:

- Agricultural workers from Mexico or the Caribbean region, workers under the Seasonal Agricultural Worker Program (SAWP);

- agricultural workers from other third countries.

Workers in the first and second groups must have a specific occupation and skills, and meet minimum requirements set by the program. These groups are included in the National Goods List, where wage rates are set. [19] Workers in the first and second groups are eligible to apply for permanent residence in Canada, provided they have not violated immigration laws;

- seasonal workers with lower qualifications and wages;

- highly paid workers.

The third and fourth groups are not included in the National List of Goods. Both in Russia and abroad, seasonal workers are equated with workers working under a permanent contract in terms of basic labor rights (labor protection, protection against discrimination, etc.). However, in some countries, some rights of seasonal workers are limited, for example, there are restrictions on the right of seasonal workers to receive medical insurance.

It should be noted that in Russia (Labor Code of the Russian Federation, Article 294) when concluding an employment contract for the performance of seasonal work, a condition must be included in the employment contract determining the seasonal nature of the work. When accepting seasonal work, it is necessary to adhere to the norms of the General Labor Code. In addition, the Supreme Court Resolution No. 2 of March 17, 2004 "On the Application of the Labor Code in Courts" (as amended and supplemented) states that: when considering disputes with employees under contracts concluded for the performance of seasonal work, the features of relations related to these contracts, established by Chapter 46 of the Labor Code, must be taken into account.[20].

In other countries, there are also specifics in the legal regulation of seasonal workers. In the United States, in addition to working hours, the issue of providing seasonal workers with unemployment benefits and notice of dismissal is important. Notice is important because when the season ends, mass layoffs of workers occur and the notice period changes. In addition to federal legislation, state laws also apply to seasonal workers, for example, since January 1, 2010, a new law came into force in the state of New Hampshire[21]. The notice must be given in writing by the employer, which is done before the mass layoff or closure of the enterprise. The notice is delivered not only to the employee, but also to the union. The peculiarity of the law in question is that it is based on federal law and applies to employers who employ 100 or more employees, while the New Hampshire law, in turn, applies to employers who employ 75 or more employees. However, this law may not apply in some cases, for example, if the employee was hired in advance to perform a specific job, or, for example, if the enterprise is closed due to a natural disaster.

A similar norm is also contained in the Labor Code of the Russian Federation (Chapter 2, Article 296). The employer is obliged to notify an employee engaged in seasonal work before terminating the employment contract in the following cases:

- liquidation of the organization, reduction of the number of employees or staff, in accordance with paragraphs 1, 2 of part 1 of Article 81, at least seven calendar days in advance;
- expiration of the employment contract (in accordance with paragraph 2 of part 1 of article 77);
- at least three days in advance. In this case, the employment contract shall be terminated upon the end of the specified season in accordance with Part 4 of Article 79.

If an employee is dismissed due to the liquidation of the organization, reduction in the number of employees or staff, he is paid a severance pay in the amount of two weeks of average salary. At the same time, it is necessary to take into account the Resolution of the Government of the Russian Federation of December 24, 2007 No. 922 "Features of the procedure for calculating the average salary" (as amended on October 15, 2014) [22].

The same issue is addressed in Article 494 of the Labor Code of the Republic of Uzbekistan, which sets out the specific features of terminating an employment contract with a seasonal employee, and A seasonal employee has the right to terminate the employment contract on his own initiative by notifying the employer in writing three calendar days in advance.

The employer must notify the seasonal employee of his intention to terminate the employment contract early:

in connection with the liquidation of an organization (its separate subdivision) (part two of article 161 of this Code) Paragraph 1), as well as in connection with a change in the number or staff of employees (part two of Article 161 of this Code) Paragraph 2) at least seven calendar days before the termination of the employment contract;

seasonal employee due to his/her inadequacy to perform the work due to insufficient qualifications (part two of article 161 of this Code) Paragraph 3) upon termination of the employment contract, a written, signed notice must be given at least three calendar days in advance.

In the event that an employment contract with a seasonal employee is terminated on grounds related to the employee's guilty actions (inaction), the seasonal employee shall be notified in writing at least one day before the termination of the employment contract with him/her [23].

Seasonal employee is subject to this article second and in the third part. Instead of the stipulated warning, the employer has the right to pay him/her proportionate monetary compensation.

An employment contract with a seasonal employee is subject to Article 173 of this Code. In the second part. In case of termination on the listed grounds, he/she will be paid a severance pay in the amount of fifty percent of the average monthly salary.

Conclusion.

As a result of analyzing the opinions of the authors and current legislative norms, we can come to the following conclusions:

1. The concept of seasonal workers is specific not only to Uzbekistan, but also to the Russian Federation and foreign countries.
2. Today, the concept of "seasonal worker" is used in two different ways: a) Seasonal workers - citizens of their own country, engaged in various jobs depending on the seasons and natural and climatic conditions; b) Seasonal workers - foreigners (migrant workers), coming from a third country and arriving in the host country for temporary employment (farming, tourism).
3. The legislation of Uzbekistan and the countries under review establishes equality in labor rights between seasonal workers and workers with fixed-term employment contracts.
4. All the legislation of the countries considered pays special attention to the features of the legal regulation of the labor of seasonal workers.
5. In some countries, it is established in legislation and confirmed by case law that employment contracts with seasonal workers are concluded not for seasonal work, but on the basis of a fixed-term employment contract.
6. Since seasonal work is not permanent, it does not provide stability to the worker, so it is important that guarantees protecting his or her labor rights are provided in accordance with existing national legislation.
7. The work of seasonal specialists is regulated by centrally adopted regulatory legal acts, regional legislation, collective agreements, and individual labor contracts.
8. In some countries, seasonal workers do not work full-time, but are assigned short-time work or a reduced work week.

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