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What legislative framework should be established to govern remote work in Kazakhstan?

The purpose of this article is to justify the need for introducing a separate chapter on remote work into the Labor Code of the Republic of Kazakhstan in order to establish clear and enforceable legal standards for employees and employers. The methodological basis of the research includes comparative legal analysis, formal legal analysis, and a comparative assessment of foreign regulatory approaches applied in the United States, the European Union, and the CIS states. The findings indicate that the current legal regulation of remote work in Kazakhstan remains fragmented and does not provide sufficient legal certainty or adequate guarantees for employees. The existing provisions of the Labor Code do not sufficiently regulate the contractual framework for remote work, working hours and rest periods, the limits of employer control, reimbursement of work-related expenses, and communication between employers and employees. These gaps increase legal risks for remote employees and complicate the practical implementation of remote work. The article concludes that the development of remote work in Kazakhstan requires targeted legislative reform. The introduction of a separate chapter on remote work into the Labor Code would strengthen employee protection, ensure a balanced distribution of rights and obligations, and create appropriate legal conditions for the development of flexible forms of employment.

Keywords: remote work, distance employment, labor law, Labor Code of Kazakhstan, legal regulation, employment contract, employee guarantees.

Introduction

Remote work is increasing globally. According to the World Bank, 435 million people worked online in 2023 [1]. A survey conducted by scientists from November 2024 to February 2025 found that remote work averaged 1.27 days per week [2]. The United States has the largest remote workforce, with over 32.6 million people, including 22 million entirely remote workers and the remainder in hybrid arrangements [3]. Several European countries also report high rates of remote work.

Despite the obvious economic and other advantages for both employers and employees, and the widespread use in many countries of the world, remote work remains significantly underutilized in Kazakhstan. Thus, by late 2024, only 46,700 individuals were engaged in remote work, representing just 0.51 % of the total employed population [4].

At the same time, the dynamics of remote employment in Kazakhstan demonstrate not only slow growth, but also instability in the practical use of this form of work. According to the Bureau of National Statistics, the total number of employed persons in Kazakhstan in the first quarter of 2026 amounted to 9.392 million people, while media reports based on official statistical data indicate that only 28,821 persons continued to work remotely during the same period, representing approximately 0.3 % of the employed population. This shows that remote work has not yet become a stable and widely institutionalized segment of the Kazakhstani labor market. The decline from 46,700 remote workers in the fourth quarter of 2024 to 28,821 in the first quarter of 2026 suggests that remote employment in Kazakhstan remains sensitive to organizational, technological and regulatory factors. Therefore, the issue is not limited to the quantitative expansion of remote work, but also concerns the creation of a clear legal environment capable of ensuring predictability for both employees and employers [4].

The relatively small share of remote workers should not be interpreted as evidence of the limited legal significance of this form of employment. On the contrary, even a numerically modest group of remote employees may face specific legal risks that are not typical for traditional employment, including uncertainty regarding working time, the limits of employer control, compensation for work-related expenses, access to occupational safety guarantees, and the distinction between employment contracts and civil law agreements. These risks are particularly important in Kazakhstan, where remote work is regulated mainly by a single provision of the Labor Code rather than by a systematic set of norms. In this regard, empirical data confirm the

practical relevance of the problem: remote employment remains underdeveloped not because it lacks economic potential, but because the existing legal framework does not provide sufficient institutional guarantees for its stable application.

At the same time, the scientific literature on remote work does not fully resolve the specific legal problems arising in the Kazakhstani context. Existing studies mainly examine remote work through the prism of digitalization, flexible employment, organizational efficiency, or general labor market transformation. Although foreign scholarship has developed important approaches to the employment status of remote workers, employer control, working time, privacy, and the right to disconnect, these issues have not been sufficiently adapted to the structure and logic of Kazakhstan's labor legislation. In particular, there remains a lack of research devoted to the systematic codification of remote work as an independent legal institution within the Labor Code of the Republic of Kazakhstan. The scientific gap therefore lies in the absence of a comprehensive legal model that would connect the contractual basis of remote work, electronic interaction between the parties, limits of digital control, guarantees of working time and rest time, reimbursement of work-related expenses, and mechanisms for preventing labor disputes. This article seeks to address this gap by substantiating the need for a separate chapter on remote work in the Labor Code of Kazakhstan.

Kazakhstan began regulating remote work with the Law of the Republic of Kazakhstan "On Amendments and Additions to the Labor Code of the Republic of Kazakhstan on Improving the Legal regulation of Remote Work" No. 61-VIII dated 07/01/2021 [5]. Prior to this, employee-employer relations relied on rules for homeworkers or civil contracts, lacking a precise legal basis.

Analysts identify key barriers to remote work, including poor digital infrastructure, restrictive labor regulations, and an employment structure still dominated by the offline sector [6].

The purpose of the study

The study is intended to demonstrate that the current regulation of remote work in Kazakhstan does not yet provide a sufficiently complete legal framework for the stable development of this form of employment. On that basis, the research seeks to justify the need for a more consistent legislative approach, including the systematization of relevant norms within a separate chapter of the Labor Code of the Republic of Kazakhstan.

Research objectives

To achieve this purpose, the study addresses several interrelated objectives. First, it examines the current state of legal regulation of remote work in Kazakhstan and identifies the main deficiencies of the existing legislative model. Second, it analyzes the legal treatment of remote work in selected foreign jurisdictions, including the United States, the European Union, and several CIS states. Third, it evaluates which regulatory solutions developed abroad may be adapted to the legal system of Kazakhstan. Finally, it formulates proposals aimed at strengthening labor guarantees for remote workers and improving the clarity and practical applicability of national labor legislation.

The object of study

The object of the study is the body of social and labor relations that arise in connection with the performance of work outside the employer's physical premises through the use of digital and communication technologies.

The subject of research

The subject of the research comprises the legal norms, doctrinal approaches, and law-enforcement issues related to the regulation of remote work in Kazakhstan, as well as foreign legal experience relevant to the improvement of national labor legislation. Particular attention is paid to the legal foundations of remote employment, the content of labor rights and obligations of the parties, the regulation of working time and rest time, and the limits of employer control in the digital work environment.

Methods and Materials

This study is based on a combination of normative, comparative legal, and analytical research methods. The materials of the research include the Labor Code of the Republic of Kazakhstan, legislative acts regulating remote work in selected foreign jurisdictions, including the Russian Federation, the Kyrgyz Republic, and the Republic of Belarus, as well as international legal instruments and policy documents developed by the International Labour Organization and European institutions. In addition, the study draws on statistical and analytical reports concerning the development of remote employment at the global level and in Kazakhstan, together with foreign academic literature addressing the legal nature of remote work, employer control, working time, employee privacy, and labor guarantees.

The methodological basis of the article is formed, first, by the formal legal method, which was used to examine the content of national labor legislation and to identify gaps, inconsistencies, and insufficiently regulated aspects of remote work. Second, the comparative legal method made it possible to assess how similar legal issues are addressed in other jurisdictions and to determine which foreign approaches may be adapted to Kazakhstan's legal system. Third, elements of doctrinal analysis were applied to evaluate scholarly positions on the qualification of remote work, the role of the employment contract, and the limits of employer authority in digital working environments. The use of these methods in combination made it possible to formulate proposals aimed at improving the legal regulation of remote work in Kazakhstan.

Results

The research made it possible to formulate several author's results concerning the improvement of the legal regulation of remote work in Kazakhstan. First, it was established that the current model of regulation, based mainly on Article 138 of the Labor Code of the Republic of Kazakhstan, does not form a complete legal institution of remote work. Second, the study identified the key elements that should be legally consolidated in order to ensure the effective protection of remote employees: the contractual basis of remote work, electronic interaction between the parties, the limits of employer control, working time and rest time guarantees, reimbursement of work-related expenses, occupational safety obligations, and the right to disconnect. Third, the article substantiates the author's proposal to introduce a separate chapter on remote work into the Labor Code of the Republic of Kazakhstan, rather than preserving the existing fragmented regulation within a single article.

According to the Article 1 (paragraph 1, subparagraph 55-2) of the Labor Code of the Republic of Kazakhstan (hereinafter LC RK), "remote work is the implementation of the labor process outside the location of the employer, the host party and their facilities using information and communication technologies in the course of work" [5]. In this article, there is also the concept of "combined remote work", which means "the implementation of the labor process by alternating periods of performance of work duties both at the location of the employer, the receiving party and their facilities, and through remote work" (paragraph 1, paragraphs 55-1) [5]. The content of this type of work is described in more detail in the Article 138 of the LC RK, which describes: the procedure for establishing a remote work regime; the content of the employer's act, which specifies the grounds for establishing temporary remote or combined remote work; a register of employees performing their duties remotely; compensation for electricity consumption and other justified expenses incurred in the course of remote work; the regime and duration of working time of a remote worker; the option to introduce flexible scheduling arrangements; remuneration terms; occupational safety and health requirements; obligations related to the protection and non-disclosure of official information and other secrets protected by law [5]. As can be seen, the legislator "accommodated" all issues related to the work of a remote worker in one voluminous regulatory act consisting of ten points. Despite the volume of this article, the analysis shows that a significant part of the problems related to the work of this category of workers has remained outside the legal regulation.

The need to improve the legislative regulation of remote work is also confirmed by the current state of law-enforcement practice in Kazakhstan. Although Article 138 of the Labor Code of the Republic of Kazakhstan formally establishes the possibility of remote and combined remote work, its practical application raises a number of unresolved questions. These include the evidentiary value of electronic communication between the parties, the procedure for recording working time outside the employer's premises, the legal assessment of an employee's availability after working hours, the reimbursement of expenses incurred in the performance of remote work, and the determination of the employer's liability for occupational safety in a workplace that is physically located outside its premises. The Labor Code defines a labor dispute broadly as disagreements between an employee and an employer, including former parties to employment relations, concerning the application of labor legislation and employment conditions. However, the current regulation does not provide special procedural or substantive mechanisms for resolving disputes arising specifically from remote work [5].

Kazakhstani judicial practice on remote work has not yet developed into a stable and sufficiently visible body of case law. This circumstance should not be regarded as the absence of legal problems. Rather, it reflects the early stage of institutionalization of remote employment and the fact that many conflicts may be resolved at the level of internal employer procedures, labor inspections, mediation, or individual negotiations without forming publicly accessible judicial precedents. Nevertheless, the potential categories of disputes are already identifiable from the content of Article 138 of the Labor Code and from the practical nature of remote work. Such disputes may concern, inter alia, whether the employee was properly transferred to remote

work, whether the remote work regime was fixed in an employment contract or an additional agreement, whether the employer lawfully monitored the employee's activity through digital tools, whether overtime work occurred due to constant electronic availability, and whether the employee is entitled to compensation for electricity, internet connection, equipment, and other justified expenses. Thus, the absence of extensive published judicial practice does not weaken, but rather strengthens, the argument for preventive legislative clarification.

From the perspective of law enforcement, the most problematic issue is the evidentiary asymmetry between the employee and the employer. In traditional employment, the workplace, working time, internal labor rules and managerial control are usually fixed within the employer's organizational environment. In remote work, these elements are transferred into the digital sphere, where evidence may consist of emails, corporate messenger correspondence, platform logs, screenshots, electronic documents, task-management systems and records of online meetings. If the Labor Code does not clearly determine the legal significance of such forms of communication and control, courts and labor authorities may be forced to assess similar disputes inconsistently. This may reduce legal certainty and create unequal protection for remote employees depending on the employer's internal policies.

Therefore, the development of remote work requires not only declarative recognition in the Labor Code, but also a more detailed legal framework capable of preventing typical conflicts before they reach the stage of litigation. Such a framework should include rules on the conclusion and amendment of employment contracts with remote employees, the procedure for electronic document exchange, the limits of digital control, the recording of working time, the right to disconnect, reimbursement of expenses, occupational safety obligations, and the specific evidentiary standards applicable to remote employment disputes.

These issues require further detailed examination.

Firstly, despite the legal regulation of remote work in Article 1 (paragraph 1, subparagraphs 55-1 and 55-2) and Article 138 of the LC RK, as mentioned above, they do not contain the most important thing—an indication that the employee performs a labor function according to an employment contract, not a civil contract, which is very important to protect the labor rights of employees and extend to them the guarantees provided for by labor legislation.

1. Clarification of the legal definition of remote work.

Based on the analysis of the current wording of Article 1, paragraph 1, subparagraph 55-2, and Article 138 of the Labor Code of the Republic of Kazakhstan, the study proposes to amend the legal definition of remote work by expressly linking it to the employment contract. The following wording may be suggested: "Remote work is the performance of labor functions defined by an employment contract or an additional agreement to it, outside the location of the employer, the receiving party and their facilities, directly or indirectly under the control of the employer, with the use of information and communication technologies in the course of work". At the same time, it is essential to specify that a remote employee performs their labor function at facilities that are directly or indirectly controlled by the employer, which serves to prevent potential abuses, including the unlawful transfer of such employees to third parties for leasing arrangements or other atypical forms of employment.

2. Consolidation of the employment contract as the legal basis of remote work

Since we focus on the employment contract and the supplementary agreement to it, it is imperative to describe in a separate article of the LC RK the specifics of concluding an employment contract with remote workers, since this loses the essential features of a traditional employment contract.

The employment contract with a remote employee, as well as any supplementary agreement thereto, should clearly define the remote work regime, the procedure for electronic interaction between the parties, the employee's availability during working hours, the provision of equipment, reimbursement of justified expenses and the rules for protecting confidential information. The country has introduced an electronic labor registration system, i.e. electronic workbooks are being introduced instead of paper workbooks. Information about employment is maintained in the Unified System of Accounting for Employment Contracts (USAEC). Employers register contracts on egov.kz, and employees confirm them with an electronic digital signature. And this, of course, ensures transparency, reliability and convenience of accounting for work experience. The information is stored digitally, and only the parties to the employment contract have access to it. Not only information about the conclusion of an employment contract transmitted to the USAEC, but also information about making corrections to the employment contract, in general, about all changes in employment relations, etc. When an employment contract with a remote employee is executed through the exchange of electronic documents, it is also required to stipulate the obligation of the employee to submit the documents specified in Article 32 of the Labor Code of the Republic of Kazakhstan in electronic form or, at the

employer's request, as notarized hard copies. And this is very important in order to avoid forthcoming labor disputes on procedural issues in the future.

3. Regulation of electronic interaction and employer control.

Secondly, in our opinion, the manner in which remote workers interact with employers is critical, and legislation should clearly define these processes, as demonstrated by the legal frameworks of most countries.

First, it is necessary to refer to two International Labour Organization instruments relevant to work performed outside the employer's premises: the Home Work Convention, 1996 (No. 177) [7], and the Home Work Recommendation, 1996 (No. 184) [8]. These documents highlight the limitations of the employee's subordination to the employer, whereas one of the essential features of an employment relationship is the lack of independence of an employee who is economically and organizationally dependent on the employer. Due to the fact that a remote worker performs work on the instructions of the employer and outside of their location, it is important to detail how they interact during remote work.

Article 138, paragraph 5, and Article 1, paragraph 1, subparagraph 81 of the Labor Code of the Republic of Kazakhstan regulate only certain forms and mechanisms of interaction; however, in order to ensure effective protection of employees' labor rights, it appears justified to introduce a separate, dedicated article in the Labor Code of the Republic of Kazakhstan. At the same time, we consider it extremely important to describe the control mechanism on the part of the employer, the frequency of contacts, the time when the employee gets in touch, their duration, etc.

In this context, the Labor Code of the Russian Federation (hereinafter referred to as the LC RF) serves as a relevant example. Article 312.3 of the Labor Code of the Russian Federation provides a detailed regulation of, inter alia, the use of qualified and unqualified electronic signatures; the application of other types of electronic signatures in accordance with collective agreements and local regulatory acts; time limits for acknowledging the receipt of electronic documents; procedures for the exchange of information between the parties; the manner in which an employee submits explanatory statements to the employer; rules for submitting original documents related to temporary disability and maternity; as well as the procedure for reporting on work performed, among other issues.

4. Guarantees of working time, rest time and the right to disconnect.

In this regard, special attention is required by paragraph 5 of Article 138 of the LC RK, which addresses to the working hours of a remote worker, in particular, the employee's availability for communication with the employer. In general, this rule complies with international standards, although it requires some adjustments.

It is known that the innovation of labor law in socially developed countries is the concept of "not being in touch with the employer". What does it mean?

As practice shows, remote workers are blurring the boundary between work and private life. Given this fact, in a number of EU countries, the employee's right to "be offline" is provided for at the legislative level. The LC RK establishes the employee's availability mode during working hours (Article 138, paragraph 5, second part). And that's right. At the same time, it is necessary to clarify whether it is possible to send corporate mail outside of working hours. We do not find an answer to this question in the LC RK, whereas the EU Directive on the right of employees to be disconnected prohibits employers in all EU countries from communicating electronically with their employees outside normal working hours, except in emergencies [9].

Paragraph 5 of Article 138 of the LC RK also shows that Kazakh legislation establishes an equal amount of rights, guarantees and obligations for remote and traditional workers, indicating accessibility outside of working hours in cases provided for in Article 77 (paragraph 2) and Article 86 of the LC RK (when engaging in overtime work, to work on weekends and holidays without consent employee).

Other disadvantages of the Labor Code of the Republic of Kazakhstan should also include:

a) the absence of an effective mechanism for safeguarding the labor rights of remote workers through trade unions, including their involvement in collective bargaining processes, as well as in distinguishing between individual and collective labor disputes;

b) the absence of provisions on the grounds for transfer to another job, as well as termination of employment contracts.

Although we do not see objective reasons for identifying such grounds for differentiating the work of remote workers, it should be noted that the norms of the Labor Code of the Republic of Kazakhstan apply to these workers in these cases.

For possible borrowing, let's look at how these and other issues related to remote work are regulated in the legislation of various EAEU countries.

Incorporating best foreign practices is essential for the effective integration of remote work regulations into Kazakhstani law. And from these positions, we would like to once again note the LC RF, where the new version of Chapter 49 is aimed at solving the most complex problems of legal regulation of remote workers, although not without gaps and shortcomings. The proposed amendments outlined in this chapter are aimed at enhancing the flexibility of employment relations and broadening the application of information and communication technologies within the sphere of labor relations.

The Labor Code of the Kyrgyz Republic dated January 23, 2025, No. 25 (with amendments and additions as of 01.01.26) (hereinafter LC KR), in Article 1 (paragraph 7) [10], defines remote work as “the performance of a labor function stipulated by an employment contract outside the employer’s premises, provided that information and communication technologies are used in carrying out such labor function and in ensuring interaction between the employer and the employee regarding its performance”. As follows from this wording, the definition places primary emphasis on the existence of an employment contract and on the interaction between the parties. However, in our view, it does not fully reflect the comprehensive nature of employment relations, as it fails to take into account other essential elements of an employment contract, including, *inter alia*, the performance of work under the employer’s control and supervision. Article 184 of the LC KR “Specifics of concluding an employment contract with an employee performing remote work” [10] also does not say any particular detail about the employee’s interactions with the employer. Paragraph 8 of Article 184 of the LC KR establishes the conditions and periodicity of interaction between a remote employee and the employer within the framework of an employment contract. And this means that the parties can independently describe the procedure for interaction between the parties to an employment contract, and, as practice shows, it is not always in favor of the employee, which cannot help but lead to many labor disputes in practice [10].

In the Labor Code of the Republic of Belarus (hereinafter LC RB) dated July 26, 1999 No. 296-3, Article 307 provides a concise definition of “remote work”. It refers to work performed by an employee outside the employer’s premises, using information and communication technologies to execute the labor function and maintain communication with the employer [11]. As you can see, there is no indication of an “employment contract”, an “employer control procedure” or other essential features of remote work. Further, this article sets out the rules governing the exchange of electronic documents and messages between the employee and the employer, including SMS, files, and records, which contain written instructions or information necessary for the performance of work duties; the results of the work performed; statements and explanations of the employee, notices, orders and other documents of the employer related to the amendment and termination of the employment contract, which are determined by the employment contract, local legal acts. In this part, Article 307 of the LC RB is similar to Article 312.3 of the Labor Code of the Russian Federation.

The fact that an employment contract is concluded with remote workers is stated in Article 307.2 of the LC RB [11], which describes in detail such features of the contract as: the conclusion of an employment contract in the personal presence of the employee; the conditions for the exchange between the employee and the employer of electronic documents and electronic messages containing information about the results of the work performed; statements and explanations of the employee, notifications and other documents of the employer related to changes and termination of the employment contract. The employment contract also defines the methods and frequency of contact with the employer, etc.

In these countries, Kyrgyzstan and Belarus, the emphasis is appropriately placed on the employment contract, procedural issues, the process of concluding an employment contract, and the interaction of the parties to an employment contract, although many other significant issues related to the work of a remote worker have remained without proper regulation.

The lack of a specific provision in Kazakh legislation recognizing the conclusion of employment contracts with remote workers may create practical difficulties in distinguishing such contracts from civil agreements entered into with remote workers. After all, it is known that employers prefer to conclude a civil law contract (hiring work contract, services agreement) with remote workers instead of a labor contract in order not to provide the employee with social guarantees, such as paid work leave, temporary disability benefits, etc., provided for by labor legislation, as well as to minimize other costs for the employee.

The LC RK should also explicitly state the employer’s obligation to provide the employee with the necessary means of communication, computer equipment, and other means of communication. It is also necessary to fix the obligation of the employer to reimburse the employee for other reasonable expenses, including the cost of electricity, related to the performance of work (in the current version, paragraph 4, Article 138 of the LC RK refers to the reimbursement of these expenses by agreement of the parties).

Considering that this form of non-standard employment is not comprehensively regulated in many CIS countries, it is relevant to analyze the practices of the European Union and the United States.

At the EU level, in 2002, the social partners concluded a Framework Agreement on Teleworking between the European Commission and the European trade unions and employers. It defined the minimum amount of guarantees for remote workers. In response to the employer's growing interest in monitoring remote employees through electronic devices, minimum occupational safety and labor protection standards have been established for work involving devices equipped with video monitoring capabilities [12]. Naturally, the protection of information is a significant concern for the employer; accordingly, Article 5 of the Framework Agreement imposes liability on the employer for failing to implement measures to safeguard information provided to the employee for work purposes. The LC RK does not establish such an employer's responsibility, although paragraph 8 of Article 138 of the LC RK states: "To protect official, commercial or other legally protected secrets that have become known to an employee in the course of remote work, an employment contract or an act of the employer or an act of the receiving party provides for a condition on the preservation and non-disclosure of this information by the employer". It is quite obvious that in paragraph 8, we are talking about the employee's responsibility, not the employer's.

Due to the fact that the work of remote workers is most successfully used in the USA, in our opinion, some aspects of its legal regulation can be incorporated into Kazakhstan's legislation. In the United States, beyond the obligations outlined in the Labor Code of the Republic of Kazakhstan, additional responsibilities of the employer are defined, including:

1. In addition to the employer's obligation to provide the necessary equipment for remote work, instruction on its use is provided.

2. In several US states, the responsibility of the employer for the failure to ensure the safety and hygiene of the workplace is established, although there is no procedure for the control of the employer by the employee for some ethical reasons. Critics of such controls cite non-interference in an employee's private life in order to check their workplace against established standards. In our country, control over the workplace of a remote worker cannot be established either, since privacy is guaranteed by Article 18 of the Constitution of the Republic of Kazakhstan [13], as well as articles 142, 143 of the Criminal Code of the Republic of Kazakhstan [14].

3. It is possible to borrow the experience of the United States in relation to government agencies using remote workers. In particular, the necessity for the state body to develop a remote work policy, to inform all employees of their right to engage in remote work with the employer's consent, the right of employees to submit a request to the employer to switch to a flexible form of employment, including remote work, and the employer's obligation to provide a response within 20 days.

4. Each government agency determines a list of jobs where remote employment is not provided for security reasons.

5. Employees who have disciplinary penalties for being absent from their workplace for more than 5 calendar days per year may not be transferred to remote work.

6. It is prohibited to transfer to a remote form of work those employees who have been held responsible for downloading pornography or sharing it in the workplace.

7. Much attention is paid to the training of remote workers, for whom the manager of the organization of remote work is responsible.

8. The HR Department develops a written manual for remote workers, which reflects the issue of remuneration, working hours, and rest periods, the procedure for working with documents, their storage conditions, occupational safety and security, and many others [15].

Discussion

Foreign legal and interdisciplinary scientific literature considers remote work one of the most significant transformations of labor relations in the context of economic digitalization. Scholars concur that the proliferation of information and communication technologies has significantly transformed the spatial and temporal dimensions of work; however, it has not altered its legal character as an employment activity grounded in the subordinate relationship to the employer. Consequently, the issue of preserving labor and legal guarantees in the event of a change in the form of labor organization occupies a central place in scientific discussions.

A major focus of foreign research is the legal classification of remote work, particularly the distinction between employment contracts and civil law arrangements for performing work. Thus, in the works of G. Davidov, it is emphasized that the remote nature of work cannot be considered as an independent basis for

concluding that an employee has an independent status. On the contrary, as long as the elements of organizational control, economic dependence, and integration of the employee into the employer's operations are preserved, remote work should be classified exclusively as an employment relationship [16]. M. Freedland takes a similar position, pointing out that the spatial autonomy of an employee does not mean the loss of legal subordination, and therefore requires strengthening the protective function of labor law [17].

This study supports the position of G. Davidov and M. Freedland that the remote nature of work does not in itself transform an employee into an independent contractor. Spatial separation from the employer's premises should not be equated with legal or economic independence. This conclusion is particularly relevant for Kazakhstan, where the current definition of remote work does not expressly emphasize the performance of a labor function on the basis of an employment contract. However, this approach requires further specification in the Kazakhstani context. The problem is not limited to the distinction between employment and independent work; it also concerns the absence of a systematic legislative framework regulating electronic interaction, working time, employer control and compensation of work-related expenses. Therefore, the present research develops this doctrinal position by arguing that the employment nature of remote work should be directly consolidated in the Labor Code of the Republic of Kazakhstan.

In furtherance of this position, S. De Stefano draws attention to the risk of systemic substitution of employment relations by civil law contracts in remote employment, especially in the absence of a direct indication in the law of the obligation of the employment contract [18]. According to the author, remote work increases the asymmetry between the parties to the contract, since the employer actually retains control over the results of work, without incurring traditional social obligations. These conclusions are of fundamental importance for States with developing models of distance labor regulation, including the Republic of Kazakhstan.

The concerns expressed by S. De Stefano regarding the substitution of employment relations by civil law contracts are also relevant to Kazakhstan. In remote work, the employee may appear formally autonomous, while in practice the employer continues to determine tasks, deadlines, reporting procedures and performance standards. For this reason, the present study agrees that remote work may increase contractual asymmetry between the parties. At the same time, this problem cannot be resolved only through doctrinal recognition of the employment relationship. In Kazakhstan, it requires direct legislative clarification, including a more precise definition of remote work, a mandatory reference to the employment contract or supplementary agreement, and special rules preventing the exclusion of remote employees from labor law guarantees.

Considerable attention in foreign doctrine is paid to the issues of control and subordination in remote work. As opposed to classical forms of employment, remote work is typified by the use of digital monitoring tools, including activity tracking, performance analysis, and algorithmic management systems. Scientific research stresses that such forms of control frequently cause heightened employee dependence, despite the external flexibility of the labor process [19]. Prassl points out that digital control actually forms an "invisible and permanent" subordination, which requires special legal regulation and setting limits on the employer's intervention in the labor process [20].

This study agrees with J. Prassl's conclusion that digital control may intensify, rather than weaken, the employee's subordination. For Kazakhstan, this issue is especially important because Article 138 of the Labor Code does not contain detailed rules on the permissible limits of employer monitoring in remote work. However, the idea of "invisible and permanent" subordination should not be interpreted as a reason to prohibit employer control entirely. Such control is connected with the employer's legitimate interest in organizing the labor process, protecting confidential information and evaluating work results. Therefore, Kazakhstan's legislation should establish not the prohibition of digital control, but its legal boundaries, including the purpose of monitoring, proportionality requirements, prior notification of the employee, permitted digital tools and protection against excessive interference with private life.

A natural progression of this research is the examination of remote employees' working hours and periods of rest. Foreign authors emphasize that remote work blurs the boundary between work and private time, negatively affecting employees' physical and mental health. Reports from Eurofound and the European Commission note that it is remote workers who are more likely to experience unpaid overtime and constant availability to the employer [21]. In reply to these challenges, the concept of the right to disconnect has been developed in European Union law, considered as an element of occupational safety and the continuation of the right to rest [22].

The legal literature emphasizes that the right to be "out of touch" should be imperative and cannot be left entirely to the parties' discretion under the employment contract [23]. These provisions are reflected in

the national legislations of a number of EU countries and form a steady trend in the development of labor law, which, according to researchers, should be taken into account in the legal systems of post-Soviet states.

American scientific doctrine considers remote work mainly through the prism of employment flexibility and employer responsibility. M. Cherry's research emphasizes that the remote format does not relieve the employer of responsibilities to ensure safe working conditions, employee training, and compensation for expenses related to the performance of a labor function [24]. At the same time, the emphasis is on the necessity to balance the employer's interests with the constitutional guarantee of the inviolability of the employee's private life [25].

The European approach to the right to disconnect is generally acceptable for Kazakhstan, since remote work objectively blurs the boundary between working time and private life. Nevertheless, this guarantee should be adapted to the existing structure of Kazakhstan's labor legislation. It would be inappropriate to formulate the right to disconnect as an absolute prohibition of any communication outside working hours. Rather, it should be linked to the rules on working time, overtime work, work on weekends and holidays, and urgent production necessity. This approach would allow the employer to respond to exceptional circumstances, while preventing remote work from becoming a regime of permanent availability.

A separate area of foreign research is devoted to the collective labor rights of remote workers. According to T. Novitz, remote employment weakens traditional forms of trade union solidarity and employee participation in collective bargaining, which requires the adaptation of collective labor law institutions to digital working conditions [26]. The ILO also stresses the need for remote workers to have equal access to social dialogue and dispute resolution mechanisms [27].

Comparative legal studies substantiate the conclusion that the most effective models of legal regulation are those that provide for independent and systematic norms on remote work within the structure of labor legislation. B. Hepple notes that fragmented regulation does not allow for a balance between flexibility of employment and protection of workers' rights, while a codified approach promotes legal certainty and reduces conflict in labor relations [28]. Similar conclusions are contained in the ILO's analytical reports, which emphasize that States that have consolidated remote work as a separate legal institution demonstrate a higher level of protection of labor rights.

In summary, foreign scientific literature consistently recognizes remote work as a full-fledged form of labor relations, requiring clear legislative consolidation of the employment contracts, mechanisms of interaction and control, guarantees of working hours, and protection of employee privacy. These approaches are of considerable scientific and practical interest to the Republic of Kazakhstan and confirm the need for further improvement of national labor legislation, taking into account international standards and best foreign practices.

The Kazakhstani context confirms the relevance of these doctrinal conclusions. In jurisdictions where remote work is regulated only fragmentarily, legal uncertainty is likely to appear not immediately in the form of numerous court cases, but first in the form of unstable contractual practices, inconsistent employer policies, and difficulties in proving violations of labor rights. This is particularly relevant for Kazakhstan, where the number of remote workers remains relatively small, but the legal risks associated with this form of employment are structurally significant. The limited development of judicial practice should therefore be understood as a warning sign rather than as evidence of the sufficiency of current regulation. If remote work expands without a detailed legislative framework, disputes concerning working time, availability, digital surveillance, reimbursement of expenses and the substitution of employment contracts by civil law agreements may become more frequent and more difficult to resolve.

For this reason, the proposed introduction of a separate chapter on remote work into the Labor Code of the Republic of Kazakhstan should be viewed as a preventive legal measure. Its purpose is not merely to reproduce existing provisions of Article 138, but to transform remote work into a clearly defined legal institution. Such an approach would improve the predictability of judicial and administrative practice, reduce the risk of inconsistent interpretation by employers, employees and courts, and ensure that remote work develops as a protected form of employment rather than as a mechanism for weakening labor guarantees.

Thus, the reviewed scientific literature provides an important theoretical basis for understanding remote work, but it does not fully resolve the specific legislative tasks facing Kazakhstan. The present study agrees with the general doctrinal position that remote work should remain within the scope of labor law where the features of employment are present. At the same time, the mechanical transplantation of foreign models would be inappropriate. Kazakhstan requires selective adaptation of foreign approaches: the employment-contract approach developed in labor law doctrine, the European guarantees concerning working time and the right to disconnect, and the American emphasis on employer responsibility for equipment, training and

work-related expenses should be combined within a codified model. This conclusion corresponds to the results of the present research, which demonstrate that fragmented regulation under a single article of the Labor Code is insufficient for the stable development of remote employment.

In order to resolve these and other pertinent issues and to address gaps in the legal regulation of remote work, it is necessary to establish a dedicated chapter within the Labor Code of the Republic of Kazakhstan.

Conclusions

The findings of this research indicate that Kazakh legislation significantly lags behind that of many other countries in regulating remote work. The current norms of the Labor Code of the Republic of Kazakhstan focus primarily on procedural matters rather than on legal guarantees for remote employees. The rapid development of distance employment in countries such as the United States, European Union member states, Singapore, and South Korea, contrasted with its slow adoption in Kazakhstan, underscores the necessity of drawing on foreign experience to address future challenges in law enforcement practice.

The analysis of empirical data and law-enforcement issues in Kazakhstan confirms that the problem of remote work regulation is not purely theoretical. Although remote employees constitute less than one percent of the employed population, this form of work creates specific legal risks that are insufficiently addressed by the current Labor Code. The absence of a developed and consistent body of judicial practice further demonstrates the need for preventive legislative regulation. A separate chapter on remote work would allow the legislator to reduce future labor disputes by clearly defining the contractual basis of remote work, the rules of electronic interaction, the limits of employer control, working time guarantees, the right to disconnect, and the procedure for compensating work-related expenses.

In addition to effective legal regulation, a comprehensive resource framework is required. This should encompass not only well-developed policies but also appropriate management and training systems, as well as sufficient material and information resources.

The scientific significance of the results lies in the development of the doctrinal understanding of remote work as an independent legal institution of labor law rather than merely a flexible form of work organization. The study clarifies the legal elements that distinguish remote work from civil law arrangements, including the employment contract, employer control, electronic interaction, working time guarantees and reimbursement of work-related expenses. The practical significance of the results consists in the possibility of using the proposed conclusions for improving the Labor Code of the Republic of Kazakhstan, developing internal employer policies on remote work, preventing labor disputes and ensuring a more predictable balance between the rights and obligations of employees and employers.

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Қазақстанда қашықтықтан жұмыс істеуді заңнамалық реттеу қандай болуы керек?

Мақаланың мақсаты — Қазақстан Республикасының Еңбек кодексіне қашықтан жұмысты реттейтін жеке тарау енгізу қажеттілігін негіздеу. Мұндай тарау жұмыскерлер мен жұмыс берушілер үшін нақты, жүйелі және құқықтық тұрғыдан қамтамасыз етілген стандарттарды қалыптастыруға бағытталуы тиіс. Зерттеудің әдіснамалық негізін салыстырмалы-құқықтық талдау, формальды-құқықтық әдіс және Америка Құрама Штаттарында, Еуропалық одақта және ТМД мемлекеттерінде қолданылатын шетелдік реттеу тәсілдерін жинақтау құрайды. Зерттеу нәтижелері Қазақстанда қашықтан жұмысты құқықтық реттеу әлі де фрагментарлық сипатта екенін және жұмыскерлер үшін жеткілікті құқықтық айқындық пен тиісті кепілдіктерді қамтамасыз етпейтінін көрсетеді. Еңбек кодексінің қолданыстағы нормалары қашықтан жұмыстың шарттық негізін, жұмыс уақыты мен тынығу уақытын, жұмыс беруші тарапынан бақылаудың шектерін және тараптар арасындағы коммуникация тәртібін жеткілікті деңгейде реттемейді. Аталған олқылықтар қашықтан жұмыс істейтін жұмыскерлер үшін құқықтық тәуекелдерді арттырып, қашықтан жұмыспен қамтуды тәжірибеде қолдануды қиындатады. Мақалада Қазақстанда қашықтан жұмысты мақсатты түрде

заңнамалық реформалау қажеттігі туралы қорытынды жасалды. Еңбек кодексіне қашықтан жұмыс туралы жеке тарау енгізу жұмыскерлердің қорғалуын күшейтуге, тараптардың құқықтары мен міндеттерінің теңгерімді бөлінуін қамтамасыз етуге және жұмыспен қамтудың икемді нысандарын одан әрі дамытуға құқықтық жағдай жасауға мүмкіндік береді. АҚШ тәжірибесі Қазақстанның құқықтық жүйесіне бейімдеу үшін маңызды үлгі ретінде қарастырылды.

Кілт сөздер: қашықтан жұмыс істеу, қашықтан жұмыспен қамту, еңбек құқығы, Қазақстанның Еңбек кодексі, құқықтық реттеу, еңбек шарты, жұмыскерлердің кепілдіктері.

Е.Н. Нургалиева, А.С. Баймаханова

Каким должно быть законодательное регулирование дистанционной (удаленной) работы в Казахстане?

Цель данной статьи — обосновать необходимость введения в Трудовой кодекс Республики Казахстан отдельной главы о дистанционной работе для установления четких и подлежащих исполнению правовых норм для работников и работодателей. Методологическая основа исследования включает сравнительно-правовой анализ, формально-правовой анализ и обобщение зарубежных нормативно-правовых подходов, применяемых в США, Европейском Союзе и странах СНГ. Исследование показывает, что действующее правовое регулирование дистанционной работы в Казахстане остается фрагментарным и не обеспечивает достаточной правовой определенности или адекватных гарантий для работников. Существующие положения Трудового кодекса недостаточно регулируют договорную основу дистанционной работы, рабочее время и периоды отдыха, пределы контроля со стороны работодателя, возмещение расходов, связанных с работой, и коммуникацию между сторонами. Эти пробелы повышают правовые риски для работников, работающих дистанционно, и осложняют практическое применение дистанционной занятости. В заключение статьи делается вывод о том, что развитие дистанционной работы в Казахстане требует целенаправленной законодательной реформы. Введение в Трудовой кодекс отдельной главы о дистанционной работе усилило бы защиту работников, обеспечило бы сбалансированное распределение прав и обязанностей и создало бы правовые условия для развития гибких форм занятости.

Ключевые слова: удаленная работа, дистанционное трудоустройство, трудовое право, Трудовой кодекс Казахстана, правовое регулирование, трудовой договор, гарантии работника.

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