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Legal Regulation of Labour Protection under Hazardous and Dangerous Working Conditions in the Republic of Kazakhstan: From the Soviet List-Based Model to a Risk-Oriented Approach

This study examines the evolution of legal regulation of labour protection in hazardous working conditions in the Republic of Kazakhstan, focusing on the transition from the Soviet-era list-based model to elements of a contemporary risk-based approach. The purpose of the research is to identify the structural characteristics of the current regulatory framework and assess the degree to which risk-based mechanisms have been integrated into the system of social guarantees. The methodology combines historical-legal, comparative-legal, formal-legal, and systemic-structural approaches, each applied to a specific research task as described in the Methods section. The study draws on the Labour Code and the Social Code of the Republic of Kazakhstan, ILO Conventions No. 81, No. 155, and No. 187, and the ILO-OSH 2001 Guidelines. Although occupational risk assessment has been formally incorporated into the regulatory framework, entitlement to statutory social guarantees—including reduced working hours, additional leave, and increased remuneration—continues to depend on approved occupational lists. Thus, the risk assessment procedure exists within the regulatory framework but does not determine the provision of these guarantees. This reveals a structural inconsistency: the legislation incorporates two competing regulatory approaches without clearly establishing their hierarchy or determining which should prevail. In practice, employers continue to rely on the approved lists because the Labour Code and Social Code link the relevant guarantees to them. A substantive transition to a risk-based model would therefore require corresponding amendments to the codes themselves.

Keywords: occupational safety and health, labour regulation, hazardous working conditions, occupational risks, social guarantees, Kazakhstan.

Introduction

The regulation of labour under conditions involving exposure to hazardous and harmful production factors constitutes a core domain of labour law, as it is directly linked to the protection of fundamental constitutional principles. These include occupational safety, the protection of human life and health, and the balance between employers' economic interests and employees' social rights. In the Republic of Kazakhstan, this issue is not only of practical relevance but also of systemic importance, driven by the sectoral structure of the national economy, where mining, metallurgy, construction, transport, energy, and other high-risk industries continue to play a significant role.

The relevance of the study is linked to global trends. According to the International Labour Organization, approximately 3 million people die each year worldwide as a result of occupational accidents and diseases, while hundreds of millions of workers are exposed to hazardous working conditions [1]. International academic literature emphasizes that traditional occupational safety regulatory models, primarily based on compensatory mechanisms, fail to ensure sufficient effectiveness in the context of ongoing labour market transformations. As noted by V. Leso, L. Fontana, and I. Iavicoli, contemporary occupational risks are increasingly complex, encompassing not only physical but also psychosocial and organizational factors, thereby necessitating a transition toward integrated preventive regulatory frameworks [2].

National statistical data confirm the persistent nature of occupational injuries and diseases in the Republic of Kazakhstan. In 2024, 2,471 occupational accidents were recorded, representing a 7.5 % decrease compared to 2023 (2,670 cases). At the same time, 529 cases of occupational diseases and 288 victims of group accidents were reported [3].

According to the Ministry of Labour and Social Protection of the Republic of Kazakhstan, the occupational injury rate in 2024 stood at 0.20 cases per 1,000 workers [4]. Accidents remain concentrated in indus-

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trially developed regions—which is roughly where you would expect them, given the sectoral makeup of those economies [4].

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The aggregate figures, though, obscure more than they reveal. In the first nine months of 2025, 934 workers were injured in occupational accidents, 133 of them fatally [5]. A falling total count does not mean the risk is shrinking—it may just mean the numbers are cycling within a range that has stayed high for years. Severe and group accidents persist. The same industries produce casualties repeatedly [3–5].

This points to a system built around dealing with harm once it has happened, not stopping it beforehand. K.B. Baiterekova, B.M. Smatlaev, and Yudzel Ogurlu put it plainly: compensation dominates, prevention does not [6].

How the system got here is partly a historical question. Early legal regulation of hazardous labour was limited in scope—it targeted the most visible abuses rather than risk as such. The Soviet period added structure: safety standards, compensation schemes, state oversight bodies. But the framework was built sector by sector, through subordinate acts, without a unifying legal foundation. Independence did not fix that. The fragmentation stayed, and the current system still reflects it [3].

After independence, Kazakhstan kept most of the Soviet legal framework it had inherited—not out of deliberate choice, but because building from scratch was not realistic. Market reforms, shifting employment relations, and international commitments pushed the system toward change over time, but without a coordinated plan. The result is regulation scattered across labour, social, and administrative law. Workplace safety, compensation for occupational harm, and risk prevention each have their own instruments, and those instruments do not always align.

This matters beyond the technical level. The way the system works today reflects decisions—and non-decisions—made over several decades. Tracing that history is not an academic exercise; it is the only way to understand why the legislation is structured as it is, and where the real obstacles to reform actually sit.

This study focuses on identifying the key stages and patterns in the historical evolution of labour regulation under conditions involving exposure to hazardous and harmful factors in the Republic of Kazakhstan, as well as to determine the influence of historically established approaches on the modern system of occupational safety regulation.

Unlike existing approaches, this study proposes to conceptualize the current regulatory framework as a hybrid model formed through the interaction of the Soviet list-based system and modern risk-based regulatory mechanisms.

Methods and Materials

The materials of the study include normative legal acts of the Republic of Kazakhstan regulating occupational safety—in particular the Constitution, the Labour Code, the Social Code, and subordinate regulatory acts establishing requirements for working conditions, lists of hazardous and harmful factors, and procedures for the recognition of occupational diseases and the provision of compensation guarantees. The analysis also draws on international legal instruments in the field of occupational safety, as well as historical legal acts of the USSR and the Kazakh SSR. Empirical materials include official statistical data from the Bureau of National Statistics and the Ministry of Labour and Social Protection of the Republic of Kazakhstan.

For the purposes of this study, the “risk-oriented approach” to occupational safety regulation is understood as a regulatory model in which the scope of an employer’s legal obligations, as well as the entitlement of a worker to social guarantees, are determined on the basis of individually assessed professional risk at a specific workplace—not through that workplace’s pre-assigned membership in a normatively fixed category (a class, a list, or an enumerated profession). Three related instruments are sometimes conflated with the risk-oriented approach but are conceptually distinct from it. Workplace certification under Order No. 1057 classifies working conditions against hygienic norms but does not itself determine whether a worker is entitled to social guarantees. Working conditions appraisal operates as a formal administrative procedure and does not establish a continuous link between individually measured risk and individualised entitlements. The compensation model addresses harm that has already materialised rather than the conditions that produced it. The risk-oriented approach differs from all three in that it treats prevention as the primary regulatory objective: legal obligations and entitlements attach to identified and measured risk, not to the pre-assigned category of a job title.

The four methods applied in this study are each directed at a specific research task. The historical-legal method is used to reconstruct the principal stages in the formation of the Soviet list-based model and to trace its transformation throughout the period of independence, identifying which elements were retained, which

were formally modified, and which structural patterns persisted in the absence of explicit legislative choice. The comparative-legal method is applied to assess the conformity of the national regulatory framework with international occupational safety standards—specifically ILO Conventions No. 81 (Labour Inspection), No. 155 (Occupational Safety and Health), and No. 187 (Promotional Framework) [7, 8]—and to situate the Kazakhstani hybrid model in a broader comparative context. The formal-legal method is used to identify normative contradictions between specific provisions of the Labour Code and the Social Code, and between statutory and subordinate legislation: in particular, the conflict between Articles 181–182 of the Labour Code, which establish risk assessment as an employer obligation, and Articles 248 and 250 of the Social Code together with the subordinate acts (Government Resolution No. 1930, Order No. 1053), which condition entitlement to social guarantees on occupational list membership rather than on risk assessment outcomes. The systemic-structural method enables the analysis of the contemporary system as an integrated whole comprising constitutional guarantees, labour legislation, social protection mechanisms, and subordinate regulation, and makes it possible to conceptualise that system as a hybrid model in which two structurally different regulatory logics operate in parallel without adequate coordination [9–11].

The combined application of these methods ensures the comprehensive character of the study and makes it possible not only to describe the existing regulatory framework but also to identify its systemic shortcomings as shaped by historical evolution and contemporary socio-economic conditions.

Results

The Soviet Regulatory Framework for Labour under Hazardous and Harmful Conditions

The normative foundation of labour regulation under conditions involving exposure to hazardous and harmful production factors in the territory of present-day Kazakhstan was established within the unified legal system of the USSR. The primary instrument at the Union level was the Fundamentals of Labour Legislation of the USSR and the Union Republics of 15 July 1970, which introduced uniform principles of labour regulation and imposed on enterprises an obligation to ensure safe and healthy working conditions [12]. These provisions were supplemented by the Fundamentals of Health Legislation of the USSR and the Union Republics of 1969, which guaranteed citizens the right to health protection, including protection from occupational hazards [13]. The constitutional dimension of this framework was established by the 1977 Constitution of the USSR, which recognised the right to health protection as a socio-economic guarantee [14].

At the sub-constitutional level, regulation was carried out through a system of subordinate acts: sector-specific occupational safety and industrial hygiene rules, sanitary norms and standards establishing maximum permissible exposure levels, procedures for investigating occupational accidents, and official lists of industries and occupations with hazardous working conditions that served as the basis for granting compensation and benefits. State supervision was exercised by Gosgortekhnadzor of the USSR, which oversaw compliance in high-risk industries. In parallel, trade unions were vested with authority to monitor working conditions and participate in the investigation of occupational accidents [15].

What matters most about this model, in light of the argument developed in this article, is how it allocated entitlements. The legal basis for benefits was always categorical membership in a list—not any measurement of individual exposure or risk at a specific workplace. This was not a pragmatic shortcut adopted in the absence of better tools; it was the organising principle of the Soviet regulatory architecture. The following sections show that this principle did not disappear with the Soviet state. It was carried forward into the legislation of independent Kazakhstan and continues to determine how social guarantees are assigned today.

Implementation of the Soviet Model in the Kazakh SSR

At the level of the Kazakh SSR, Union-level principles were given concrete normative content through the Labour Code of the Kazakh SSR of 1972 [16]. Unlike the framework character of the Union Fundamentals, the Code established direct legal obligations for enterprise administrations, covering compliance with occupational safety and industrial hygiene rules, prevention of exposure to hazardous factors, provision of personal protective equipment, and organisation of training in safe work practices.

The substantive content of these requirements was determined through subordinate regulation: sector-specific and model occupational safety rules, sanitary norms and standards (SanPiN), and regulations on the investigation and recording of occupational accidents [17]. Central to the system were lists of industries, professions, and positions with hazardous and harmful working conditions, which provided workers with additional guarantees: reduced working hours, supplementary leave, and early retirement benefits [18]. These lists differentiated the legal treatment of workers.

Oversight comprised both state and public components. Article 243 of the Labour Code of the Kazakh SSR vested trade unions with the authority to inspect working conditions, participate in accident investiga-

tions, and require employers to remedy violations [16]. The sectoral structure of the Kazakh SSR economy—with its high concentration of mining, metallurgy, oil and gas, and energy industries—made these regulatory mechanisms practically relevant across a large share of the workforce [19].

In the most hazardous sectors of the Kazakh SSR economy, the Soviet model was applied with particular consistency. The normative apparatus was detailed and formally complete. Its underlying logic, however, was compensatory: the list produced the benefit, and whether a worker's actual exposure to risk had decreased was irrelevant to whether the benefit was retained. When Kazakhstan became an independent state, this architecture was not dismantled or redesigned. It passed into the new legal order in largely unchanged form.

The Transitional Period of the 1990s

Following the dissolution of the USSR and the declaration of independence of the Republic of Kazakhstan, labour legislation entered a transitional phase governed by the principle of legal continuity. The Labour Code of the Kazakh SSR of 1972 [16], the Fundamentals of Labour Legislation of 1970 [12], and the full body of subordinate acts regulating occupational safety—including sanitary norms, occupational safety rules, accident investigation regulations, and lists of hazardous occupations—remained formally in force [17, 18].

In practice, the functioning of this system changed significantly. The transition to a market economy was accompanied by the privatisation of enterprises and the dismantling of centralised control over production processes. Regulatory bodies lost a significant part of their institutional capacity, and enforcement weakened. Approximately 3,000 occupational accidents were recorded annually during this period, of which around 300 were fatal [20]. Compliance with sanitary and technical standards depended on the financial condition of individual enterprises, and the provision of legally prescribed guarantees was not uniform [21].

The transitional decade left a specific institutional legacy. Enforcement capacity declined sharply, oversight became fragmented, and the practical application of legal guarantees grew uneven across enterprises. Yet the list-based allocation of occupational safety obligations and social guarantees survived this disruption intact—not because it was consciously preserved, but because no alternative mechanism was ever developed. When Kazakhstan began constructing a new regulatory framework after 2000, the list remained the default instrument for determining entitlements, as it had been throughout the enforcement vacuum of the 1990s. The absence of reform during a period of institutional collapse effectively settled the question of which model would carry forward.

The Contemporary Regulatory Framework of the Republic of Kazakhstan

The current system of labour regulation under conditions involving exposure to hazardous and harmful production factors is structured as a multi-level framework. Its constitutional foundation rests on Article 24 of the Constitution of the Republic of Kazakhstan, which guarantees the right to working conditions that meet safety and hygiene requirements, and Article 29, which secures the right to health protection [9].

At the sectoral level, regulation is carried out through the Labour Code of the Republic of Kazakhstan of 23 November 2015 No. 414-V [10]. Article 4 establishes the priority of workers' life and health as a fundamental principle of labour legislation. Article 181 sets out workers' rights: the right to a safe workplace, access to information on working conditions and occupational risks, training in safe work practices, and the right to refuse work in the event of a threat to life or health. Article 182 establishes employers' obligations, including risk assessment, implementation of preventive measures, provision of protective equipment, organisation of training, and mandatory medical examinations.

The social protection component is regulated by the Social Code of the Republic of Kazakhstan of 20 April 2023 No. 224-VII [11], which defines hazardous working conditions as a legal basis for entitlement to specific social guarantees, including mandatory occupational pension contributions. Eligibility for these contributions is determined by reference to lists of industries, professions, and positions approved by authorised bodies.

At the subordinate level, regulation is implemented through a differentiated system of instruments: List No. 1 (especially hazardous and severe working conditions) and List No. 2 (hazardous and severe working conditions) approved by the Government of the Republic of Kazakhstan [22]; rules for workplace certification in terms of working conditions [23]; lists defining entitlement to reduced working hours, additional leave, and increased remuneration [24]; and regulations governing the provision of protective equipment, compensatory nutrition, and special clothing [25, 26]. The system of mandatory occupational pension contributions is included among the elements of social protection [27]. Supervision is carried out by the state labour inspectorate within the constraints established by the Entrepreneurial Code [28].

Discussion

The Soviet Model: Characteristics and Structural Limitations

The Soviet model of labour regulation under hazardous and harmful conditions can be characterised as a centralised techno-normative system resting on three structural features: imperative regulation, a list-based approach to the classification of working conditions, and administrative control mechanisms. The formal allocation of responsibility to enterprise administrations was, in conditions of state ownership, functionally equivalent to direct state management—the employer and the state were identical entities. This arrangement precluded the emergence of genuine employer accountability and reinforced the formalisation of compliance: producing evidence of adherence to occupational safety requirements served as a functional substitute for substantive compliance itself.

The absence of independent oversight—trade unions operating within the state governance system rather than as autonomous actors—further limited the effectiveness of public control [15]. The prioritisation of plan fulfilment over production conditions constituted a structural constraint on the practical application of safety norms [29]. Despite the extensive normative detail of the Soviet system, a persistent gap between formally prescribed rules and their actual implementation was an inherent feature of the model, not an incidental failure of enforcement.

The Transitional Period: Institutional Disruption without Normative Replacement

The 1990s represent a particularly instructive period from a legal-theoretical perspective. The formal preservation of Soviet legislation was not accompanied by the maintenance of the institutional infrastructure through which that legislation had operated. The privatisation of enterprises redefined the legal status of the employer without providing the regulatory and oversight mechanisms necessary to ensure compliance in a market context. The transfer of responsibility from the state to private employers occurred in conditions of institutional vacuum: enforcement bodies had lost capacity, and new mechanisms of legal compulsion remained underdeveloped [21].

The consequence was not simply a decline in compliance but a qualitative transformation of the regulatory model's character. What had been a system of state-administered safety obligations became, in practice, a residual framework whose application depended on the economic condition and discretion of individual enterprises. This period established the structural conditions—fragmented enforcement, inconsistent application of guarantees, and a growing gap between formal entitlements and actual working conditions—that continue to characterise the contemporary system.

The Contemporary Model: Coexistence of Risk-Based and List-Based Approaches

The analysis of the current legal framework reveals a hybrid regulatory model in which two structurally distinct approaches operate in parallel without adequate integration. Labour legislation—in particular the Labour Code of 2015—establishes a risk-based regulatory logic oriented toward prevention: the employer is obliged to assess risks, implement mitigation measures, and ensure workers' right to refuse unsafe work [10]. This approach is consistent with the trajectory of occupational safety regulation identified in comparative research, which emphasises the transition from reactive compensation to proactive risk management [30].

Social and subordinate regulation, by contrast, continues to operate on the list-based model inherited from the Soviet period. Entitlement to social guarantees—including mandatory occupational pension contributions—is determined not by the actual level of risk at a specific workplace, but by reference to predefined lists of industries, professions, and positions [11, 22]. This produces a structural asymmetry: the legal obligation to manage risk is assigned to the employer by labour law, while the legal entitlement to compensation for risk exposure is assigned by social law through categorical classification. These two logics are not coordinated, which reduces the overall effectiveness of the regulatory mechanism.

The normative conflict between the two codes can be traced to specific provisions. Under Articles 181 and 182 of the Labour Code, employers are obliged to conduct occupational risk assessment and to implement preventive measures proportionate to the identified risk level, applying the methodology established by Order No. 363 of the Ministry of Labour and Social Protection. However, Articles 248(2) and 250(1) of the Social Code, read together with Government Resolution No. 1930 and Order No. 1053 of the Ministry of Health and Social Development, make the worker's entitlement to reduced working hours, additional paid leave, increased remuneration, and mandatory occupational pension contributions contingent on the worker's profession appearing in an approved list—without reference to what any risk assessment has found.

The mechanism of the conflict is the following: an employer who conducts a risk assessment and identifies an elevated level of professional risk at a given workplace acquires no legal obligation—and the worker acquires no legal entitlement—to adjust the social guarantee package on the basis of that result. Equally, a

worker in a listed profession continues to receive the guaranteed benefits regardless of whether the actual risk level at the specific workplace has been reduced through engineering or organisational controls. The result is a system in which the risk assessment and the entitlement structure operate in parallel without interaction: the Labour Code creates the assessment obligation, but the Social Code and subordinate acts determine outcomes by reference to occupational lists that are updated independently of assessment results.

International experience demonstrates that a transition from fixed classification lists to systems of individual workplace risk assessment allows for more accurate and responsive regulation of actual working conditions. As noted by A.R. Yensebayeva, A.F. Yagmussova, and K.B. Baiterekova, effective contemporary models integrate risk assessment with flexible mechanisms for the provision of social guarantees [31]. The current Kazakhstani framework has not achieved this integration.

Structural Constraints on the Effectiveness of Contemporary Regulation

Several systemic factors constrain the effectiveness of the current regulatory framework. First, normative fragmentation—the dispersal of key regulatory parameters across multiple subordinate acts without consolidation into a unified instrument—reduces legal certainty and complicates compliance monitoring [6]. Second, the preventive capacity of state supervision is structurally limited by the provisions of the Entrepreneurial Code, which regulate inspection procedures in ways that prioritise enterprise interests over preventive oversight [28]. Third, the absence of a unified system for recording occupational injuries, combined with discrepancies between statistical sources, impedes objective risk assessment and the development of evidence-based preventive policy [6].

A further challenge concerns the emergence of platform and other non-standard forms of employment. The recognition of platform employment in the Social Code of 2023 [11] marks an acknowledgment of this development at the legislative level, but does not address the regulatory gaps it generates. Workers engaged in platform employment face elevated occupational risks—including intensification of work, psychosocial stress, and instability of employment relations—for which traditional occupational safety mechanisms, designed for stable employer-employee relationships, provide insufficient protection. As D.A. Myktybayeva and R.Sh. Davletgildeev observe, current legislation lacks a systematic definition of non-standard employment and does not adequately capture emerging forms of labour, resulting in a gap between legal regulation and practice [32]. Bibliometric analyses of international research confirm that workers in the informal and platform sectors are disproportionately exposed to elevated occupational risks in the absence of systematic protection mechanisms [33].

Taken together, these findings indicate that the contemporary regulatory model represents an incomplete transformation: it has formally adopted a risk-based logic at the level of labour legislation while retaining list-based classification structures in social regulation, without resolving the tension between the two. The persistence of compensation-oriented elements is thus confirmed in the Kazakhstani context—but the present analysis further demonstrates that this persistence is not merely residual but is structurally reproduced through the parallel architecture of labour and social legislation.

Conclusions

Labour regulation under hazardous working conditions in Kazakhstan has developed through several identifiable stages, each of which has shaped the level of protection available to workers in the present.

The Soviet system created a centralised model based on detailed subordinate regulation and a list-based approach to the allocation of compensation entitlements. Its effectiveness depended on administrative control rather than on the protection of individual rights, and its central structural choice—using occupational list membership as the trigger for legal entitlements—has proved remarkably durable.

During the transitional period of the 1990s, the formal legal framework remained in place while enforcement weakened substantially. This period did not generate an alternative allocation logic; it confirmed that the list-based approach would persist by default in the absence of a deliberate policy choice to replace it.

Today, occupational safety regulation in Kazakhstan rests on a combination of labour, social, and subordinate legislation. Risk-based elements exist in the legislation. The Labour Code's risk assessment obligation is genuine. Whether that obligation produces risk-proportionate outcomes is a different question—and the answer, as this analysis shows, is that it does not, because the Social Code and the subordinate acts maintain a list-based entitlement structure that operates independently of risk assessment results.

On the basis of this analysis, five directions for legislative reform are identified.

The first concerns the basis for social guarantees. Amendment of Articles 69, 89, 105, 182, and 183 of the Labour Code is required to make the level of individually assessed occupational risk—determined under Order No. 363—the legal trigger for reduced working hours, supplementary leave, pay supplements, and re-

lated guarantees. Order No. 1053 should be repealed, and Order No. 363 should be extended to include a methodology for translating risk assessment results into concrete guarantee parameters.

The second direction addresses the conflict between the Labour Code and the Social Code. Articles 248(2) and 250(1) of the Social Code should be amended to condition entitlement to mandatory occupational pension contributions on assessed risk levels rather than on list membership. The corresponding amendment to Government Resolution No. 520 of 30 June 2023 would be required to give effect to this change.

The third direction concerns regulatory consolidation. Orders No. 1053, No. 1054, No. 1056, and No. 1057 should be merged into a single normative instrument establishing unified rules for social guarantees at hazardous workplaces, grounded in individual risk assessment rather than categorical occupational classification.

The fourth direction relates to state supervision. The provisions of the Entrepreneurial Code governing the grounds and frequency of unscheduled inspections should be revised to extend the preventive reach of labour inspection in line with ILO Convention No. 81, with corresponding amendments to the Labour Code's chapter on occupational safety oversight.

The fifth direction covers emerging employment forms and the occupational disease list. The list of occupational diseases should be reviewed against ILO Recommendation No. 194 to capture contemporary production factors. Platform workers should be brought within the scope of minimum occupational safety standards through targeted amendments to the Social Code's chapter on platform employment.

These findings are consistent with positions advanced in international scholarly literature. N. Aburumman et al. emphasise the need for transition to integrated models of occupational risk management, and V. Leso et al. call for adaptation of legal regulation to emerging forms of employment [2, 30]. The Kazakhstani case confirms both the general diagnosis and the specific difficulty: hybrid models are not self-correcting. The coexistence of two regulatory logics without a resolution rule does not gradually resolve itself in favour of the more effective approach; it tends instead to reproduce itself through the path of least institutional resistance, which is—as the history reviewed here shows—the list.

The scientific novelty of the study lies in the substantiation of the concept of a hybrid regulatory model formed through the combination of a Soviet list-based system and contemporary risk-based regulatory approaches applied to the Kazakhstani context. Further development of the regulatory framework should be aimed at establishing a coherent, integrated, and effective model ensuring genuine protection of workers' life and health.

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Қазақстан Республикасында зиянды және қауіпті еңбек жағдайларында еңбекті қорғауды құқықтық реттеу: кеңестік тізімдік модельден тәуекел-бағдарлы тәсілге дейін

Мақалада Қазақстан Республикасында зиянды және қауіпті өндірістік факторлардың әсеріне ұшырайтын жағдайларда еңбекті қорғауды құқықтық реттеудің эволюциясы зерттелді; кеңестік тізімдік модельден қазіргі заманғы тәуекел-бағдарлы тәсілдің элементтеріне өтуге ерекше назар аударылған. Зерттеудің мақсаты — қолданыстағы нормативтік-құқықтық базаның құрылымдық сипаттамаларын анықтау және тәуекел-бағдарлы механизмдердің әлеуметтік кепілдіктер жүйесіне интеграциялану дәрежесін бағалау. Зерттеудің методологиялық негізін тарихи-құқықтық, салыстырмалы-құқықтық, формальды-заңдық және жүйелік-құрылымдық әдістердің жиынтығы құрайды; олардың әрқайсысы «Әдістер» бөлімінде сипатталған нақты зерттеу міндетіне қолданылады. Эмпирикалық базасын Қазақстан Республикасының Еңбек кодексі мен Әлеуметтік кодексі, ХЕҰ-ның № 81, № 155 және № 187 конвенциялары, сондай-ақ ХЕҰ-ның еңбекті қорғауды басқару жүйесі бойынша нұсқаулығы (ILO-OSH 2001) құрайды. Кәсіптік тәуекелдерді бағалау ресми түрде енгізілді, алайда әлеуметтік кепілдіктерге құқық, яғни жұмыс уақытының қысқартылған ұзақтығы, қосымша демалыс, еңбекақының жоғарылауы әлі де бекітілген кәсіптер мен өндірістердің тізбелері арқылы анықталады. Бағалау тетігі бар, бірақ ол іс жүзінде нәтижеге әсер етпейді. Анықталған алшақтық жүйелік сипатқа ие. Заңнама бірін-бірі жокқа шығаратын екі реттеуші тәсілді қамтиды, бірақ олардың арасындағы басымдықты белгілейтін норма жоқ. Жұмыс берушілер тізімдерді басшылыққа алады, өйткені қолданыстағы кодекстер дәл осыны талап етеді. Қалыптасқан жағдайды өзгерту кодификацияланған актілерге тиісті түзетулер енгізілмейінше мүмкін емес.

Кілт сөздер: еңбекті қорғау, еңбек құқықтық реттеу, зиянды еңбек жағдайлары, кәсіптік тәуекелдер, әлеуметтік кепілдіктер, Қазақстан.

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Правовое регулирование охраны труда во вредных и опасных условиях в Республике Казахстан: от советской списочной модели к риск-ориентированному подходу

В статье исследуется эволюция правового регулирования охраны труда в условиях воздействия вредных и опасных производственных факторов в Республике Казахстан, с акцентом на переходе от советской списочной модели к элементам современного риск-ориентированного подхода. Цель исследования — выявить структурные характеристики действующей нормативно-правовой базы и оценить степень интеграции риск-ориентированных механизмов в систему социальных гарантий. Методологическую основу исследования составляет совокупность историко-правового, сравнительно-правового, формально-юридического и системно-структурного методов, каждый из которых применяется к конкретной исследовательской задаче, описанной в разделе «Методы». Эмпирическую базу составляют Трудовой кодекс и Социальный кодекс Республики Казахстан, Конвенции МОТ № 81, № 155 и № 187, а также Руководство МОТ по системе управления охраной труда (ILO-OSH 2001). Оценка профессиональных рисков введена формально, однако право на социальные гарантии — сокращённую продолжительность рабочего времени, дополнительный отпуск, повышенную оплату труда — по-прежнему определяется через утверждённые перечни профессий и производств. Механизм оценки существует, однако не определяет практических результатов. Выявленный разрыв носит системный характер. Законодательство содержит два конкурирующих регуляторных подхода без нормы, устанавливающей их приоритет. Работодатели руководствуются перечнями, поскольку именно на них указывают действующие кодексы. Изменение сложившейся ситуации невозможно без внесения соответствующих поправок в кодифицированные акты.

Ключевые слова: охрана труда, правовое регулирование труда, вредные условия труда, профессиональные риски, социальные гарантии, Казахстан.

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