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Social Justice and Humanism as Axiological Principles of Labor Law and the Concept of the Quality of Working Life

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Abstract: In the context of the intensification of the integration processes of the Russian Federation and the Republic of Belarus, the focus of legal integration on the harmonization and even unification of labor legislation, it seems relevant to address the legal issues of decent work and ensuring the quality of life of citizens of both states, the convergence of state minimum social standards. The main attention in the article is given to such initial axiological legal principles that play a leading role in ensuring decent work and the quality of work life as social justice and humanism in the social and labor sphere, which determines the structure of this article. The problem of quality of life is interdisciplinary. It has not only a legal, but also an economic, sociological, socio-cultural, general philosophical context. Therefore, in the article, along with general scientific and special legal methods, an interdisciplinary approach is widely used. The authors aim is, based on doctrinal developments, normative material and its comparative analysis, to deepen the understanding of the ideas of social justice and humanism in the social and labor sphere, which underlie the legal program of decent work and

the concept of the quality of work life with the development of proposals for improving the labor legislation of Russia and Belarus.

Keywords: justice; humanism; axiology; concept; quality of work life; employee; employer; labor legislation; Belarus; Russia

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Contents

I. Introduction

The main goals facing the International Labor Organization (hereinafter ILO), which were formulated in 1919 in the preamble of its Constitution and which permeate its activities for more than a century: "Whereas universal and lasting peace can be established only if it is based upon social justice; And whereas conditions of labor exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperiled…"[1] The ILO founding fathers not only randomly linked the ideas of social justice with the establishment of universal and lasting peace, since injustice, accompanied by want and deprivation, endangers the foundations of peace and harmony throughout the world. These are the "cornerstones" on which international cooperation on

[1] The preamble of the ILO Constitution. Available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO [Accessed 15.11.2022].

labor and social security has been built for one hundred years. There is no alternative to this idea.

In this article, we aim to look at the genesis of the idea and program of decent work, its transformation into the concept of the quality of working life. These are not opposing each other doctrines, the second one is a logical continuation of the first one, but both of them are possible only in conditions of peace and conscientious cooperation between states based on respect for the universally recognized principles and norms of international law. We are convinced that providing decent work and improving the quality of working life can only be achieved in conditions of peace.

The article will consider two of the most important axiological principles of labor law — the ideas of social justice and humanism. These ideas go back to the philosophical views of Plato and Aristotle, the thinkers of the New Age, but which have found a comprehensive reflection in law already in the twentieth century in the constitutions of modern states, in the branch of labor legislation. We will widely use an interdisciplinary approach, referring to the views of legal scholars, economists and sociologists, as well as the comparative legal method, analyzing the achievements and shortcomings that are present in the national labor legislation of the Russian Federation (hereinafter Russia) and the Republic of Belarus (hereinafter Belarus). The conclusion, based on a comprehensive analysis of the views of representatives of legal and economic science, will substantiate proposals for the further improvement of the labor legislation of Russia and Belarus in the context of the ongoing integration processes between them, both within the Union State and the Eurasian Economic Union (hereinafter the EAEU).

II. From the Concept of Decent Work to the Concept of the Quality of Working Life

The starting point for the formation of a new approach to understanding decent work was the reports of the ILO Director-General (hereinafter the Office) at the 81st session (1994), which outlined a new vision of the problem of liberalization of the regulation of labor relations, combined with the respect for human rights and fundamental

freedoms (Hepple, 2005, p. 57). Later, at the turn of the century, the ILO officially proposed the concept (program) of decent work. This concept was intended to bring about major economic, social and legal changes in labor, as one of the most important spheres in human activity. In the reports of ILO Director-General Juan Somavia at the 87th session of the International Labor Conference (hereinafter ILC) in 1999 and at the 89th session of the ILC in 2001, as well as in other policy documents, the goal of the declared concept was called "assistance in obtaining and performing decent work in conditions of freedom, justice, security and safety, and human dignity" (Somavia, 2004, p. 3).

ILO officials and experts presenting this concept characterize the essence of decent work by listing its features. These are productive activity or productive labor capable of ensuring the competitiveness of the country; decent and fair income for employees; workplace safety; social protection (against unemployment, in case of pregnancy, the need to care for a child, temporary disability, pensions); perspectives for individual development and social integration; active participation in managerial decision-making (through trade unions and business associations); equal starting positions and opportunities for both sexes (Barrett-Reed, 2003, p. 5). It follows from the analysis of official documents that the ILO pays attention mainly to the economic content of decent work, the rationale that decent work provides higher labor productivity, leads to an increase in the competitiveness of organizations, improves working conditions, labor relations and worker satisfaction (Somavia, 2001, p. 7). This approach is not accidental, since labor relations are closely intertwined with economic and production functions. Along with social and protective functions, labor law also performs economic (production) ones.

The ILO Declaration on Social Justice for a Fair Globalization, adopted at the 97th session of the ILC in 2008, declared the Decent Work Agenda to be universal and, in particular, that all ILO member States should pursue policies aimed at solving strategic objectives in such areas as employment, social protection, social dialogue and rights at work. Surely, each state has its own "recipes" for pursuing a national policy aimed at solving this strategic objectives, but within the framework of integration associations (the EU, the Council of Europe,

the EAEU, the Union State of Russia and Belarus), these areas are often refined and coordinated.

The scientific literature has repeatedly attempted to define the concept "decent work." According to A.S. Kudrin "decent work should be understood as a multidimensional concept encompassing economic, political and legal phenomena, creating conditions for efficient and productive work, promoting social, cultural and technical progress for the social protection of workers and their families, contributing to the development of the essence of human beings and unlocking the creative potential of everyone. The state as a subject endowed with social power takes the leading place in the regulation of relations arising in the world of work, being the guarantor of the implementation of the concept of decent work" (Kudrin, 2014, pp. 256–257).

This concept is interpreted somewhat differently by O.S. Khudyakova, who states that the labor law essence and content of "decent work" "should be given, first of all, through a description of the features of the legal regulation of working conditions." She believes that "from a position of justice, work should be considered decent if the existing legal regulation of labor relations is guaranteed to provide all employees with the opportunity to exercise basic labor rights and freedoms, and the objectively existing "inequalities" of employees are compensated in the legislation in such a way as not to create unreasonable benefits and use them for the common good. Another characteristic of decent work is "the legal regulation of such a quality in which the personality of an employee remains free and realizes this benefit in existing labor relations and relations closely related to labor, within the boundaries established by labor legislation, thereby ensuring its self-affirmation and self-realization in within the scope of the choice made" (Khudyakova, 2010, pp. 54–55). We find it possible to agree with this opinion since public legal awareness and law enforcement still fall behind the postulates of the ILO decent work agenda. By now, one can say that the ILO decent work agenda has its logical continuation — the concept of quality of work life, which still remains at the stage of formation.

Until now, the problem of the quality of work life has been mainly dealt with by economists: Zonova, 2016; Ignatenko, 2010; Nikitin,

2005; Roik, 2018; Tsygankov 2007; Tsygankova, 2009. A number of dissertation research on the phenomenon of the quality of the work life of the population were carried out by sociologists: Ivanova, 2005; Kolontaev, 2011.

Scientist pay even more attention to the category "quality of life" as a broader one in relation to the quality of work life. As the scientist in economics V.D. Roik stated "the current ideas about individual well-being in a specific historical period are determined by official and scientific criteria, norms and standards of such a socio-economic category as the quality of life" (Roik, 2018, p. 42).

The Russian Federation, as a welfare state, calls improving the quality of life of its population priority directions of the national strategy. Decree of the President of the Russian Federation No. 208 dated 13 May 2017 "On the Strategy for the Economic Security of the Russian Federation for the period until 2030"[2] recognizes the goal of state policy in the field of ensuring economic security to increase the level and improve the quality of life of the population, and one of the main directions of state policy is the development human potential. Similar program provisions are provided for in the legislation of the Republic of Belarus. Thus, according to the Program of Socio-Economic Development of the Republic of Belarus for 2021–2025, approved by the Decree of the President of the Republic of Belarus No. 292 dated 29 July 2021,[3] this Program is aimed at creating prerequisites for the growth of the welfare of citizens, ensuring comfortable living in each region of the country, developing human potential; digitalization processes will accelerate significantly, which will necessitate the expansion of digital control and strengthening of cybersecurity, as well as the restructuring of the labor market in order to increase its mobility, flexibility and adaptation to remote work. The main goal of the development of the

[2] Decree of the President of the Russian Federation No. 208 dated 13 May 2017 "On the Strategy for the Economic Security of the Russian Federation for the period until 2030." Collection of Legislation of the Russian Federation. 15 May 2017. No. 20. Art. 2902. (In Russ.).

[3] Program of Socio-Economic Development of the Republic of Belarus for 2021–2025, approved by the Decree of the President of the Republic of Belarus No. 292 dated 29 July 2021. National Legal Internet Portal of the Republic of Belarus, 4 August 2021, 1/19834. (In Russ.).

Republic of Belarus for 2021–2025 is defined in the same Program as "ensuring stability in society and increasing the well-being of citizens through the modernization of the economy, increasing social capital, creating comfortable conditions for life, work and self-realization of a person."

Kazakhstani sociologist B.A. Aldashov defined the quality of life in the most general form as "a set of economic and socially determined living conditions," which includes "objective parameters of life and their subjective assessment at the level of society as a whole, as well as objective parameters and a subjective assessment of the living conditions of separate individuals" (Aldashov, 1994, p. 10). The model of subjective assessment of the quality of life, also developed by B.A. Aldashov, in relation to work indicates such parameters as wages, functions performed, socio-psychological climate, and other factors. Moreover, career as a parameter is related to education, although it is more related to work and the quality of working life of the employee (Aldashov, 1994, p. 13).

Economist R.P. Nikitin clarified the content of the quality of life as "a complex socio-economic category that expresses the degree of satisfaction and the level of development of the material, industrial, physical and intellectual needs of people, determined by the socio-economic conditions and opportunities created in society, allowing a person to be its active member" (Nikitin, 2005, p. 5). V.A. Tsygankov developed the concept of quality of work life, applicable for modern Russian conditions, based on the allocation of two blocks: the principles of the existence of labor and the creation of conditions for a more complete realization of the labor potential of both an individual employee, an enterprise, and the economy as a whole. The main block highlights the following provisions as the core of the quality of work life concept: ensuring effective employment; formation of the level of incomes, ensuring a decent standard of living for employees, on the basis of the state and internal company policy in the field of remuneration, the creation of safe and healthy working conditions. The additional block covers: increasing the content of labor; development of labor democracy; purposeful change of attitude to labor; ensuring job satisfaction (Tsygankov, 2007, p. 8). Noting the theoretical value of this

conceptual approach, one can notice some terminological shortcomings from the standpoint of the conceptual apparatus of labor law: the party in relation with the employee is not the enterprise, but the employer in Russia, the hirer in Belarus, and "labor democracy" is traditionally referred to as "industrial democracy." In addition to terminological remarks, we believe that the concept of the quality of work life is much broader in terms of its constituent elements. In modern conditions it should be supplemented by the quality of the system for improving the skills of workers, their professional training and retraining, ensuring the adaptability of their labor function in the face of constantly changing economic and scientific conditions and scientific and technological progress. When considering the modern concept, it is important to take into account the quality of labor rationing and accounting of working time, the quality of organization of rest time, ensuring the privacy of the employee, the labor honor and dignity of the employee (respect for the man of labor) and a number of other components.

I.V. Tsygankova proposed a methodology for assessing the quality of the work life of young people at the enterprise level. This makes it possible to assess such parameters as remuneration for work, working conditions, flexibility in the use of working time, labor productivity, labor mobility, job satisfaction, investment in human capital, job security, the level of mechanization and automation, the state of cultural and social conditions of workers. She also revealed "the main socio-economic problems of the use of youth labor, which negatively affects the quality of work life of young people, including: the lack of opportunities for obtaining the desired education, the problem of employment, the lack of job security, low wages, limited possibilities to purchase housing, limited opportunities for career growth and promotion" (Tsygankova, 2009, p. 10). I.V. Tsygankova developed a concept for the formation of the quality of working life of the youth in the Russian Federation in modern conditions, based on providing a differentiated approach to improving the quality of work life of youth, depending on the region and industry; creation of a system of labor motivation and stimulation of young people, taking into account the strategy of state development and the conditions for the formation of the labor ideology of youth; the use

of non-standard forms of employment, especially flexible ones in the framework of employment; regulation of the quality of the working life of young people through the implementation of a targeted policy that allows for a strategic approach to the formation, use and development of the labor force of youth; development and implementation of programs to improve the quality of the work life of youth at enterprises (Tsygankova, 2009, p. 11).

According to M.N. Ignatenko, "the low level of quality of work life in modern Russia is determined primarily by the contradictions that are formed between the moral values of Russian employees and the market values of a new management mechanism that has been actively introduced into Russian life since the 90s of the last century" (Ignatenko, 2010, p. 4). Note that in order to evaluate the level of quality of work life as low or high, one needs appropriate indicators and their comparison with similar indicators in other counters.

Until today the uniform scientific approach to evaluating the quality of work life is absent, researches express different amount of indicators of the quality of work life (Zholudeva and Melnichenko, 2018, pp. 42–44). For example, a famous Russian economist V.D. Roik names job satisfaction in terms of organization, content, remuneration, modes of work and rest, professional training as assessed indicators of the quality of working life; guaranteeing safe working conditions, including the working environment and normal labor intensity; access to social insurance systems: pension, medical, accidents at work and occupational diseases (Roik, 2017, pp. 34–35).

To summarize the views of economists on the issue under study, the most common indicators of the quality of work life include: working conditions at the workplace; wage level; creation by the employer of conditions for employee personal development; motivation to work and employee satisfaction; and workplace democracy. As we see, mostly these indicators correlate with the elements of decent work agenda. However, the fundamental difference of the concept of decent work life is that its level is determined not only by objective indicators, but also by the subjective evaluation of the employee himself. A survey conducted by the Russian Public Opinion Research Center (VCIOM)

in August 2021 showed that the vast majority of Russian citizens (82 %) are satisfied with their work (33 % are completely satisfied), but 18 % of respondents do not receive job satisfaction.[4]

So, the idea of the quality of work life is that a person should be provided with such employment conditions that would allow him to fully maintain not only his economic well-being, but also realize his spiritual needs, be able to pay sufficient attention to the family, raise children, support his personal growth, professional development and career development. In this regard, the thesis about the need for a more loyal organization of working time and the proposal for a possible reduction in the future of the working week to four working days, formulated by the Prime Minister of Russia D.A. Medvedev in 2019 during a speech at the International Labor Conference seems interesting. However, the fact that almost half of Russians (48 %) do not support the proposal for a possible reduction of the working week to four working days, as evidenced by the VCIOM poll, is noteworthy. Only 29 % of respondents approve of the idea. Respondents attributed the following to the positive consequences of the reduction of the working week: improved health, increased life expectancy; the opportunity to have a good rest; the opportunity to spend more time with family; improving the upbringing of children; the release of free time for personal life, creativity, self-development, travel; increasing labor productivity, improving the quality of work; the opportunity to do household chores; possibility of additional income. The first three negative consequences are as follows: lower wages, falling living standards, rising prices; increased alcoholism, drug addiction, abuse of bad habits; deterioration in production indicators (fall in labor productivity, non-fulfillment of the plan, poor quality of work, etc.).[5] We believe that the main fear of employees associated with the prospect of loss of earnings has a very real explanation: employers are unlikely to want the transition to a four-day week to be carried out at their

[4] VCIOM News, (2021). Man and his work. 21 August 2022. Available at: https://wciom.ru/analytical-reviews/analiticheskii-obzor/chelovek-i-ego-rabota (In Russ.) [Accessed 15.11.2022].

[5] VCIOM News, (2019). Four-day workweek: a dream or a risk? 24 June 2019. Available at: https://wciom.ru/analytical-reviews/analiticheskii-obzor/chetyokhdnevka-mechta-ili-risk (In Russ.) [Accessed 15.11.2022].

expense. That is why, in conditions of an unstable economic situation and the lack of social orientation among most modern employers, such a seemingly progressive idea as the reduction of the working week seems premature. For such a radical novel in the sphere of working time and rest time, a deep economic and social study of the issue is needed, but the statement of the problem itself testifies to the intentions of the state to seriously reform labor legislation.

It should be noted that the concept of the quality of work life has gone through several evolutionary stages and, according to O.V. Zonova is currently at the fourth "integration" stage of development, characterized by the interpenetration of various concepts, in particular, the concept of decent work and continuous human well-being. The same author understands the basic concept of "quality of work life" as "a set of organizational and socio-economic conditions that contribute to the development of a person and his potential at different stages of life, the measurement of which is possible by using a system of indicators that characterize the degree of implementation of the value orientations of workers formed during the period prior to employment, as well as the level of satisfaction of needs and provision of decent conditions both during the period of active labor activity and in the period after completion of labor activity" (Zonova, 2016, p. 7).

The issue of the quality of work life in terms of improving labor legislation was addressed in the works of legal scholars (Golovina, Kuchina and Serova, 2019; Golovina, 2021; Kuchina, 2021). Based on the fact that the most important components of the quality of work life are motivation to work and job satisfaction, which include not only material well-being, but also employee satisfaction from achievements in the labor process as a result of self-realization and self-expression, the global task of the employer is to create conditions that contribute to realize the creative abilities of the employee. In this regard it is suggested to improve one of the principles of the modern labor law and formulate it as "ensuring the right of every employee to fair working conditions, including meaningful and interesting work that meets human needs."

Important elements of the concept of the quality of work life, as well as the axiological principles of labor law, are two moral and legal ideas: social justice and humanism in labor relations. It is these ideas that we will focus on in this article.

III. Social Justice in Labor Relations in Belarus and Russia

Justice is a category as polysemous and complex as law itself. From our point of view, it refers to the very essence of law, one of the main distinguishing features of law, the principles of law, and, on the other hand, to the phenomenon of morality, since it acts as an idea that determines the moral foundations of society. With such an approach, the idea of justice can be certainly called a moral and legal principle.

Justice is closely related to such phenomena as equality and freedom (Kolodiy, 1991, p. 193). Many philosophers and jurists, past and present, define justice in terms of these concepts. For example, Aristotle derived distributing and equalizing justice from geometric and arithmetical equality. Thus, in the book V "On Justice" of his voluminous work "Ethics," Aristotle considered "justice" as a property of the human soul, and "the concept of "justice" means at the same time both legal and uniform... [attitude towards people]" (Aristotle, 1998, pp. 245–246). Hegel wrote "It is all about justice, i.e., in the mind — i.e., in that freedom finds its present being..." (Hegel, 1990, p. 413).

The American social philosopher John Rawls, starting from the same value categories, formulates two most important principles of justice in his opinion: (1) "Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all;" (2) "Social and economic inequalities are to be arranged so that they are both:

(a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and

(b) attached to offices and positions open to all under conditions of fair equality of opportunity" (Rawls, 1999, p. 266).

As we wrote earlier, upon careful reading of the two principles of justice introduced by J. Rawls, the former directly shows the Kantian categorical imperative, and the latter reflects the trends in the social policy of the capitalist states of the 20th century with its desire for a reasonable redistribution of benefits among members of society (Tomashevski, 2009, p. 82).

Law theorists V.S. Nersesyants and R.Z. Livshits also closely linked the category of justice with law (Nersesyants, 1997, p. 28; Livshits, 2001, p. 66).

The principle of justice receives its branch value concretization in the idea of social justice, which can be considered as an inter-branch principle operating in labor law and social security law. This principle is characteristic of welfare states, which, according to the constitutions, include Belarus and Russia.

According to T.Ya. Khabrieva "...The welfare state does not set itself the task of achieving absolute social justice, it is intended only to provide such social compensation which would eliminate the occurrence of social conflicts due to uneven distribution of resources, preventing the legal, social, cultural isolation of certain social groups" (Khabrieva, 2009, p. 4).

E.A. Sarkisova back in 1969, analyzing the problem of humanism in criminal law, also touched upon the question of its relationship with the principle of justice, offering the author's definition: the principle of social justice is "the provision of real freedom, equality, fraternity, this is the desire for a better, perfect life for all workers" (Sarkisova, 1969, p. 16). This definition does not seem to be entirely successful, because it leads to a mix-up of the principles of justice and formal freedom, it applies only to workers, while the principle of social justice applies also to those non-workers (for example, juvenile orphans who have lost their breadwinner, as well as the unemployed, pensioners, etc.).

Theoretical scientist G.V. Maltsev believes that "the main elements of the concept of social justice are, on the one hand, the totality of social relations of the exchange and distribution type, and, on the other hand, the criteria developed on the basis of social practice and primarily industrial practice, that stimulate these relations." Based on this, he concludes that "in social justice, material (sociological) and ideological (normative-value) components are distinguished" (Maltsev, 1977, pp. 67–69). Let us agree with this scientist on that the subject of social justice demands interdisciplinary research, but for the purpose of this article, we restrict ourselves to the labor law aspect.

According to A.A. Linets, justice in labor law as a whole and in interaction of subjects of labor relations in particular, can be achieved through two mechanisms. "The first mechanism (substantial) is

about direct (material) establishment of labor rights, obligations and guarantees (for example, the establishment of minimum wage). The second mechanism (procedural) is about smoothing out inequalities of negotiating positions by establishing legal means of achieving and consolidating agreements of subjects on certain conditions of the use of labor (for example, establishing a written form of a condition on a hiring assessment test (Art. 70 of the Labor Code of the Russian Federation))" (Linets, 2021, p. 122).

Despite the fact, that the current labor legislation does not provide for the general formulation of the principle of justice (as well as social justice), at the same time, separate norms that reflect the idea of justice do exist. They are, in particular, the following.

Employees shall be guaranteed a just share of remuneration for the economic results of their labor in accordance with the quantity, quality and social significance of such work (Art. 42 of the Constitution of the Republic of Belarus,[6] Para. 5 Art. 11 of the Labor Code of Belarus[7]), safeguarding the right of every employee to timely and complete payment of equitable wages (Para. 7 Art. 2 of the Labor Code of the Russian Federation[8]).

Women and men, adults and minors shall have the right to equal remuneration for work of equal value (Art. 42 of the Constitution of the Republic of Belarus), everyone shall have the right for labor remuneration without any discrimination whatsoever and not lower than minimum wages and salaries established by the federal law, as well as the right to protection against unemployment (Part 3 Art. 37 of the Constitution of the Russian Federation[9]).

[6] The Constitution of the Republic of Belarus, 15 March 1994 (as of 27 February 2022). Available at: https://president.gov.by/ru/gosudarstvo/constitution (In Russ.) [Accessed 15.11.2022].

[7] The Labor Code of the Republic Belarus dated 26 July 1999 (as of 30 May 2022). Available at: https://etalonline.by/document/?regnum=hk9900296 (In Russ.) [Accessed 15.11.2022].

[8] The Labor Code of the Russian Federation dated 30 December 2001 (as of 4 November 2022). Available at: http://www.consultant.ru/document/cons_doc_LAW_34683/ (In Russ.) [Accessed 15.11.2022].

[9] The Constitution of the Russian Federation dated 12 December 1993 (as of 1 July 2020). Available at: http://www.consultant.ru/document/cons_doc_LAW_28399/ (In Russ.) [Accessed 15.11.2022].

Prohibition of discrimination in the sphere of labor relations (Art. 14 of the Labor Code of Belarus, Art. 3 of the Labor Code of the Russian Federation), including the prevention of any direct or indirect restriction of rights or the establishment of direct or indirect advantages when concluding an employment contract, depending on circumstances not related to the business qualities of employees (Art. 64 of the Labor Code of the Russian Federation).

Increased payment, reduced working hours, the additional annual paid leave is granted to employees involved in work with harmful and (or) dangerous labor conditions (Clause 5 Part 1 Art. 55, Art. 62, 113, Part 3 Art. 115, Art. 157 of the Labor Code of Belarus, Art. 92, 117, 147 of the Labor Code of the Russian Federation).

Taking into account the severity of the misconduct, the circumstances of its commission, the previous work and behavior of the employee when imposing a disciplinary sanction and imposing liability on the employee (Part 3 Art. 198, Art. 408 of the Labor Code of Belarus, Part 5 Art. 192, Part 1 Art. 250 of the Labor Code of the Russian Federation) and some others.

In the Soviet period of history, scientists in the field of labor law (N.G. Aleksandrov, A.I. Protsevsky and others) saw the principle of fair distribution in the norms of wages, as a rule, linking it with the constitutional principle of socialism "from each according to his ability — to each according to his work," and its legal expression was seen "in the determination by the socialist state of a universally obligatory measure of labor and a measure of consumption" (Protsevsky, 1982, p. 59). Surely, such interpretation has nothing in common with the idea of justice according to Aristotle. On what basis does the state itself decide what are the needs of a person (in this case, an employee)? One individual may be satisfied with little, where another one desires and deserves more, considering his intellectual of physical abilities, business qualities, etc.

The reasoning of the legal scholar R.Z. Livshits, who explains the phenomenon of justice using the example of the same institution of wages, is interesting: "In distributive relations, justice is the correspondence between the actions of a citizen, his labor contribution and the response of society. This means, that labor legislation, for example,

is aimed at establishing a mechanism for fair remuneration for work: those who work more and better should get more" (Livshits, 2001, p. 66). Further, the same author, considering the soviet experience of centralized establishment of wages, rightfully notes that "Equalization in wages is incompatible with justice. Equalization means equal payment for unequal labor, where justice demands unequal labor to be unequally payed (Livshits, 2001, p. 67). However, R.Z. Livshits' conclusion that decentralized regulation of wages comes to the requirements of justice, is not always justified. This is explained by the fact, that with the help of local and individually contractual regulation, the employer can sometimes deviate from the principles of justice in favor of some subjective, sometimes even mercantile, interests. We find a vivid example in the legislation of the Republic of Belarus: the establishment of employees hired on the basis of labor contracts increases in tariff rates and salaries (surcharges to them) up to 50 %. For example, for one employee, the employer, when hiring, set a 50 % increase, for another — 20 %, for the third — 1 %. Is this fair, when considering that all three employees are hired at the same time and for similar positions (professions), having equal level of qualification? We suppose not. Such manifestations of injustice should be fought based on the norms prohibiting discrimination in labor relations (Art. 14 of the Labor Code of Belarus and Art. 3 of the Labor Code of the Russian Federation), but there are also hidden and indirect forms of discrimination, the proof of which in court is very problematic.

Discriminatory principles in the sphere of wages can be met not only in practice of certain employers, but also in the regional policy of establishing a minimum wage. In Russia, it is allowed to increase the minimum wage established by federal law throughout the state, in a separate constituent entity of the Russian Federation by concluding a regional agreement on minimum wages (Art. 133.1 of the Labor Code of the Russian Federation). The practice of recent years shows that some regions exclude employees of budgetary organizations from the number of persons who are given an increased minimum wage, thereby reducing their level of social protection and violating the principle of fairness in the field of wages. Thus, the following minimum wages have been established for 2022: in the Republic of Bashkortostan — 14,200 rubles,

with the exception of employees of organizations financed from the federal budget, the budget of the republic, local budgets and state non-budgetary funds, as well as non-profit organizations (Minimum Wage Agreement in the Republic of Bashkortostan dated 24 December 2021); in the Republic of Tatarstan — 16,700, except for employees of organizations financed from the federal budget, the budget of the republic and local budgets (Agreement on minimum wage in the Republic of Tatarstan No. 324 dated 24 December 2021); in the Altai Territory — 16,638 rubles — only for employees of the non-budgetary sphere (Regional agreement on the amount of the minimum wage in the Territory region for 2022–2024 No. 142-s dated 25 November 2021); in the Bryansk region — 14,200 rubles — only for non-budgetary employees (Regional agreement on the minimum wage in the Bryansk region for 2022 for organizations in the non-budgetary sector of the economy); in the Rostov region — in the amount of not less than 1.2 minimum wages — for employees of non-budgetary organizations, individual entrepreneurs (Rostov regional tripartite (regional) Agreement for 2020–2022 No. 13 dated 21 November 2019); Saratov region — 14,300 rubles, with the exception of employees of organizations whose financial support is carried out at the expense of the federal, regional and local budgets (Agreement on the minimum wage in the Saratov region dated 15 October 2021); Tula region — 14,800 rubles — for non-budgetary employees (Regional agreement on the minimum wage in the Tula region dated 16 December 2021),[10] etc. There are reasonable doubts about the fairness of the differentiation of the minimum wage according to such a criterion as the source of financing of the employer.

According to several sociological researches, that took place at the beginning of 2000s, the majority of the employed population in both Belarus and Russia did not have any faith in the ability of labor legislation to properly protect their rights and interests (Ulumdjiev, 2009). The situation, probably, did not change dramatically now. According to A.M. Kurennoy, with whom we cannot but agree, ignoring the issues of justice in social and labor spheres by the legislator can become the

[10] Reference information: "The size of the minimum wage in the subjects of the Russian Federation" (as of 1 February 2022). Available at: http://www.consultant.ru/document/cons_doc_LAW_291114/ (In Russ.) [Accessed 15.11.2022].

unexpected catalyst for the development of the society (Kurennoy, 2014, p. 15). On our own behalf, we add that it can also become the engine of socio-political transformations, as the revolutionary events in Russia at the beginning of the 20th century vividly testify to.

Nobel Laureate in Economics Joseph Stiglitz also links the idea of freedom to social justice: "With freedom comes responsibility: the responsibility to use that freedom to do what we can to ensure that the world of the future be one in which there is not only greater economic prosperity, but also more social justice" (Stiglitz, 2002).

Having considered social justice in labor relations, we wish for both the Russian and Belarusian legislators to consistently take into account the requirements of justice in the Labor Code and other laws, repaying equals for equal, and unequals according to their dignity. We wish for the courts to proceed from justice when overcoming gaps in law, resolving conflicts and competition of legal norms, as well as taking into account the specific circumstances of a labor dispute. Besides, the Supreme Court of the Russian Federation directs the courts of general jurisdiction to this point in Resolution of the Plenum No. 2 dated 17 March 2014 "On the application by the courts of the Russian Federation of the Labor Code of the Russian Federation"[11], naming justice as a principle of disciplinary responsibility (Para. 53), requiring compliance fairness in relation to the cost of goods when paying wages to an employee in kind (Sub-Clause "d" Clause 54) and in determining the amount of compensation for moral damage caused by unlawful actions or inactions of the employer (Clause 63).

IV. The Idea of Humanism, Ensuring Healthy and Safe Working Conditions in Belarus and Russia

The idea of humanism is closely connected with the category of justice. Humanism can be interpreted as a world view, based on the principles of equality, justice, relationship humanity, imbued with love

[11] Resolution of the Plenum No. 2 dated 17 March 2014 "On the application by the courts of the Russian Federation of the Labor Code of the Russian Federation". Available at: http://www.consultant.ru/document/cons_doc_LAW_47257/ (In Russ.) [Accessed 15.11.2022].

for people, respect for the dignity of the individual, concern for the welfare of people.

The relationship between society and the individual in a democratic legal welfare state should be based on the "principle of respect for a person as the highest social value" (Protsevsky, 1982, p. 12), but not only be fixed (which is implemented in the Constitutions of the Russian Federation and the Constitution of Belarus), but also actually put into practice.

Back in the Soviet period, humanism was considered as a principle or a discourse in philosophical and sociological literature, as a general legal principle or a principle of legal responsibility in legal literature. Besides, these two interpretations of the principle of humanism have remained in post soviet literature.

According to V.D. Popkov, the humanism of law is a reflection of social relations, ideas and views in the law itself. They meet the interests of the comprehensive development of the individual, the elevation of human dignity. Humanism as a principle of law is "recognition of the supreme value of a person expressed in legal forms, securing and ensuring his rights, conditions for free development, well-being, affirming truly human relations between people and stimulating the all-round development of a person" (Popkov, 1972). Such a broad approach is seemingly acceptable in the context of analyzing humanism in labor relations, when the operation of this principle is not limited only by the institutions of disciplinary and material liability in labor law.

Ukrainian scientist in the field of labor law A.I. Protsevsky considered humanism one of the features of collectivism, and the latter "as a consequence of the socialist mode of production, in turn, gives rise to the highest moral qualities of a working person, including such as conscientious work, high citizenship, a sense of responsibility, a sense of master, etc." He also associated humanism with such concepts as freedom, human rights, democracy, social justice, social equality (Protsevsky, 1982, p. 9). Here it is appropriate to recall the norm-principle of "respect for the man of labor" introduced in 2020 into the Constitution of the Russian Federation, which has an ideological significance in some ways and is closely interconnected with the idea of humanism.

We agree with N.Y. Sokolov that the problem of humanism is the problem of a person, his essence and purpose, position in society, freedom and social values, and that "the humanistic orientation is even more clearly manifested when analyzing specific norms of legislation" (Sokolov, 1968, pp. 3, 19).

Humanism, the same as the idea of justice, is by its nature is a moral-legal principle. On the one hand, it finds its embodiment in law, on the other hand, acts as one of the most fundamental moral principles in the life of society. Humanism, despite its close connection with the principles of justice, equality and freedom, does not "dissolve" in them but rather has its special moral-legal content. In our opinion, humanism is a guiding moral-legal principle, according to which a person is recognized as the highest value of society and the state; the measure of all things; bearer of a number of inalienable inviolable natural rights. Restriction and deprivation of the rights and freedoms of an individual is only acceptable in strictly limited cases of general interests (interests of the society).

The Belarusian and Russian labor legislation, while not directly proclaiming the principle of humanism and hardly using the term "humanism" and its derivatives in the legal norms, nevertheless, is guided by it.

Mostly, the system of law of the Republic of Belarus, at the current moment, largely correspond to the mentioned principle, which finds its reflection in several articles of the constitution of the Republic of Belarus. In addition to Art. 2, 21, 23, 24 of the Constitution of the Republic of Belarus, this principle is reflected in a number of constitutional-legal norms that directly regulate labor relations: the right to healthy and safe working conditions (Part 1 Art. 41); prohibition of forced labor (Part 4 Art. 41); guarantee of wages not lower than the level that provides employees and their families with a free and dignified existence (Part 1 Art. 42); 40-hour work week, the right to rest (Art. 43).

The idea of humanism is also reflected in several articles of the Constitution of the Russian Federation, including in connection with other principles, in particular: Man, his rights and freedoms are the supreme value (Art. 2); the State shall guarantee the equality of rights and freedoms of man and citizen (Part 2 Art. 19); labor is free and forced

labor shall be banned (Parts 1 and 2 Art. 37); everyone shall have the right to labor conditions meeting the safety and hygienic requirements (Part 3 Art. 37), etc.

The ideas of humanism are also embodied in the norms of labor legislation, in particular, in the chapters of the Labor Code of Belarus and the Labor Code of the Russian Federation on labor protection, in articles on limiting working hours, on the minimum wage in Belarus and Russia, on guarantees and compensation, etc.

Another manifestation of humanism in labor law is carried out using such a method as differentiation of the legal regulation of labor relations. Both the Labor Code of Belarus and the Labor Code of the Russian Federation establish special standards in the field of working hours and rest time, labor protection, contain additional guarantees upon dismissal for certain categories of employees who are in particular need of legal protection: women and persons with family responsibilities, minors, persons with reduced working capacity.

Unlike the Labor Code of the Russian Federation, the Labor Code of Belarus includes a special Chapter 21 that deals with the specifics of the work of persons with disabilities. According to the Labor Code of Belarus terminating an employment contract on the initiative of the employer with a person with disabilities who is undergoing medical, occupational, work and social rehabilitation in the corresponding organizations, regardless of the amount of time spent in them, except in the event that dismissal of the person with disabilities is on grounds acknowledged by legislative acts as defamatory circumstances of dismissal, is prohibited.

Labor legislation in Russia has no additional guarantees and does not establish specific procedures when terminating an employment contract with persons with disabilities. Perhaps the only exception is the provision in Art. 179 of the Labor Code of the Russian Federation, that grants a preferential right to retain the job for employees who got a maiming in work or a professional disease in this organization during the period of employment with this employer, as well as for invalids of the Great Patriotic War and invalids of military actions in defending the Motherland. For comparison: in Germany, additional legal protection of persons with disabilities from unjustified dismissal is provided.

In accordance with Art. 85 of the Social Code[12] (book 9), the termination of an employment contract at the initiative of the employer requires the prior approval of the integration office (*das Integrationamt*) — the body responsible for promoting the employment of persons with disabilities. The employer must send information on future dismissal of a person with disabilities to the office and receive either an approval or a refusal from the regulatory body, or find a compromise between the parties to the employment contract (Kutarova, 2018, p. 203). Perhaps the Russian legislator should pay attention to foreign experience, which testifies to the humane attitude towards persons with reduced ability to work, and think about establishing additional guarantees for the dismissal of persons with disabilities, given the importance of the social and labor rehabilitation of a person with disabilities, taking into account the difficulties in finding work and employment.

It seems that there is an objective need to establish additional privileges and guarantees for persons with reduced work capacity. Among other criteria, the quality of work life implies that a person performs such an amount of workload that is comfortable for him. In this regard, the issue of the duration and regime of working time of persons with reduced work capacity, which can also include persons of pre-retirement and retirement age, is relevant. In order to further humanize labor legislation, it is advisable to give them the right to establish part-time work (along with employees listed in Art. 93 of the Labor Code of the Russian Federation) and a comfortable work and rest regime, in which it is easier for an older worker to cope with production tasks and overcome the stresses that accompany work processes. Flexible work schedule, allowing for working out the set number of hours at any convenient time agreed with the representative of the employer, and a combination of work in the office and at home, providing the opportunity to work remotely (the latter option was actively used during the Covid-19 pandemic) are possible. Such novelties would be fully in line with ILO Older Workers Recommendation No. 162 (1980),[13] which

[12] Sozialgesetzbuch (24 June 2022). Available at: https://www.sozialgesetzbuch-sgb.de/sgbix/1.html (In Germ.) [Accessed 15.11.2022].

[13] ILO Older Workers Recommendation, 1980 (No. 162). Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R162 [Accessed 15.11.2022].

proposes a range of measures to ensure that older workers are able to continue to work in satisfactory conditions: promoting the gradual reduction of hours of work, during a prescribed period prior to the date on which they reach the age normally qualifying workers for an old-age benefit, of all older workers who request such reduction; increasing annual paid leave on the basis of length of service or of age; enabling older workers to organize their work time and leisure to suit their convenience, particularly by facilitating their part-time employment and providing for flexible working hours; facilitating the assignment of older workers to jobs performed during normal day-time working hours after a certain number of years of assignment to continuous or semi-continuous shift work; use of systems of remuneration that take account not only of speed of performance but also of know-how and experience; the transfer of older workers from work paid by results to work paid by time (Para. 14 and 16 of the ILO Recommendation).

V. Discussion and Conclusion

It should be noted, that the ideas of social justice and humanism do not always fulfill their axiological purpose. Unfortunately, even in the 21st century there are obvious deviations from the ideas of freedom of speech, non-discrimination and humanism in labor relations, when the leaders of the trade union movement, as well as ordinary employees for political reasons, are subjected to administrative and criminal prosecution by the state for the performance of their trade union, public duties or for expressing views and judgments (Deikalo and Gulak, 2021). We suppose, that the 2021 tendency of strengthening the repressive orientation of the labor legislation of Belarus does not correspond to the principles of humanism and justice (in particular, the inclusion in Art. 42 of the Labor Code of Belarus of new grounds for dismissal of employees for absence from work in connection with serving an administrative penalty in the form of administrative arrest, for participating in an illegal strike, for calling employees to terminate their employment duties without good reason, etc.) (Tomashevski et al., 2022, pp. 292–295).

Unfortunately, recently we can see, how the legislator, in favor of liberalization of legal regulation of labor relations, moves away from traditional legal and labor values and allows employers to use the possibilities of collective agreement regulation in order to overcome the established in a centralized manner restrictions, change the format of guarantees and benefits for employees, established by law. Let us give an example with the protection of the most important human value: the life and health of an employee. As known, work in conditions associated with harmful and (or) dangerous factors requires the establishment of additional guarantees for employees performing their work function in an aggressive and unsafe production environment. Traditionally, the main such guarantees were reduced working hours and additional paid leave, the duration of which was dictated by the state itself. These measures (the so called "protection by time") are aimed at compensating or neutralizing the impact of harmful and (or) dangerous factors, affecting the health of an employee during the performance of their work function. However, Federal Law No. 421-FZ dated 28 December 2013 "To Amend Certain Legislative Acts of the Russian Federation in Connection with the Adoption of the Federal Law "On Special Assessment of Working Conditions"[14] fundamentally changed the situation. Now, on the basis of a branch (inter-branch) agreement and a collective agreement, with the written consent of the employee, drawn up by concluding a separate agreement to the employment contract, the employer can increase the working hours up to 40 hours a week with the payment to the employee of a separately established monetary compensation in the manner, amount and at conditions that are established by branch (inter-branch) agreements, collective agreements (Part 3 Art. 92 of the Labor Code of the Russian Federation). Similar changes have also happened in the institution of rest time, in connection to annual paid leaves for work with harmful and (or) dangerous labor conditions. According to Art. 117 of the Labor Code of the Russian Federation, on the basis of a branch (inter-branch) agreement and collective agreements, as well as the

[14] Federal Law No. 421-FZ dated 28 December 2013 "To Amend Certain Legislative Acts of the Russian Federation in Connection with the Adoption of the Federal Law "On Special Assessment of Working Conditions". Collection of Legislation of the Russian Federation. 2013. No. 52 (Part I). Art. 6986 (In Russ.).

written consent of the employee, drawn up by concluding a separate agreement to the employment contract, part of the additional annual paid leave that exceeds the minimum duration of this leave can be replaced by a separately established monetary compensation in in the manner, in the amount and on the terms established by the branch (inter-branch) agreement and collective agreements. For comparison: Part 3 Art. 161 of the Labor Code of Belarus establishes a complete ban on the replacement of monetary compensation for the additional annual paid leave for the work in conditions associated with harmful and (or) dangerous factors. Therefore, this imperative guarantee norm, adopted for the purpose of the protection of the health of employees, cannot be changed by a collective agreement or contract.

Thus, Russia has made yet another transition from the centralized establishment of guarantees of the labor rights of employees to a contractual method of regulating working conditions, which can hardly be characterized as a progressive trend. Breaks in work and annual leaves are of particular value in terms of restoring the physical condition of an employee, maintaining his or her health and improving his or her ability to work; accordingly, a reduction in such breaks may have an adverse effect on the well-being of the person working in harmful working conditions and may subsequently lead to a deterioration in health, up to and including disability.

It is not enough to proclaim the idea of humanism, establishing it in law, it is necessary to consistently implement its real social relations, including through personnel, judicial and other law enforcement practice. Only in such a case the regulatory impact of legal norms, that is reflected in the principle of humanism, will achieve its result — legal and moral education of the individual.

To summarize, let us formulate the following main conclusions and recommendations:

In modern conditions, the issues of the quality of work life take on new connotations, since the digital economy provides more opportunities for effective organization of labor, the creation of safe and favorable conditions for the implementation of labor activity, the flexible use of working hours, taking into account the state of health of the employee in the formation of his working environment. All these

factors should work for the implementation of the ideas of humanism and social justice;

Within the framework of integration processes in the Eurasian space, work should continue on developing recommendations for improving labor legislation in the EAEU member states, taking into account the transition from the concept of decent work to the concept of quality of work life, in which the relationship between employee and employer should be based on ideas of social justice and humanism, which was particularly evident during the Covid-19 pandemic;

The improvement of labor legislation in Belarus and Russia should be approached on the basis of the fundamental principles of non-discrimination, freedom of labor, prohibition of forced or compulsory labor, social justice and humanism. It is advisable to start developing new model laws that are in demand by practice within the CIS (in particular, "On remote work," "On the regulation of the labor of platform workers and their social protection"), as well as to intensify the process of adopting a model Labor Code for the CIS member states, in which some previously adopted model laws could be codified;

The transition from the centralized establishment of guarantees of labor rights of employees to the contractual method of regulating labor conditions, which is most clearly manifested in the legislation of Russia, as well as the repressive direction in the development of labor legislation in Belarus (in terms of expanding the disciplinary grounds for dismissal) can hardly be described as a progressive trend corresponding to ideas of justice and humanism.

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