

# *Directions for improving the legal regulation of relations in the labor sphere in digital economy conditions*

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**Abstract** — The article considers some issues of changing the approach to traditional labor law structures, caused by the emergence of new forms of employment, shaping the appearance of a new generation employee in the transition to a digital economy, aspects of introducing information technology elements to improve the system of labor organization.

It is noted that the existing paradigms of labor law will be a thing of the past, therefore, adaptation to new realities is necessary.

And today, the process of breaking the foundations begins from within, the legislation, in turn, lags behind the rapidly developing social relations, leaving unsolved forms of interaction between the participants of the new relations.

Therefore, the requirement of the modern information society and its scale digitalization is a revision of the normative principles, governing labor relations.

**Keywords** — *employment, digitalization, labor standards, technology, employee, cooperation, employer.*

## I. INTRODUCTION

The concept of the information society today is defined as a post-industrial society, a new historical phase in the development of civilization, in which the main products of production are information and its highest form — knowledge [1]. This definition confirms the fact that the "knowledge economy" is closely interconnected with digitalization, which has covered many aspects of society's life and has penetrated deeply enough into the field of labor relations.

Today, more and more attention is paid to the rapid change in the nature of relations caused by the needs of economic systems, the formation of the digital economy, the search for the balance between traditional and new relations.

In course of changing economic conditions, employers have to adapt to the new way and time requirements. Despite the fact that the transition to an innovative economy for Russia and many countries is not a matter of today, employers should now develop their strategy for working with human resources, ensuring stable competitiveness in the present and in the future.

With reference to the stated research topic, trends in the regulation of labor relations and adjacent relations are of particular interest, including:

- manifestation of independence and autonomy in the organization of labor, decentralization of regulation;
- scale transition to other forms of labor activity.
- individualization of labor conditions with the inclusion of intersectoral structures in the employment contract.

## II. METHODS

Based on the analysis of the existing theoretical structures of labor law and new models of interaction in the application of labor, appeared in Russia and abroad, in the framework of this research, an attempt to determine the degree of efficiency of the existing legal mechanism for developing relations was made with the help of scientific perception methods, and also to detect the main gaps in legal regulation. The following general scientific methods of perception are used in the research: analysis, synthesis, analogy, deduction; private scientific methods of legal science, such as the method of comparative law and the formal legal method.

Based on the detected faults, as well as the requirements of law enforcement, it is supposed to determine the directions of improving the legal regulation of relations in the field, taking into account the new digital technologies that are gradually getting into the system of organization and application of labor.

### Results

To determine the best ways to adapt the labor market to new economic conditions and to introduce information technologies into regulation, the following characteristics of the modern model of labor relations (employee-employer relations) must be considered:

- continuity of education of employees throughout their labor activity;
- the emergence of new forms of employment;
- scaling the use of information technology in working with staff.

Based on these characteristics, it is necessary to detect the following theoretical and practical problems, including

organizational ones, related to the requirements made in connection with the transition to new economic conditions.

1) Today, intellectual capital is of particular value, which has become a kind of convertible currency on the world market and the key to the sustainable development of companies [2].

Therefore, the system of continuing education of workers in the course of their work is an essential attribute of the new relationship "employer-employee".

More often, a lifelong career becomes an artifact of the past, the "learn, do, retire" approach can no longer provide promising development. By 2022, the basic skills required to perform most roles will change by an average of 42% [3].

The traditional approach, which involves obtaining one education, formally necessary for employment and building a career on this basis, does not meet the interests of employers and the state as a whole. Automation of work processes, which is proceeding rapidly, will inevitably cause gaps in the knowledge and skills of employees, which can be eliminated only through continuous training of personnel.

2) The development of the information society, automation and digitalization, the introduction of new technologies led to the search for new forms of interaction between employers and employees.

Among these new forms are the following:

- employee sharing, (job-sharing) which is based on the cooperation of a group of companies that are interested in sharing the labor of employees and are willing to share them;
- sharing jobs when an employer fills a job vacancy with two or more employees;
- temporary management, project work, involving the temporary hiring of highly qualified specialists to solve specific problems;
- chance work, when the employer does not regularly provide the employee with a job, but calling them out of necessity;
- remote work, accompanied by the mobility of employees who, using modern data transmission technologies, can perform their work from any place at any time [4].

By the nature of the above relationship can be defined as non-standard or unstable employment. Today, there is a wide approach in the literature to understanding unstable, unsteady employment due to the variety of its forms, especially in recent times. Thus, the research proposes a classification of forms of employment instability according to 16 criteria, including: contract duration and period of validity, terms of contracts, the nature of income; degree of labor autonomy; level of formality; level of openness; level of vulnerability; qualification growth conditions; level of flexibility; level of stability; regularity; severity of labor hazards; attitude to the workplace; quality of employment; level of social security, as well factors affecting the growth of employment instability: globalization, demography, migration, structural factors, shadow and informal economy, social development and living standards, unemployment [5].

The organizational borders of such relations are blurred due to the complexity caused by globalization, digitalization and demographic changes [6].

In addition, there are relations, that are generally difficult to classify: relations associated with working on a digital platform, the so-called mass employment. The basis of the work of employees with this type of employment is an online platform through which tasks are distributed among the virtual community of employees.

Over the past three years, the number of such online platforms increased more than tripled. As the use of online platforms as cyberspace, as well as a convenient and fast way to exchange information, search for goods and services increase, the problem of guarantees and rights of people working on such platforms is aggravated.

As a rule, the work proposed within the framework of the platform is temporary and is associated with the implementation of specific tasks (data collection, formation of a mood rating, in relation to goods, development of texts and names.

In most countries (Germany, France, Italy) they have the status of self-employed persons. The economic independence of workers involved in projects of the digital platform is assumed. As a result, labor legislation does not apply and the employee has not rights to get a minimum wage, annual vacation or payment in case of illness.

At present days, the status of those involved in the operation of digital platforms is controversial, it is impossible to clearly admit them as self-employed.

In one of the last acts, which has importance for law enforcement practice, the provision of the Plenum of the Supreme Court of the Russian Federation No. 15 of May 29, 2018, the following signs, which is evidence of the emerging labor relations, are highlighted: constant and stable nature of the relations, the subordination and dependence of labor, integration into the organizational structure of the company, recognition of the rights to weekends and vacations, payment of expenses for business trips, etc. [7].

It is the subordinate and dependent nature of labor that is the key feature of labor relations. When working with platforms, an employee is organizationally and economically dependent. Organizational dependence is expressed in the need to gain access to the online platform, registration for further work, and in some cases, the passage of selection.

From a social point of view, the main "side effect" of the mass use of digital platforms is the reduction of demand for labor from the high-tech economy. As a result, the labor markets of almost all countries are under serious pressure due to the underexploitation of human capital, due to not only increased unemployment, but also widespread underemployment [8].

It is necessary to admit that the legal nature of these relations requires its deep research, as well as a proper legal settlement.

There is a clear tendency to move away from the notion of dependent, hired workers generally accepted in the past. But here there are many problems, including in the field of social protection of the subject of law [9].

It is obvious that the ideas prevailing in the theory of labor law about the relationship of the employer as a subject, possessing master's power, and the employee, as a subordinate, are changing today. The nature of labor itself is also changing, which is reflected in the traditional connection between the parties to a labor contract. Thus, the model of labor relations presented in the domestic science of labor law in the trinity of signs of labor (hired, dependent, collective) is losing its relevance, becoming a thing of the past [10].

Currently, partnerships are developing, where the employer and the employee are equal partners.

New models of employment acquire the character of cooperation, and in many significant ways bring these relations more and more closer to civil-law service and work contracts.

This again puts on the agenda the issue on the delimitation of labor and adjacent relations connected with labor. It is obvious that this line is becoming more and more thin and will affect not only state employees but also persons working under civil law contracts, self-employed persons [11].

The employee, in turn, is willing to cooperate with the employer in return for providing the corresponding benefits.

The employee got opportunities that, within the framework of traditional relationships, he did not have.

What was previously called the principle of *in favorem* (from lat. In favor, for good), as a non-worsening the situation of employees compared to the current labor legislation, under which it was possible to improve (but not worsen) the situation of employees, is now used in the new a form called "benefit system". The use of such a system acquires an individual character.

The employee chooses more favorable conditions for the performance of work, having the opportunity, for example, to dispose of his time freely, to be more independent in organizational terms.

The vision of the question, what is more profitable, should be the subjective vision of a particular employee [9].

Today, the consequence of the parties' desire for benefits is a violation of the imperative norms of labor legislation, the lack of guarantees to individuals who enter into relations, based on new forms of employment, which adversely affects both individual subjects of labor law and the state economy as a whole.

Labor law is primarily a social right, and therefore protection of labor rights and freedoms is the most important task of the state, all civil society institutions, employers of any form of ownership and organizational and legal forms at any stage of its development [12].

In this regard, today the state faces important tasks, including:

- To provide stimulation for creating new jobs.

Executive power representatives admit the need to update state policy in the field of labor regulation in response to changing economic conditions.

The Deputy Prime Minister of the Russian Federation offered to avoid investment in the creation of low-skilled jobs, as well as to ensure the possibility of continuing education in the system of "flexible" professional standards, what, in turn, is reasonable from the point of view of protecting the working person in changing conditions [13].

In the transition to a digital economy, economists predict the leaving of a wide range of occupations from the labor market.

Already, there is a very concrete exclusion of a person from the field of labor by systems based on digital technologies.

First of all, it concerns the production environment and the service sector, many professions today are losing their importance and relevance due to the replacement of a person with computer technologies, robotic mechanisms. This process is ongoing.

Instead, this marks the emergence of new "professions of the future": Robot Systems Engineer, Big Data Model Designer, Digital Linguist, IT Medic. Today, the creation of high-tech jobs in Russia is still isolated cases that cannot be considered as an adequate response to the process of jobsites reduction for technological and economic reasons.

### III. DISCUSSION

The above set of problems of transition to digital methods in the economy, which has a serious impact on the labor market and labor relations, indicates the need to improve the mechanisms of legal regulation of relations in the labor sphere, taking into account the existent changes.

- The state should restrain as much as possible the competition of computers that benefit in many characteristics to human resources.

The point is not that the state should restrain social progress, economic development. But it should take maximum care of the person, providing the necessary guarantee.

This process should be rationally balanced: by maximum automating of production, where there is a harmful and dangerous production factor, in order to replace a person with computer technologies and robots and save jobs in spheres, where labor is safe, has decent wages and conditions.

- Provide communication of education and market needs. Educational organizations for which specialists are trained should ensure interdisciplinary inter-branch communication in the formulation of educational programs while maintaining the priority of a key specialty.

- Organize new partnerships. Today, the main value of the information society is the intellectual potential for which there is fierce competition among employers in the labor market. Human potential is first of all a source of ideas, innovations that cannot be replaced by robots.

- It is necessary to state the issue at the state level of labor regulation on the creation of a system of work standards using digital platforms.

The use of information technologies in the field of labor regulation is today associated not only with the creation of new jobs.

The introduction of digital technologies in the field of labor relations today is a complex process and goes in several directions.

First of all, these are actions of the state aimed at legal ensuring the ability of all employers to switch to the electronic version of personnel documentation. This direction of the introduction into the field of labor can be called external, initiated by the state.

Among the scale projects of the state in introducing electronic document circulation, there is the transition to electronic workbooks, which will be accompanied by the replacement of a paper workbook with an electronic record of information about the employee's work activity. At the same time, the data contained in workbooks does not change significantly, but only acquires a new form of recording information about the employee's work activity [14].

At the same time, the introduction of an electronic workbook implies a transitional period during 2020, which provides for the possibility of maintaining in parallel both the workbook on paper and electronic for those employees who do not agree to switch to the electronic workbook. In practice, such double counting of information about an employee may cause discrepancies in the information of electronic and paper media.

The second direction can be called internal, providing for the activities of the employer to improve the labor organization system.

Employers of all forms of ownership are actively introducing elements of such technologies to control labor

discipline, time tracking, remuneration, and document management.

The introduction of innovations is often accompanied by a violation of the rights of workers by the employer.

An example of a violation of the rights of an employee can be called the actions of the employer to establish biometric fingerprint scanning systems for maintaining a time sheet.

Biometric data are personal data and can be processed only with the permission of their owner. The employer can not require the employee to provide these data and to bring to disciplinary responsibility in connection with the disagreement of the employee to provide them.

In addition, when using automated systems in order to apply measures of responsibility for discipline violation, it is necessary to take into account the requirements of Part 6 of Art. 86 of the Labor Code of the Russian Federation, which stipulates that the employer does not have the right to rely on the employee's personal data obtained solely as a result of their automated processing or electronic receipt when making decisions affecting the interests of the employee. Therefore, in addition to video observation data, electronic passage control systems, necessary evidence of employee fault (for example, violation of work duties, as well as tardiness, absenteeism) there must be other, including written form (absence acts, memoranda, etc.).

#### IV.CONCLUSION

Summing up the research, it should be stated that digitalization, which has covered many aspects of the life of society, has penetrated deeply enough into the field of labor relations. This set a number of new tasks for the state, including: formation of state policy in the field of labor regulation taking into account changing economic conditions, adequate protection of persons working in the framework of new atypical forms of employment.

This requires a set of legislative measures to introduce new labor standards for categories of people working in new employment models that take up the nature of cooperation with the employer.

Today, those who work with platforms continue to remain outside the field of legal regulation, their labor status is not defined.

At the same time, it is obvious that such persons also need protection, and, therefore, must rely on social guarantees and legal protection. The spread of digital technologies in the field of labor relations states tasks for the parties of the labor relations.

The new generation employee has increased requirements for qualifications and skills that need to be constantly updated in order to adapt to the rapidly changing technological and technical modifications in their work.

The employer, in turn, when introducing elements of new technologies to improve the system of work organization, must ensure that the rights of employees are respected, including adequate protection of employees personal data.

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