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The Application of Termination of Employment Contract Due to Circumstances beyond the Control of the Parties

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Annotation: The research focuses on the application of the concepts of "the employment contract", "termination of the employment contract" and "dismissal" and cases when the employment contract was terminated due to circumstances beyond the control of the parties. Though the Labor Code of the Republic of Uzbekistan clearly defines the grounds for termination of an employment contract in cases beyond the control of the parties, there is no mechanism for applying these grounds in practice. In other words, there are no rules for terminating an employment contract, on what basis, in what order and for how long.

Key words: employment contract, employee, employer, termination of the employment contract, suspension of the employment contract, dismissal.

It is known that labor rights of individuals occupy a special place among social rights. Because it is the right of every person to work and get the income or profit as a result of it. Every person has the right to use this right. As human rights are valued as the highest value, the labor rights of each person are separately regulated and protected both at the international level and in the national legislation of the states.

The main factor ensuring and realizing the right to work enshrined in the Constitution of the Republic of Uzbekistan is the employment contract. By concluding an employment contract, the right to work is directly protected by law. Because this contract regulates the relationship between the employee and the employer.

The legal nature of the employment contract is expressed by the fact that this legal institution serves as the basis for the implementation of labor-legal relations in society.[1]

The concept of the employment contract was developed by L.S. Tal and its concept was raised to the level of a theoretical basis in labor law.

Professor O.V. Smirnov defines the need to understand the employment contract in three aspects in labor law:

firstly, the employment contract is a form of implementation of the rights of citizens to work;

secondly, the labor contract is the basis for the creation and continuation of labor legal relations;

thirdly, the employment contract should be understood as an institution of labor law that incorporates the norms governing the employment, transfer and dismissal of citizens.

Also, on the one hand, the employment contract is an important institution of labor law that reflects the conclusion, change and termination of the employment contract, on the other hand, it is an agreement between the employee and the employer that determines the working conditions in which the employment contract exists. In this regard, it is necessary to emphasize the opinion of legal scientist

[1] Abdusaminovich, I. S. (2022). EMPLOYMENT CONTRACT FORM. World Bulletin of Management and Law, 15, 125-128.

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M. Gasanov. According to his views, independent work that is not based on the conclusion of an employment contract and is not related to employment is not regulated by the law.

Also, legal scholars Sh. Ismailov, Kh. Burkhankhodjayeva, M. Rakhimov, S. Shoislomova, M. Karimjonov, M. Khojabekov, A. Khakberdiyev, N. Yusupov in their scientific works analyzed some problems related to the termination of the employment contract.

Article 72 of the Labor Code of the Republic of Uzbekistan provides a legal definition of the concept of an employment contract. According to this article, the employment contract there is an agreement between the employee and the employer to work towards a particular specialty, qualifications, positions on a fee according to the internal labor regulations on the conditions established by agreement of the parties, as well as legislative and other normative acts on labor.

In turn, the structural institutions (sub-institutions) of the employment contract are organized by the norms regulating the conclusion, change and termination of the employment contract.[2]

At present, based on the conditions of the multi-system market economy, the problem of termination of the labor contract is one of the most urgent issues, rather than the conclusion and change of the employment contract.

Termination of employment contract is one of the important institutions of labor law and has always been the focus of attention of scientists. In this regard, some scholars have discussed the application of the concepts of "termination of employment contract", "suspension of employment contract" and "dismissal" in labor law and legislation.

A.A. Alpakov the term "suspension" is used only in relation to labor-legal relations, and the term "termination" should be used in relation to an employment contract, and the dismissal of an employee is a consequence of the termination of the employment contract and the termination of the employment contract by the administration that it should be used to document the termination.

According to K.N. Gusov and V.N. Tolkunova, the conceptes of "termination of employment contract", " suspension of employment contract " and "dismissal" mean the elimination of labor relations. However, both of the above concepts " termination of employment contract" and "suspension of employment contract" are applied to the employment contract and the concept of "dismissal" is applied to the employee.

According to French scientists, in French labor law termination of labor relationship is understood under the term termination of employment contract.[3] Grounds for termination of labor relationship with an employee are considered grounds for dismissal under French law.

In national labor legislation, there are no problems with the application of the concepts of termination of employment contract and dismissal, because these concepts are used correctly and appropriately in the Uzbek language.

M.Yu. Gasanov spoke about this in detail. He noted that the Labor Code uses only one term - "termination of employment contract" - to express the termination of labor relations, which should be used in orders, as well as when writing notes in the work books of employees.

According to Russian legal scholars, in the Labor Code of the Russian Federation, the concept of "termination of employment contract" is mentioned 49 times, "suspension of employment contract" 51 times and the concept of "dismissal" 105 times, and these concepts are still used in legislation today.

[2] Vaxdatovna, B. X. (2022). LABOR LEGISLATION OF THE REPUBLIC OF BELARUSUZBEKISTAN: A NEW STAGE OF DEVELOPMENT. Academicia Globe: Inderscience Research, 3(04), 136-144.
[3] Nigmatullo o‘g‘li, M. D. (2023). TERMINATION OF EMPLOYMENT CONTRACT DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF THE PARTIES. Galaxy International Interdisciplinary Research Journal, 11(8), 271-275.

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Based on this, it can be said that the concept of termination of employment contract means the end of the labor relationship. Suspension of employment contract means that the relationship can be suspended only for a certain period.

Also, the concept of termination of employment contract has been expressed from different points of view. According to the Russian scientist A.L. Anisimov, the termination of employment contract means termination of labor relationship between the employee and the employer.

Other scientists believe that termination of employment contract is a legal fact that leads to the annulment of labor relationship, as a result of which the parties cease to be in the relationship of an employee and an employer to each other and are freed from their rights and obligations. they emphasize.

Therefore, when employment contract is terminated, labor relationship between the employee and the employer is also terminated, and at the same time, the rights and obligations of the employee and the employer arising from the employment contract are terminated. In some cases, the rights and obligations may continue, if the reason for termination of employment contract is illegal. Therefore, the grounds for termination of employment contract are clearly defined in the Labor Code.

The grounds for termination employment contract have been strengthened in labor legislation, and in cases where employment contract is terminated by wrongly applying these grounds or deviating from the established grounds, the issue of the violation of the law is observed and the issue of bringing the guilty parties to justice is considered.

Certain conditions must be met when terminating an employment contract: first, to the existence of legal grounds; secondly, compliance with established procedure for termination of employment contract on these grounds; thirdly, the timely delivery of the legal document on the termination of labor-legal relations to the employee.

The grounds for termination of employment contract are events recognized by law as legal facts. In order for events to have legal significance, they must be defined and regulated by legal norms.

As an example of such a legal fact, it is possible to cite termination of employment contract due to the expiration of contract term. The legal fact that has arisen here is the expiration of contract.[4]

The legal documents that serve as the basis for termination of employment contract may directly contradict the control of the participants of employment contract. In this regard, we can cite as an example the legal documents that play a role in termination of employment contract on the grounds that do not depend on the control of the parties. For example, if the judgment of the court sentencing the employee to a penalty enters into force, this judgment becomes the basis for termination of employment contract with the employee as a legal document.

According to some scientists, the established norm alone cannot be the basis for termination of employment contract. In this case, not a regulatory legal document, but a law enforcement document of an official of an organization or a state body is recognized as the basis for dismissal.

The existence of some proof or fact is not enough when it is called the basis for termination of employment contract, in which case the main document confirming termination of employment contract concluded with the employee is the order of the employer for termination of employment contract. After all, it is not an obligation for an employer to dismiss an employee, it is his right (there can be an obligation only in cases where the employee initiates termination of employment contract).

[4] Aktamovich, R. M. (2022). SOME ASPECTS EMPLOYMENT LAW OF UZBEKISTAN. World Bulletin of Management and Law, 15, 116-118.

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However, there is also this side of the issue that the grounds for termination of employment contract are strictly defined in the Labor Code, and the unjustified issuance of the order of the employer to termination of employment contract does not lead to termination of employment contract. In this process, labor law norms are violated.

The emergence of certain legal facts in the labor legislation is one of the grounds for termination of employment contract due to circumstances beyond the control of the parties. It should be noted that termination of employment contract due to circumstances beyond the control of the parties did not exist in the labor legislation before our independence, and it is a new institution.

In general, when we mean termination of employment contract, we should understand termination of labor-legal relations. According to A. Inoyatov, termination of employment contract is a broad concept, which primarily means termination of legal relations related to labor. Usually, such relationships are canceled when various situations arise in social life, and they are called the grounds for termination of employment contract. The concept of termination of employment contract includes all cases, including its termination due to the death of the employee.

Taking into account that termination of employment contract may prevent the employee from exercising his right to work in the future, the law does not allow termination of employment contract in cases other than those specified in the Labor Code of the Republic of Uzbekistan. Although this provision is not specifically defined in the Labor Code, it can be seen that termination of employment contract should be justified and legal based on the content of the norms regarding termination of employment contract.

Thus, in order to legally terminate an employment contract, the following three conditions must be present together:

firstly, the existence of the basis for termination of employment contract in the law;

secondly, compliance with the procedure for termination of employment contract on this basis;

thirdly, the existence of a legal act terminating employment contract.

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