



INCOMPATIBILITY OF CURRENT LABOR PROTECTION LEGISLATION WITH SMALL BUSINESS ENTITIES

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ABSTRACT

The article discusses issues related to legislation in the field of labor protection. The key area of research is small businesses, as the most dangerous economic sector for the life and health of workers. A critical assessment of the relationship between the imperfection of legislation in the field of labor protection with the state of labor protection in small businesses is given. The article provides examples and establishes some legislative acts in a certain sea that are not suitable for small businesses, as well as the lack of an adequate level of control by the state in the field of labor protection. As a result, a hypothesis was put forward about the transformation and correction of the labor protection management system for the convenience of implementation in a small business on the basis of labor protection outsourcing.

KEYWORDS. *Labor protection, small business, legislation, management system in small businesses, outsourcing, danger, safety, labor protection service.*

DISCUSSION

The modern distribution of the business process provides a clear understanding about the growth of the small business and private enterprise sector. Small business every day captures more and more sectors of the economy. Do not assume that small business is located only in the provision of services, sales and catering, today the small business sector has a broad influence on such sectors as: production, construction, transportation (logistics), storage, etc. Small business is a commercial

organization in any field of activity. The criteria for the formation and organization of small business activities are established by the state in the Law of the Republic of Uzbekistan "On guarantees of freedom entrepreneurial activity" (Article 5), as well as in the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 275 (Appendix 1). According to which small businesses are divided into: individual entrepreneurs, micro firms, small enterprises with an average number of employees shown in Table 1. [1]



Table 1 Ownership form of small businesses

	Number of employees	Number of employees
	Individual entrepreneur	1 person
	Micro firms	<ul style="list-style-type: none"> ◆ employed in manufacturing industries - no more than 20 people; ◆ in the service sector and other non-production sectors - no more than 10 people; ◆ in wholesale, retail trade and public catering - no more than 5 people.
	Small enterprises	light, food industry and construction materials industry, as provided by law, - no more than 200 people; <ul style="list-style-type: none"> ◆ metalworking and instrument making, woodworking, furniture industry, as well as other industrial and production areas stipulated by law - no more than 100 people; ◆ mechanical engineering, metallurgy, fuel and energy and chemical industries, production and processing of agricultural products, construction and other industrial and production areas stipulated by law - no more than 50 people; ◆ science, scientific services, transport, communications, services (except for insurance companies), trade and public catering and other non-production areas - no more than 25 people. In some production areas, the number of employees is allowed up to 270 people

It should be understood that the human resource, namely ensuring the safety of human life and health, is the primary task of the state and the business owner, regardless of what industry and economic entity a person works in. The situation in the Republic of Uzbekistan shows a characteristic parallel between the legislation, as well as state regulation of the management system in small businesses and the inconsistency of working conditions in small businesses with current regulatory and technical documents.

Previously, you should consider the current legislative framework in the field of labor protection of the Republic of Uzbekistan, as well as other regulatory documents of an international standard. In the Republic of Uzbekistan, labor protection issues are regulated by the following regulatory legal and regulatory technical documents:

1. Labor Code of the Republic of Uzbekistan dated December 21, 1995 in terms of Labor Protection (Articles 211-223);

2. The Law of the Republic of Uzbekistan "On labor protection" in the new edition of 23.09.2016;

3. Law of the Republic of Uzbekistan "On compulsory insurance and civil liability of the employer" No. 210 dated 16.04.2009;

4. Resolution of the Cabinet of Ministers No. 1066 of December 31, 2018, in particular Appendix 1 "Regulations on the creation and organization of the activities of labor protection services in the organization";

5. Resolution of the Cabinet of Ministers No. 246 of 27.04.2017 "On the further development of the labor protection services market";

6. Typical regulations of the Ministry of Labor No. 273 dated 14.08.1996. "On the organization of work on labor protection"

7. Etc.

Also, from the technical side, issues in the field of labor protection are regulated by the following regulatory documents:

1. Sanitary rules, norms and hygienic standards in force in the Republic of Uzbekistan approved by the list of 2019 (SanPiN);

2. Construction norms and rules of national and international standards adopted in the Republic of Uzbekistan (SNiP, KMK, ShNK);

3. State standards of the Republic of Uzbekistan (O'zDSt);

4. Standard and instructions for workers on labor protection (Developed in accordance with regulation No. 870 dated 07/01/2000).

Most violations of labor legislation and labor protection in small business are associated with ignorance or poor knowledge of this legislation by the heads of enterprises. Understanding it usually comes during protracted litigation of claims of individual particularly persistent workers and in the event of an industrial accident with a fatal outcome. In this regard, the issue of wide coverage of managers of small enterprises with training in labor law and labor protection is very relevant.

The second aspect, in the event that the head of the organization has an idea about the legislation,



about labor protection, is a complete disregard for standards, often due to the possibility of bypassing them, as well as the lack of state regulation (control) of the state of labor protection in small businesses.

Legislation in the field of labor protection regarding small businesses does not meet the requirements of today's realities of labor processes in small businesses. For a deeper understanding, the authors propose to analyze the procedure for creating labor protection services in the organization.

According to the Law of the Republic of Uzbekistan "On labor protection" in every organization carrying out production activities with fifty or more employees, a labor protection service is created or the position of a labor protection specialist with appropriate training is introduced (article 12). The head of the organization is responsible for labor protection in the organization, including for the creation of the labor protection service. [3] Also, if the number of employees is less than 50 people, the decision to create a service or introduce the position of an occupational safety specialist is a decision of

the manager based on the need and degree of industrial risk. [4] The degree of industrial risk is reflected in the PCM No. 117 "On measures to implement the Law of the Republic of Uzbekistan" On compulsory insurance of civil liability of the employer", namely in the classification of occupational risks (Appendix 9). In the Republic of Uzbekistan, occupational risks are divided into 20 classes from 01 to 20. Accordingly, class 01 includes organizations with the lowest degree of occupational risk. narcological dispensaries. Of course, class 20 includes organizations whose activities pose the greatest danger to their employees, namely underground coal mining enterprises. [five]

The pitfall is that, according to the labor protection law, organizations that do not carry out production activities have the right not to create labor protection services and not to introduce the position of a labor protection specialist. And also in accordance with the recommendations on the structure of the labor protection service in accordance with the PCM No. 1066 (table 2).

Table 2. Recommendations for the structure of the labor protection service in the organization

Average number of employees in the organization	By occupational risk classes			
	1st class	from 2nd class to 10th class	from 10th class to 15th class	from 15th class to 20 class inclusive
The number of employees is less than 50 people	Assigned to one of the leaders of the organization			The position of labor protection specialist is introduced
The number of employees is from 51 to 100 people inclusive	Is assigned to one of the leaders of the organization	The position of labor protection specialist is introduced		The labor protection department is created

As we understand from the table in organizations with up to 100 employees, and this is for a moment the defining part of small business entities included in the occupational risk class up to 10, the operation of the OSH management system may be assigned to one of the leaders. To determine it, it is necessary to give an example of an organization included in the class of professional risk 09 and these are: organizations that carry out overhaul of buildings and structures for industrial purposes, as well as overhaul of underground engineering collectors and structures. Such enterprises with up to 100 employees may not introduce the position of labor protection specialist. Although it can be considered that construction is the most dangerous enterprise. At the moment, all over

the world, according to statistical data, the construction industry is the second most dangerous after production [6]. Due to the imperfection and insufficient degree of applicability of laws to small businesses, in rather dangerous small businesses there is often no specialist responsible for labor protection. And the assignment of powers to one of the leaders is often nominal, due to the lack of knowledge of the leaders about the organization of work on labor protection or the possibility of circumventing the same laws, in addition to ignoring them due to the lack of an adequate level of control from the state.

So, in accordance with the standard regulation on the organization of labor protection



(Chapter 7), the enterprise develops (compiles) and maintains the following basic documents:

collective agreement with a mandatory section on improving labor conditions and safety; sanitary and recreational activities;

workplace certification cards;

quarterly work plans of the labor protection service;

acts of introducing standards into production;

training programs, briefing and knowledge testing of workers and engineering and technical workers. [7]

But in practice, the same collective agreement is absent in 90% of small business organizations, regardless of the form of ownership and direction of activity. Also, in accordance with the legislation, sanitary and recreational activities include preliminary and preliminary medical examinations according to the list of hazardous jobs of the Ministry of Health. Of course, small enterprises also have workplaces with harmful working conditions, and the employer ignores the statutory obligations of medical examinations and certification of workplaces.

The current situation in small business indicates that the state is not fulfilling its functions to create legislation, which is necessary for the effective operation of small business not only in the field of labor protection, but in general.

Small businesses largely operate outside the legal space defined by the Labor Code, since the provisions of the latter do not correspond to the realities of the competitive economy that is being created. The economic conditions in which small businesses are forced to carry out their activities put them in a highly competitive environment and leave no room for investment in improving working conditions. [8]

The most common violations of the Labor Code occur when registering labor relations at small businesses. In an effort to protect themselves from payments for benefits for temporary disability, which make up 35.2% of the minimum wage, in small businesses there are cases of work without formalizing labor contracts with employees, which determines them outside the sphere of social protection.

To comply with the uniform requirements of labor legislation and labor protection legislation at small enterprises, it is necessary to have economic prerequisites, i.e. mechanisms to fulfill the requirements of labor protection legislation. A possible option could be the introduction of an

outsourcing OSH management system in all areas of small business.

Unfortunately, in the Republic of Uzbekistan, a separate mechanism for the implementation of labor protection legislation in small business is not provided. In the Russian Federation, on the contrary, there was an attempt to implement the mechanism of labor protection management and the introduction of legislative acts in small business. The mechanism found a response in GOST R 12.0.009-2009 "Occupational health and safety management system at small enterprises. Requirements and recommendations for use", which is based on the ILO-OSH 2001 manual "Guidelines for an occupational safety and health management system". But just as in the Republic of Uzbekistan, the Russian Federation did not fully take into account the peculiarities of small businesses, as a result, standards and principles of their application that were suitable specifically for this sector of the economy were not developed. As a result, again, we get a theoretical system without a practical implementation mechanism.

Obviously, in cases when it comes to the production activities of small enterprises, which have especially dangerous and / or harmful production factors (for example: equipment operating under high pressure, hazardous, poisonous chemicals, flammable or explosive substances), compliance with the requirements for ensuring the safety of labor and production is mandatory. Otherwise, the small business must cease its activities. For small enterprises that do not have these dangerous and harmful factors (and such are the overwhelming majority), it is necessary to analyze the reasons that impede the provision of the standard level of conditions and labor protection, develop ways (mechanism) to achieve the required level, and also reduce unnecessary bureaucracy and create a unified policy for the management of OSH in small business.

According to the authors, the only possible way to improve working conditions in small businesses and save the management of small businesses from unnecessary headache, which, in truth, begins only after cases of injuries and diseases at the enterprise, this is the direction of total linking of the labor protection management system to labor protection outsourcing (external management of the labor protection system). It is necessary to develop a unified standard for an OSH management system based on external management.

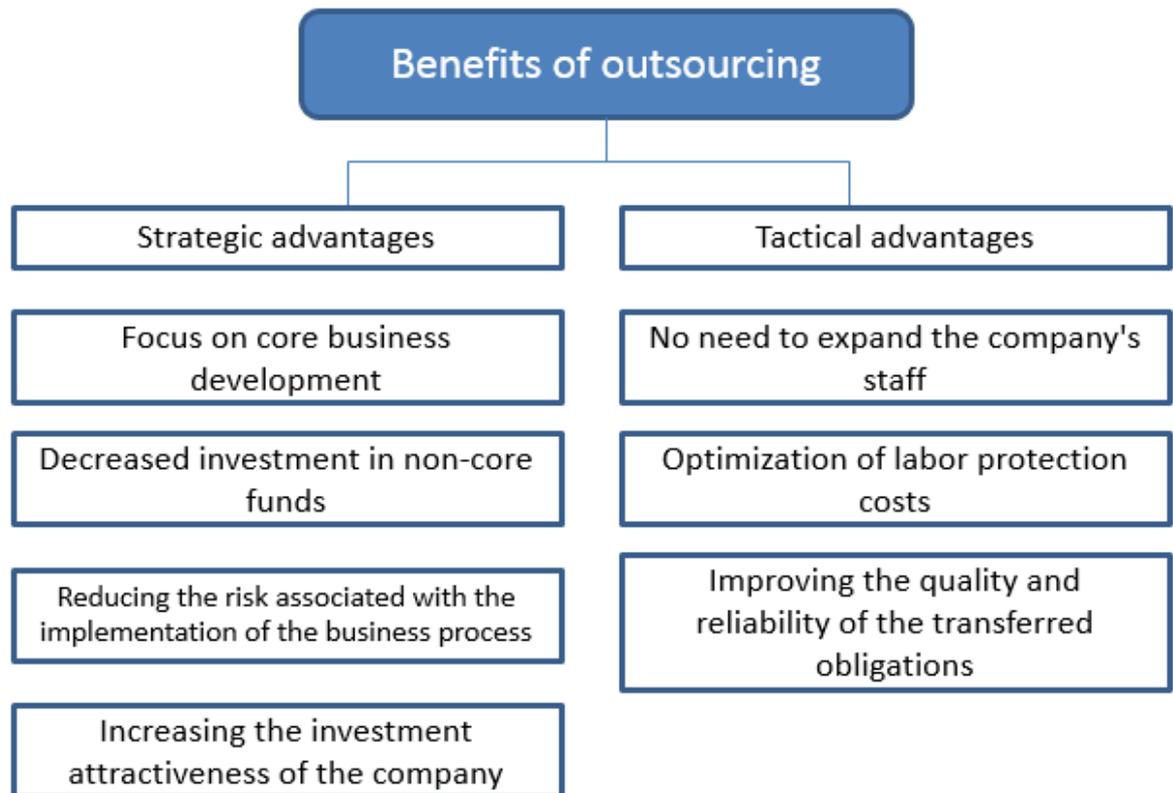


Fig. 1. Benefits of Outsourcing Occupational Health and Safety in Small Businesses

And also, from the position of regulating labor relations in small business, taking into account their consequences for labor protection, it should be concluded that the state, represented by the bodies that control the implementation of the Labor Code and labor protection legislation (Prosecutor's Office, labor inspection), should strengthen the ability to check the practice of creating safe working conditions and concluding employment contracts in small businesses.

CONCLUSION

It should be not indifferent, in what production conditions those persons who have decided to work in the small business sector of the economy work or will work. There are disagreements among specialists about the regulations governing labor relations in small business. In our opinion, the position based on the fact that labor relations, regardless of the number of employees in the enterprise, should be governed by uniform regulatory documents for all is considered correct, but the procedure for their implementation and systematization cannot be the same for small and large businesses. As we already understood above, the systematization of the process of establishing safe working conditions in a small business cannot be identical to a large one. An OSMS in its established

form cannot be used in small business; it must be transformed for successful application in small businesses.

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