

Social Partnership and Social Dialogue as Mechanisms of the Labor Disputes Management in the Russian Federation

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Abstract: The study is dedicated to analysis of peculiar features of the social partnership in the labor disputes management in the Russian Federation. The social dialogue in the conditions of increase in volume, complication of the structure, enhancement of various links and kinds of the labor relations becomes the important mechanism ensuring mutual understanding between the parties of the social partnership. A social dialogue represents a specific kind of communication between the social partners aimed at searching for mutually acceptable solutions and settlement of labor disputes. The study specifies the criteria of efficiency of the social partnership in the labor disputes management performed by means of a social dialogue suggesting the use of different conciliation procedures. The legislative framework of formation of the social partnership system in the Russian Federation as well as the activity of the social partnership parties (employees, employers and the state) as well as their representatives are analyzed. The own criteria are used for estimation of their performance. The study shows that social partnership and social dialogue promote to socialization of labor relations, improvement of the labor life quality as well as to further development of the civil society.

Key words: Social partnership, social dialogue, labor relations, labor dispute, employer, employers' association, employee, trade union, state, conciliation procedures, Russian Federation

INTRODUCTION

In the conditions of establishment of the democratic political system and formation of the market economy the development of labor relations and the disputes arising within this sphere gain in topicality. They affect not only relations between employees and employers in the sphere of the social-labor relations and also the state policy affecting the labor market, formation of independent institutions and legislative framework within which these institutions operate. As a result, the society gets the task of establishing the effective system of the social partnership and building of the social dialogue between the main participants thereof as the mechanism of the labor disputes management.

MATERIALS AND METHODS

Social partnership is the system of relations between employers and employees though the intermediary of the state aimed at alignment of interests in the social-labor sphere and settlement of social-labor disputes. The social partnership system is often called 'tripartism' as it involves the three parties: organization representing the employees' interests (as a rule, trade unions), employers' associations and the state. Alignment of interests is achieved by means of a negotiation process during which

the parties negotiate the labor conditions and remuneration, the social protection of employees and their role in the operation of an enterprise. These terms very often become the causes and factors of escalation of the labor conflicts.

Development of social partnership promotes to achieving a balance of the employees' and employers' interests by means of cooperation, compromise, dialogue. A social dialogue acts as efficient method of establishment of labor relations, organization of life activities of people and thereby facilitates the constructive settlement of labor disputes.

The 'social partnership' phenomenon gained momentum after the WWII and established finally in the 60-70's of the 20th century. Today, the most developed system of social partnership is presented in Austria, Germany, Sweden and other European countries. It is to a lesser degree developed in the states of the South-Eastern Europe, USA and Japan. To a lesser extent it is developed in the states of South-Eastern Europe, USA, Japan. In Russian it is in the formative stage.

Development of the social partnership was promoted by formation in the industrial countries of the labor legislation at the end of the 19th beginning of the 20th centuries. Thus, in 1907 the Dutch Civil Code was adopted, in 1911 the Swiss Code of Duties, in 1915 special legislation appeared in Norway, in 1918 the similar laws

were adopted in Germany, in 1919 in France (Anonymous, 2015). In 1919, the International Labor Organization was founded. However, social partnership has not existed yet. It took about half a century to establish it as the mechanism of regulation of the social-labor relations and dispute settlement.

The necessity of alignment of the employees' and employers' interests became apparent already at the first stages of establishment of capitalistic relations. They were expressed in different forms from oral agreements between the employees and employers under control of the state to execution of written agreements and contracts within the organizations and enterprises (Mikheyev, 2001). Separate elements of social partnership, management of labor disputes, establishment of constructive production relations were the subject of attention of such thinkers and scientists as N. Machiavelli, F. Bacon, T. Hobbes, J.J. Russo, A. Smith, I. Kant, P.J. Proudhon, T. Parsons, E. Durkheim, D. Bell, A. Turen etc. The attempts of partial reconciliation of the class interests were also met in the Marxist society. In Czarist Russia social partnership and relations in the social-labor sphere were investigated by such researchers as V.V. Bervi-Flerovsky, N.G. Bunge, P.B. Struve, M.I. Tugan-Baranovsky, V.P. Litvinov-Falinsky, etc. (Sadovaya, 2013).

In the Russian Federation, the process of establishment of the social partnership system proceeded in a quite complicated way. Notwithstanding, the fact that the history of social partnership in Russia extends back over 20 years already, as of today one cannot speak of completion of formation of this process. This is caused by different reasons affected by the social, economic, political, legal processes taking place in Russia as well as some shortcomings and non-fulfillment of particular functions imposed on the key participants, parties to the social partnership: employers, employees and the state. These and other aspects of development of the social partnership, settlement of labor disputes were investigated in the studies of such researchers as Y.N. Voytenko, N.N. Gritsenko, S.I. Kubitsky, V.A. Mikheyev, L.S. Morozova, L.I. Nikovskaya, V.O. Sadkov, E.S. Sadovaya, V.G. Smolkov, V.N. Shalenko, E.B. Khkhlov, V.N. Yakimets.

The system and comparative approach are used as the research methods in the study. The system approach allowed considering social partnership and social dialogue as the systems consisting of elements and fulfilling an important function in regulation of the social-labor relations and labor disputes management. The comparative method promoted to identification of the general and specific in analysis of conditions resulting in

impairing efficiency of the legislative framework in the labor disputes management and investigation of the role of the social partnership entities in solution of such kind of conflicts.

RESULTS AND DISCUSSION

As of today in the Russia quite favorable institutional, legal and organizational-managerial conditions for development of the social partnership system have been created. However, these conditions are not always and not to the fullest extent observed by parties to the social partnership.

Management and settlement of labor conflicts represents a lengthy process as the result of which the parties either reach some agreement or remain of the same opinion. In terms of the final result, it appears to be necessary to distinguish the following criteria of efficiency of the social dialogue as the mechanism of alignment of interests of the parties to social partnership. Firstly, the solution of a conflict mostly satisfies all the participants, social partners, it is mutually advantageous. Secondly, the compromise reached is efficient at that none of the parties may improve its standing further on without worsening that of the others. Thirdly, the agreement is stable; it is unfavorable to any of the participants to breach it. Fourthly, the decision is mandatory and binding; the non-execution thereof results in application of sanctions, implementation of the agreement is more profitable than postponement. Fifthly, it is possible to create pre-requisites for further cooperation of the parties to the conflict.

In any democratic state, the presence of the effective legislative framework is the essential criterion of efficiency of the social dialogue. Despite the presence of a great number of regulatory acts in the sphere of social partnership, their efficiency in regulation of the social-labor relations seems to be insufficient. This is promoted by, at least, three circumstances. Firstly, failure to comply with the labor legislation standards, provisions of the agreements and contracts executed by the parties to the social partnership. Secondly, impairment of rights of such institution of representation of the employees' interests as trade unions that fulfill the essential function in the social partnership system being formed in a state. Thirdly, the absence of viable mechanisms of implementation of agreements and contracts at the national, regional, sector-specific and local levels.

Speaking of the first circumstance, it shall be noted that the situation established has its objective causes. In Russia, the development of the social partnership system proceeds under the completely different social-economic

and political conditions than in these countries, other cultural, political traditions have been established; another attitude to laws, their enforceability, etc. (Sedovaya, 2013).

In the developed countries formation of the social partnership system proceeded from the 'bottom' as the essential need of the society whereas in Russia formation of this institution was to a large extent performed by the state, i.e., from the 'top'. The organizational-legal and institutional conditions were created and then the system started to get filled with the specific content. In this regard, violation of legislation, non-compliance, origination of uncivilized methods of the social-labor relations management and conflict settlement, ignoring the social dialogue as an efficient method of achievement of mutually acceptable decisions do not appear to be surprising.

The second circumstance promoting to impairment of efficiency of implementation of the social dialogue in the labor disputes management is impairment of the trade union rights in the social partnership system. Historically, in Russia the trade unions were the first the first form of organization available to the wide public of workers that promoted to formation of the civil consciousness in them and establishment of them as the equal members of the civil society. Within the social partnership system in the sphere of labor their main function is summarization, representation and protection of the needs and interests of different social groups of population. The scope and completeness of fulfillment of this task determines the level of development of the civil society and protection of labor rights of citizens (Morozova *et al.*, 2013).

According to the Federal Law 'Concerning trade unions, their rights and performance guarantees' d/d January 12, 1996 the trade unions were granted rather broad rights of representation of the employees' interests in the labor sphere. However, after adoption of the new Labor Code in 2002 these rights were significantly impaired. The numerous studies and surveys by different non-governmental institutions show that after adoption of the new labor code the trade union authority reduced significantly. Thus, previously an employer had to agree his decisions with the relevant trade union and now he only takes into account the opinion of the trade union representing the majority of employees (Mavrin *et al.*, 2012).

The third circumstance affecting the efficiency of implementation of the social dialogue as the mechanism of the labor disputes management and referring to it by the parties to the social partnership is the presence of the viable mechanisms of performance of agreements and contracts at the national, regional, sector-specific and

local levels. In Russia the opposite situation is to be observed in the social partnership system. The agreements at all levels from a general agreement to a local one including collective labor agreements are unwillingly performed by employers with violation of the labor regulations which results in non-observance of the employees' labor rights. The cause of the situation established is the absence of the viable mechanisms of implementation of such agreements, the implementation thereof. In my opinion, the essential criterion for assessment of efficiency of the social partnership and dialogue in the labor disputes management is the activity of the parties to the social partnership as such as well as their representatives.

The essential member of social partnership is the state itself. As of today in the social partnership system the imbalance of forces of the key participants of labor relations is still to be observed. The state is represented somewhat better than the other participants. This may be evidenced by the activity of the trade unions and business structures that not always enjoying effective methods of protection of the own interests make concessions to the state which makes their position in management of the social-labor relations to be unequal (Ivanov, 2000).

Certainly, it cannot be ignored that the government institutions are under pressure of trade unions and employers interested in the social protection of the population by efforts and at the expense of the state. The government obligations are more reliable to trade unions than those of employers and they release the employers from excessive expenditures.

Speaking of relations between an employee, employer and the state within the social partnership system one shall note the essential function of the latter in management and settlement of the labor disputes and conflicts. According to the legislation, the parties to a labor dispute and conflict may apply different conciliation procedures performed by means of a conciliation commission, an intermediary and the labor arbitration (Articles 401-408 of the Labor Code of the Russian Federation).

By analysis of the activity of the state within the social partnership system in the labor disputes management a few criteria of its performance may be specified. These are: improvement of the life quality, provision of respectable salary, observance of the labor rights of citizens, increase in the material standards of living of students, the elderly and disabled, ensuring social protection of workers as well as those disabled and improvement of the social-economic situation in the country in general. By analyzing these criteria, it may be

stated that as of today improvement of the situation by each of these indicators takes place in Russia; however, it proceeds at a very slow rate which causes apathy, confusion and discredit of the state.

So, what is the role of trade unions in formation of a social dialogue and labor disputes management? It was partially discussed above. It should be added that as of today the trade unions are insufficiently efficient institutions in terms of representation and protection of the workers' rights. This is to a large extent determined by historical causes. After break-up of the Soviet Union the trade unions that previously enjoyed significant authorities in the social-labor sphere, in the conditions of the social-economic and political reforming of the country appeared to be not ready for fulfillment of the new tasks of representation and protection of the workers' rights (Kozina, 2007).

This required huge efforts. However, the labor unions as a social partnership institution still do not represent organization within the meaning of trade unions.

The third key participant of the social partnership system is employers represented, accordingly, by associations of employers. Their activity reveals a number of shortcomings. As of today, the absence of the practice of executive of collective labor agreements in many organizations and at enterprises in which the rights and obligations of the employees and employers and the enforcement mechanisms would be described causes concerns. The absence of such agreement denies the employees the efficient means of protection of their interests and labor rights.

The performance of the employers' associations within the social partnership system is hindered by their weakness in terms of organization. The medium and small-sized businesses are poorly presented in the employers' associations. As a result, the agreements executed at the federal level (for example, the general agreement within the frameworks of the Russian trilateral commission for management of the social-labor relations) will hardly be performed by representatives of this business. The situation is better in the regions of Russia. The medium and small-sized businesses are presented here more widely (Sadkov, 2007). In many regions, there are regional regulatory acts concerning the social partnership in which the mechanism of enforcement of the agreements adopted is specified. Besides, in this situation when the governmental institutions and industrial structures are interrelated in terms of organization, the regional agreement may have actual effect.

Summary: Social partnership is one of the mechanisms of regulation of the social-labor relations, conflict

management in the conditions of the market economy and the developed civil society. Social partnership to a large extent represents the public control mechanisms and guarantees that the market reforms will result in formation of the socially-oriented state. Obviously, there are a number of factors hindering formation of the sound social partnership system such as: non-observance of labor regulations, provisions of agreements and contracts executed by the parties to the social partnership, impairment of rights of the institution for representation of employees and employers, absence of institutional conditions for the social partnership formation, etc. However, in my opinion, the activity of the key participants of social partnership concerning management of the social-labor relations based on the principles of solidarity, social justice and equal rights will promote to increase in the efficiency of its operation, reaching the social dialogue, provision of the sustainable and rapidly developing society and state.

CONCLUSION

As the analysis showed, social partnership in Russian is still being established. The performance of the trade unions associations, employers' associations and governmental authorities appears to be insufficiently efficient in terms of management of the social-labor relations. This is determined by historical causes as well as social-economic and political processes of different kind that take place in the state.

As a result, formation of the social dialogue, application of different conciliation procedures in management of the social-labor relations, management and settlement of conflict in the labor sphere, managing them at the national, regional, sector-specific and local levels becomes rather problematic. This is why, the society needs to design the efficient system of social partnership and seeking the social dialogue between the key participants as the mechanism of the labor disputes management.

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