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INTERNATIONAL LABOUR STANDARDS AND COLLECTIVE LABOUR RELATIONS: CASE ESTONIA

Collective labour relations have played an important role in development labour law. Although in the international history not always the collective labour relations have been allowed, they have existed partly. At the beginning of the industrial revolution the collective labour relations where to a certain extent forbidden and the participation in those labour relations was punished by the penal law.

Since the collective agreement was recognised as the legal source, the attitude to the collective agreements and collective labour relations has changed.

During the soviet time the collective labour relations at least theoretically existed. There was only one part of collective labour relations that was existing – collective agreement – but there was no opportunity for collective labour disputes. Therefore, there was no real bargaining for conclusion of a collective agreement. Also, the fact that the only employer was state, did not give any real opportunity for development of collective labour relations.

One can state, that in Europa there are two kinds of standards that a state must fulfil. On the one side, there are the standards that have been created by the International Labour organisation (hereinafter ILO). For the European states in the broad meaning the importance is also connected with the European Social Charter. The both standards will establish the basic principles of collective labour relation: freedom of associations and the right to organise collective actions.

In the framework of freedom of associations, the two ILO conventions are most important [1]. Although it has mentioned in the literature, that the right to strike has not been mentioned directly, still the ILO recommendations mention also the right to strike among other collective labour rights.

The European Social charter is in that sense more precise. It mentions the right to strike, but also the right to organise the lock outs are recognised [2].

In international and European level level one can state that the right to

strike has been regulated and guaranteed.

In Estonia, the collective labour relations do exist. Although it is possible to mention, that the collective labour relations do not have intensive impact for the labour relations and labour policy in general, still it is not possible to deny the fact of existence of trade unions and collective agreements.

Legal regulation of collective labour relations was created already in 1993 when the Collective Agreements Act [3], Collective Labour Disputes Act [4] and Employees' Trustee Act was adopted. Since then only one of the acts has been modified – namely in 2004 the new Employees' Trustee Act [5] was adopted.

The Estonian legislation in the field of collective labour relations is in accordance with the requirements of the standards of the ILO and the European social charter. In Estonia, the freedom of association has been guaranteed and also the right to strike has been guaranteed. Estonian legal acts in the field of collective labour relations have been prepared in line with international requirements.

One can say that there are no contradictions with international requirements in order to develop the collective labour relations. Still it is not possible to observe the massive participation in trade unions. One of such reasons lies also in the fact, that according to the case law of the Estonian Supreme court the collective agreement that is concluded between a trade union and employer is applicable for all employees who have been employed in an undertaking. According to Trade Unions Act it has also been stated, that the trade union has a general power of representation of all employees in case of collective labour relations. Considering this regulation mentioned above, it is obvious, that majority of Estonian employees are not interested in membership of a trade union.

One of the problems in collective labour relations was connected with the legal regulation of strikes especially with sympathy strikes. In Estonia, there are three types of strikes that have been regulated by law. There is a main strike, warning strike and sympathy strike.

It is possible to organise a main strike, in case the mandatory litigation by the public litigator was not successful and the protocol of disagreement has been signed by the public conciliator. There is no concrete time limit, how long a main strike can last.

The warning strike is part of the negotiations between trade union and employer. The idea of the warning strike is to inform the employer about the possibility of organising the normal (main strike). The duration of the warning strike is one hour.

In Estonia, already in 1993, the sympathy strikes have been legally regulated. The sympathy strike can last as maximum three days and the period of notice is also three working days. In Estonia, it was questionable, whether there can be the legal regulation for sympathy strikes or not and whether the

legal regulation of sympathy strikes is in line with Estonian constitution. The question that was raised was connected to the fact, that in case an employer has concluded a valid collective agreement, still it was possible to organise the sympathy strike. The Estonian Supreme Court recognised, that sympathy strikes in Estonia are legal and to organise the sympathy strike it is one of the basic rights of the employees [6].

In Estonia, the collective labour rights according to the ILO and European Social Charter have been recognised. Although in a view of legal regulation, there are no complications with fulfilling the on international requirements, still the importance of the collective labour relations is modest [7]. The right of trade unions and employees' representatives have been guaranteed, but as the Estonian employees are not very much interested in the membership of trade unions, the real influence of trade unions and collective agreements remains modest. It is not possible to see other tendency in the near future.

Literature

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