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ENSURING EMPLOYER PERSONNEL SECURITY IN LABOR RELATIONS: MANAGERIAL AND LEGAL ASPECTS

GARANTIR A SEGURANÇA DO PESSOAL DO EMPREGADOR NAS RELAÇÕES DE TRABALHO: ASPECTOS GERENCIAIS E JURÍDICOS

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ABSTRACT

Objective: The study aims to identify legal and managerial issues in ensuring employer personnel security in labor relations, focusing on compliance with labor laws and the use of innovative management strategies.

Methods: A combination of legal analysis, statistical methods, and formal legal techniques was used to examine normative frameworks and analyze labor-related data. Case studies of employer practices in personnel management, including the use of digital workforce systems, were also evaluated.

Results: The findings reveal that strict adherence to labor law norms is critical for mitigating personnel risks. Non-compliance leads to reputational and financial risks, especially in cases involving the misclassification of labor contracts. The study highlights the benefits of integrating artificial intelligence and electronic workforce management systems to improve personnel security and reduce operational risks.

Conclusions: Employers must adopt comprehensive personnel policies grounded in legal compliance and supported by digital innovations to ensure long-term personnel security. Strategic use of self-employment contracts and compliance with labor standards can enhance employer safety and efficiency in managing labor relations.

Keywords: Personnel Security. Employer. Labor Relations. Personnel Policy. Artificial Intelligence. Self-Employment.

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RESUMO

Objetivo: Identificar questões jurídicas e gerenciais relacionadas à segurança do pessoal do empregador nas relações de trabalho, com ênfase no cumprimento das leis trabalhistas e na adoção de estratégias inovadoras de gestão.

Métodos: Foi utilizada uma combinação de análise jurídica, métodos estatísticos e técnicas legais formais para examinar marcos normativos e dados trabalhistas. Estudos de caso sobre práticas de gestão de pessoal por empregadores, incluindo o uso de sistemas digitais, também foram avaliados.

Resultados: Os resultados indicam que a adesão rigorosa às normas trabalhistas é essencial para mitigar riscos de pessoal. A não conformidade acarreta riscos reputacionais e financeiros, especialmente em casos de classificação incorreta de contratos de trabalho. O estudo destaca os benefícios da integração de inteligência artificial e sistemas de gestão digital para aprimorar a segurança do pessoal e reduzir riscos operacionais.

Conclusões: Os empregadores devem adotar políticas abrangentes de gestão de pessoal baseadas na conformidade legal e apoiadas por inovações digitais para garantir a segurança de longo prazo. O uso estratégico de contratos de autoemprego e o cumprimento das normas trabalhistas podem melhorar a segurança e a eficiência na gestão das relações de trabalho.

Palavras-chave: Segurança do Pessoal. Empregador. Relações de Trabalho. Política de Pessoal. Inteligência Artificial. Autoemprego.

1 INTRODUCTION

Personnel security in labor relations is of paramount importance to employers. Modern personnel policy aims to recruit and select employees, formalize their employment through labor or civil contracts, and retain them using all possible measures.

Even at the stage of recruiting prospective employees, employers need to plan their legal and managerial steps. From a legal standpoint, this involves drafting contracts that comply with the established legal framework and employment relations. From a managerial perspective, it requires developing strategies for employee adaptation based on recruitment sources, opportunities for career growth, ensuring safety and health in hazardous work environments, and adhering to guarantees, compensations, and benefits, such as for women from rural areas. These steps constitute comprehensive managerial support for employee activities.

Strategically calculated actions (or inactions) by employers after entering an employment contract ensure personnel security in labor relations. Threats or risks from employees should be mitigated through a well-thought-out personnel policy. This policy should incorporate advancements in electronic HR document management and robotics.

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2 THEORETICAL FRAMEWORK

We examined sources that explore the essence and characteristics of labor relations. L.S. Tal (1913), N.G. Alexandrov (1948), A.V. Kuzmenko (2005), and R. Blanpain and F. Hendrickx (2016) investigated traditional labor relations in comparison with civil-law relations. They identified the key features of labor relations, including their ongoing nature and subordination to the employer's internal labor regulations.

The studied labor law norms were analyzed in connection with the managerial elements of personnel security, the recognition of established relationships as labor relations, and the potential for digitalization in labor relations. The insights on the digitalization of labor relations significantly influenced our perspective, including contributions by V.V. Volkova (2019), A.V. Kornev (2021), A.V. Neznamov (2018), A.V. Serova (2019), and Yu.V. Vasileva and E.A. Braun (2024).

3 MATERIALS AND METHODS

The study employed several methods to examine employer personnel security in labor relations, including legal analysis (examining normative legal acts), the formal legal method (developing new legal constructs), and statistical and analytical methods (analyzing data on employed and unemployed individuals).

The research aimed to identify the factors that ensure employer personnel security in labor relations, focusing on legal techniques and their compliance with labor law norms. Labor law is designed to protect workers' rights. Employer personnel security in labor relations should be ensured from the same perspective.

4 RESULTS AND DISCUSSION

Based on the results, it becomes evident that both compliance with legal standards and effective management practices significantly influence the safety of the employer’s personnel in labor relations.

Organizations or individual entrepreneurs entering contracts with labor elements should focus not so much on the title of the contract but rather on its content. The latter dictates the form of the agreement. Entities entering the labor market aim to minimize

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recruitment and selection costs and expenses related to adaptation, career advancement, skill development, and retraining if necessary.

In such situations, entering an employment contract is the legally correct step for the employer. Russian law also recognizes civil-law contracts with labor elements (contracts for work, service agreements, etc.), often concluded by organizations or entrepreneurs. The role of one party to the contract is clear – either the employer (in the case of an employment contract) or the customer (in the case of a civil-law contract). The nature of the second party depends on the content of the legal relationship between them.

The distinction between labor and civil-law relations is directly connected to the employer's personnel safety. The type of legal relationship between the parties determines which legal norms apply, how liability is established in case of violations, and how disputes are resolved. A key consideration is how to formalize the engagement of an individual in compliance with current legislation, while accounting for personnel risks, and how to properly document all agreements to prevent potential threats to the employer.

The distinction between the content of labor and civil-law relations has been a subject of scholarly research throughout the 20th century (Alexandrov, 1948; Tal, 1913) and continues into the 21st century (Kuzmenko, 2005; Blanpain & Hendrickx, 2016). Let us examine the main principles that differentiate these groups of legal relations.

An employment contract is the foundation for establishing labor relations between an employee and an employer. Labor relations are characterized by a personal, continuous, and often repetitive nature, with the worker being organizationally subordinate to the employer while performing a specific labor function. The employer is responsible for ensuring safe working conditions and providing social insurance, including coverage for temporary incapacity.

In civil-law relations, it does not matter whether the task assigned by the customer is performed personally or through third parties (subcontractors). There is no subordination to the customer, and the timing of task completion is irrelevant. Instead, the focus for the customer is on the outcome of the work or services provided and the deadlines for completion. The contractor is responsible for ensuring the safety of the task execution and arranging insurance against temporary incapacity.

A common element in labor and civil-law relations is the payment for work performed or services rendered. The difference lies in the timing of the payment. If no payment is provided, the relationship may be considered voluntary or non-commercial.

In labor relations, wages are paid at least twice a month, ensuring regularity in

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payments. In civil-law relations, payment schedules may vary:

1. An advance at the beginning of the work or service, with final payment upon completion.

2. Equal monthly payments.

3. Full payment upon signing the completion certificate for the work or services provided.

The fact of paying wages is an external aspect of covering labor relations with civil-law contracts. The internal aspect concerns taxation. When an employment contract is concluded, 13% is withheld from the employee's salary, and the employer is required to make mandatory insurance contributions amounting to 30.2%. In civil-law contracts, taxation depends on who the second party is: a self-employed person, an individual entrepreneur, or a regular individual hired for work. In Krasnodar Krai (Russia), the number of entrepreneurs increased by 5.9% in 2023, reaching approximately 300,000 people. Most entrepreneurs are traditionally involved in trade (38%), followed by transport, construction, real estate, processing, hospitality, agriculture, and others. Small and medium-sized enterprises account for 87% of all business entities in the region, ranking 4th in Russia, while the number of individual entrepreneurs places Krasnodar Krai 3rd in the country (Nalog, n.d.).

In this context, contracts with self-employed individuals are the most beneficial due to lower tax rates (4 or 6%), compared to individual entrepreneurs or regular individuals who are taxed at 13%, with the customer also paying mandatory insurance contributions (30%).

Many employers, having realized the benefits of concluding contracts with self-employed individuals due to reduced taxation, have started using this approach. In Krasnodar Krai, the number of self-employed individuals rose sharply in 2023 (by 1.5 times), reaching approximately 500,000 by the end of the first quarter of 2024, while the total number of small and medium-sized businesses, individual entrepreneurs, and self-employed people registered in the region amounted to 1.2 million (Krasnodar Administration, n.d.). Nearly half of them are self-employed. Across Russia, the number of self-employed individuals increased from 6.5 million in 2022 to over 9 million in 2023, and by the first quarter of 2024, the number had grown to 10 million (Analytical materials, 2024).

What do these numbers mean? Primarily, they indicate growing trust in the state from individuals previously in the "tax shadow." It is difficult to imagine the sharply rising number (by millions) of individuals providing cosmetic services, passenger and cargo transportation, retail, and construction services as fully legitimate. Some unscrupulous employers have exploited the popularity of self-employment by first firing employees (usually through

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voluntary resignation letters) and then re-hiring them under civil-law contracts as self-employed individuals. In these cases, the work performed, its duration, and the bi-weekly salary payment schedule remained unchanged.

The direct benefit for former employers of replacing labor relations with civil-law contracts is clear, particularly in avoiding mandatory insurance contributions, not having to provide safe working conditions (e.g., not purchasing special clothing or conducting medical check-ups), and, ultimately, not maintaining a full-time staff. The worker also benefits directly: the 13% personal income tax is not withheld from them, and they pay a 4% tax on professional income if the client is an individual or 6% if the client is a legal entity.

The increase in the number of self-employed individuals and their popularity with employers has attracted the attention of the Federal Tax Service (FTS), as disguising labor relations with civil-law contracts reduces the collection of mandatory insurance contributions and taxes on individual income.

Working with self-employed individuals is a popular element of personnel security for many companies facing staff shortages (for example, Sportmaster). However, such companies do not always understand the legal threats and risks associated with working with self-employed individuals: they must not exceed risk indicators, which would attract the attention of FTS.

First, the duration of work with self-employed individuals should not exceed 3 months. Second, the number of self-employed individuals engaged by employers should not exceed 10% of the total workforce. Third, the frequency of payments to self-employed individuals should not create an analogy with salary payment periods. If employers do not comply with these conditions, the resulting legal relations may be classified as labor relations. Information about such situations is transmitted through the FTS to the Federal Service for Labor and Employment (Rostrud), which must inspect the employer's actions (or inaction). If violations are confirmed, the employer will be included in the registry of employers with illegal employment starting from January 1, 2025.

Unfair employers administratively penalized for illegal employment (failure to formalize or improperly formalizing labor relations) will be listed in the registry of employers with illegal employment starting January 1, 2025. Being included in the registry poses a direct personnel risk for employers, as potential workers will be aware of the employer’s reputation. If employers comply with the legal requirements, their personnel security will be ensured.

Guided by Article 57 of the Labor Code of the Russian Federation, the parties to an employment contract determine the mandatory and possible additional terms. In most cases,

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the employer forms such contract conditions that they can fulfill, including terms that improve the workers' position compared to the norms of current legislation. However, there are terms that the employer cannot omit in the employment contract. These refer to the conditions outlined in Article 57 of the Labor Code of the Russian Federation.

The employer includes in the employment contract mandatory information that allows them to specify details about the worker, the employer, their representative, their taxpayer identification number, and the place and time of the contract signing.

The content of specific conditions in the employment contract depends on the employee as a party to the labor relationship. No employment contract can be identical to another. Some employment contract terms are the same for certain worker categories of a specific employer (for example, the place of work, the term of employment, working hours, rest periods, benefits and compensations, and working conditions). However, there are even more workers whose working conditions are individual. This is why experienced lawyers do not recommend template employment contracts, but many contracts are identical.

Differences in the content of employment contracts with women or workers under harmful working conditions still exist. For example, an employment contract with employees in hazardous working conditions must necessarily specify the working hours and rest periods (even though these are set in the internal work regulations and are mandatory for all employees working in similar positions) and the working conditions and their characteristics (according to the special assessment of working conditions). For women and individuals under 18, the employment contract specifies possible maximum lifting weight limits, working time norms, and working hours regimes, especially if women work in rural areas. The contract may include employment contract terms and a provision for granting annual paid leave at any convenient time, both for minors and women if women have three or more children under 18 (Article 262.2 of the Labor Code of the Russian Federation).

When reflecting on the conditions of the employment contract agreed upon by the employer and the employee, it becomes clear that an individual approach is possible but is typically applied to highly skilled workers that the employer needs. An employer with thousands of employees cannot have a customized contract with each of them. This lazy approach from employers leads to a reduction, and sometimes even the exclusion, of elements of labor security for the employer.

The failure to include any conditions in the employment contract that are mandatory under Article 57 of the Labor Code of the Russian Federation constitutes an administrative offense under part 4 of Article 5.27 of the Code of Administrative Offenses of the Russian

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Federation, indicating a lack of labor security for the employer.

The employer must consider the rule of specifying in employment contracts with certain worker categories (of which there are many) all guarantees, compensations, and benefits provided for them. An approximate list of such workers can be compiled by analyzing part 4 of the Labor Code of the Russian Federation. These categories include individuals with family responsibilities, women, minors, foreign citizens, part-time workers, organization leaders, microenterprise workers, workers in transport organizations, people with disabilities, and others.

In 2022, the workforce numbered around 75 million people, while the number of those not in the workforce was approximately 45 million. Compared to 2010, the number of people not in the workforce increased by almost 10 million. There has been a significant rise in the number of non-working pensioners, people with disabilities (approximately 12%), and minors under the age of 16.

In 2010, of the 36 million people not in the workforce, 1.7 million were potential workers. By 2022, of the 45 million people not in the workforce, only 1 million were considered potential workers. To prevent labor shortages, it is appropriate for employers to fully utilize individuals who were previously regarded as insignificant worker categories.

Their insignificance is mainly due to the fact that the law provides them with numerous guarantees, compensations, and benefits. Often, these guarantees are unjustified, not applied, or not provided by employers, but they are enshrined in legal norms, meaning that their implementation is mandatory and protected by the state. This is why labor rights violations for these worker categories are under special oversight by Rostrud, and employers who commit such violations are subject to administrative penalties.

Thus, the labor safety of an employer depends on their adherence to the guarantees, compensations, and benefits of special worker categories. The number of guarantees, compensations, and benefits for each worker category reduces the employer's desire to comply. If the legislator had established fewer guarantees for these workers but defined the inadmissibility of non-compliance with significant penalties, the employer would have thought more about how unsafe it is to violate them. The current position of the legislator and the enforcer does not offer real assistance to the employer in ensuring their labor safety.

According to articles 22.1-22.3 of the Russian Labor Code, the employer has the right to establish document flow in electronic form (subject to several conditions). This right has two aspects: legal and managerial. The legal mechanism for introducing electronic document management is straightforward and outlined in the specified articles: it is

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necessary to develop internal regulations, obtain the worker's consent, and make decisions on digital signatures. However, the managerial aspect is much more complex, as it depends on workers' willingness to work in an electronic document management environment. This is a psychologically responsible step for the worker, and HR specialists should assist each employee in taking it. For these purposes, robots are considered an effective tool, which, according to a set program, convinces the worker of the benefits of using electronic personnel document management (EPDM), shows its advantages over paper documents, and demonstrates (through simple examples) the speed of HR procedures conducted with EPDM.

For an employer, implementing EPDM is a managerial decision that enables the efficient execution of personnel processes. This decision depends on the software used by the employer, the number of employees, and the volume of personnel operations conducted in the EPDM system. This solution allows one to reduce labor costs for personnel procedures and creating personnel documents. For Generation Z, automating routine processes is crucial for effectively performing job functions.

The most in-demand software simplifies personnel procedures and conducts simple operations related to recruiting, selecting, and notifying employees about personnel operations (e.g., working on a day off, vacation, etc.).

5 CONCLUSIONS

An employer can ensure personnel security only through maximum compliance with labor law standards. This should be the case when entering employment contracts. Potential employers should not substitute labor relations with civil law contracts, nor should they enter employment contracts with self-employed individuals or individual entrepreneurs, labeling them as civil law contracts.

Provisions of the Russian Labor Code are formulated in such a way that it is difficult for employers to implement them. These situations are the basis for legal nihilism among employers and foster a negative attitude towards labor law and the Russian Labor Code. This assertion also applies to the content of the employment contract, especially when it involves categories of employees entitled to benefits, guarantees, and compensations. Often, employers overlook violations of labor law norms and fail to ensure proper content in employment contracts, which negatively affects personnel security. We refer to these risks as legal personnel risks. It is possible to avoid or mitigate them by directly and fully adhering

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to the Russian Labor Code, developing model employment contract forms for specific employee groups, and utilizing (or developing) modern software, including with the help of AI.

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