EMPLOYMENT DISCIPLINE AND THE THREAT OF DISMISSAL AS REGULATORS OF THE LABOR MARKET IN KAZAKHSTAN (SDG)

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ABSTRACT

Objective: This study investigates the role of unemployment as a mechanism of labor discipline in Kazakhstan. It analyzes the relationships between the official unemployment rate and the labor legislation reforms regulating labor discipline that have occurred since Kazakhstan gained independence. The manuscript outlines the developmental stages of labor legislation concerning labor discipline.

Method: The research is based on a comprehensive analysis of statistical data, legislative acts, and judicial practices in Kazakhstan. Data sources include official statistics on unemployment and labor disputes, an analysis of changes in the Labor Code of Kazakhstan, and a review of judicial decisions related to disciplinary sanctions and dismissals.

Results: The study reveals that strengthening disciplinary responsibility and expanding the powers of employers have significantly contributed to the decline in unemployment in Kazakhstan. These results support the hypothesis that strict labor discipline and pressure on employees can positively impact the overall labor market. However, this impact is not isolated but part of a broader set of measures.

Contribution: This research provides a detailed comparative analysis of the number of labor disputes and the evolution of Kazakhstan's labor discipline legislation. Key observations include the correlation between stringent disciplinary norms and reduced unemployment, the influence of judicial practices on labor discipline, and the necessity of balancing strict discipline with fair treatment to prevent legal disputes. The findings offer valuable insights for optimizing labor policies to support sustainable labor market development in Kazakhstan. These insights align with the goals of SDG 8, which promotes sustained, inclusive, and sustainable economic growth, full and productive employment, and decent work for all.

Keywords: employment protection legislation, labor discipline, unemployment, disciplinary sanctions, employee dismissal, sustainable development goals (SDGs).

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1 INTRODUCTION

Kazakhstan, as a country with a transitional economy and actively developing socio-economic structures, presents a unique interest in the study of labor market mechanisms. In this manuscript, we examine how changes in labor legislation, particularly the strengthening of disciplinary measures and the threat of dismissal, affect the behavior of workers and employers, as well as the overall economic situation in the country.

Based on a wide range of data, including statistical indicators of unemployment levels, legislative changes, and analysis of judicial practice, we aim to identify correlations and cause-and-effect relationships between labor discipline and market indicators. This research will help understand how labor policy and legislation can be used as tools for stabilizing and developing the economy, as well as what implications these measures may have for workers and employers.

The purpose of this paper is not only to analyze the current state of the labor market in Kazakhstan but also to propose recommendations for optimizing labor policy, taking into account both current challenges and potential opportunities for sustainable development of the labor market in the country.

Modern labor law includes guarantees that ensure the rights of the employer in organizing labor activities. Such guarantees include norms regulating the employer’s rights to organize production and labor processes; to hold workers accountable for disciplinary violations; to seek compensation for material damage caused to the employer by an employee, etc. Labor relations, as the subject of labor law, are characterized by the process of a person carrying out labor functions, coupled with adherence to labor discipline and, in some cases, integration into a work collective. The employee’s adherence to the rules of labor discipline and compliance with the lawful demands of the employer can be considered as mandatory attributes of a labor relationship. The employee is inherently the weaker party in labor relations compared to the position of the employer. The employee submits to the will of the employer, following their instructions, adhering to labor discipline, and fulfilling the employer’s acts.
Labor discipline expresses the imperativeness in regulating labor relations. Imperativeness implies the establishment of subordination between the subjects to whom the legal norm is addressed. In labor law, these are norms about the disciplinary responsibility of employees to the employer. The application of types of disciplinary responsibility depends on the subjective discretion of the employer.

The subjects of disciplinary responsibility are the participants of the labor legal relationship, who are initially in an equal legal position. However, since there is an inevitable contradiction between the parties, in the event of a violation, the employee becomes subject to the authority of the employer, who is authorized to apply appropriate measures of disciplinary action. In general, labor law historically emerged as a right to protect workers from extreme exploitation by the employer. Therefore, when applying disciplinary responsibility, it is necessary to establish a fair balance between the wrongful behavior of the employee and the measure of punishment applied by the employer, as well as to strictly observe the established order of holding responsible.

The disciplinary responsibility of the employee serves as a guarantee for strengthening labor and production discipline, increasing the efficiency of the labor process (Putra et al., 2021; Arif et al., 2019; Prayogi et al., 2019). Standard microeconomic theory of the labor market suggests that unemployment acts as a mechanism of labor discipline in developed countries (Lindbeck, 1993; Shapiro & Stiglitz, 1984). What does this mechanism look like in Kazakhstan? This paper attempts to answer this question by constructing a theoretical pattern that characterizes the level of unemployment and the state of legal regulation of production discipline at workplaces. The independent variables in this study are the level of regulation of disciplinary responsibility of employees and the country’s unemployment rates. Changes in Kazakhstan’s labor legislation have significantly influenced the dynamics of the labor market and the level of unemployment in the period after the country gained independence. However, measures of disciplinary responsibility, including the risk of dismissal, while important, are just one of many factors affecting this market.
Labor discipline is regulated by several methods of legal regulation, i.e., techniques and ways of the state's influence on legal subjects and the nature of social relations. This set of techniques and methods combines persuasion and coercion, which are manifested in such ways of establishing the nature of legal relations as the equality of the subjects of the legal relationship, or the relationship of authority-subordination, as well as methods of influence on legal subjects - in the form of permission and stimulation, probation and prescription. In the system of techniques, prohibition, prescription, permission, stimulation act as full-fledged ways of regulating the behavior of employees. However, in the Labor Code of the Republic of Kazakhstan of November 23, 2015, No. 414-V (LC RK), prohibitions and prescriptions are given significantly more attention, including the procedure for bringing to disciplinary responsibility. Coercive measures, ensured by the threat of disciplinary responsibility, have a prevailing distribution in the Kazakhstani practice of labor relations.

The essence of legal responsibility is predetermined by its main purpose: to ensure the necessary level of law and order in the process of using hired labor. As a category of legal methodology, legal responsibility is understood as a legal means (method) ensuring lawful behavior of the subjects of legal relations, associated with the occurrence of certain negative consequences (sanctions) prescribed by law, following the commission of a culpable illegal act. The employer, as an independent subject of entrepreneurship, independently decides on bringing employees to disciplinary responsibility. The legislator provides the employer with the opportunity to use other legal means to ensure labor discipline in addition to disciplinary responsibility. The absence of disciplinary sanctions is considered an element of the labor-legal status of the employee, which gives them an advantage over employees who have disciplinary sanctions. Based on the outlined main characteristics of labor discipline, we consider the following scientific questions: the importance of labor discipline for ensuring employment; interdisciplinary problems of disciplinary responsibility of employees; the relationship between labor discipline, dismissals, and appeals to labor courts.
2 LITERATURE REVIEW

Research in the field of labor discipline and the impact of the threat of dismissal on the labor market is grounded in extensive literature on labor economics, employment law, and labor sociology.

Classical microeconomic theory suggests that unemployment can serve as a disciplinary mechanism for workers. The works of Shapiro & Stiglitz (1984) are seminal in this area, proposing a model in which unemployment acts as a method of enforcing labor discipline, motivating workers to avoid absenteeism and low productivity due to the fear of losing their jobs and facing difficulties in finding new employment. A key finding of this model is that the punishment associated with dismissal is endogenous, as it depends on the equilibrium level of unemployment. Similar conclusions were reached in the study by Salop (1979), who examined the microeconomic aspects of unemployment and labor discipline within a labor market equilibrium model.

However, our analysis extends beyond merely assessing unemployment in the labor market and its relationship with labor discipline. We conducted an analysis of the content of labor discipline legislation, both more and less stringent, through its historical development and examined levels of unemployment.

Studies such as those by Deakin (2010) and Scoppa & Vuri (2014) provide empirical evidence that local unemployment levels can influence disciplinary measures in the workplace. Their analysis indicates that in regions with high unemployment, workers are less likely to engage in absenteeism and violations of labor discipline, thus supporting theoretical models.

Research into the impact of labor legislation on the labor market has shown that stricter employment protection laws may help reduce unemployment levels and enhance labor productivity. Autor et al. (2007), Bassanini et al. (2009), and Arestis et al. (2023) have examined how various aspects of labor legislation influence economic development and the share of labor in national income, demonstrating that the regulation of labor relations can foster sustainable development.
Labor legislation in Kazakhstan has undergone significant changes since the country gained independence in 1991. In the early 1990s, the legislation was relatively liberal, which facilitated the formation of new market relationships. In the years that followed, there was a tightening of legislation concerning labor discipline. Studies, such as those by Khamzin et al. (2016) and Mukhamadiyeva et al. (2017), show that the strengthening of labor discipline norms and the expansion of employer powers to impose disciplinary sanctions have contributed to a reduction in the unemployment rate in the country.

Research into the dynamics of labor disputes and changes in labor discipline legislation indicates that tightening disciplinary norms leads to an increase in the number of labor disputes. This is confirmed by data showing an increase in court cases related to labor disputes in Kazakhstan (Khamzina et al., 2021). Nevertheless, adherence to procedures and the fair application of disciplinary measures play a crucial role in preventing workplace conflicts.

The relationship between labor discipline, dismissals, and appeals to labor courts represents one of the lesser-studied aspects of labor relations. Current research findings indicate that in disputes over the application of disciplinary sanctions, employees generally emerge as the losing party (Panao & Leon, 2018). Employer disciplinary codes and procedures must align with the fundamental principles of ILO Convention No. 158. Additionally, these codes and procedures should be implemented as a flexible set of rules (Smit, 2010).

Further exploration of the dynamics of labor disputes and changes in labor discipline legislation reveals that stricter disciplinary norms lead to an increase in labor disputes (Bugdol, 2018). This evidence supports the assertion that stringent labor discipline not only enhances productivity but also increases the number of conflicts at workplaces.

The existing literature affirms that labor discipline and the threat of dismissal serve as critical mechanisms for regulating the labor market. In Kazakhstan, reforms aimed at tightening disciplinary measures have significantly influenced the reduction of unemployment levels and enhanced overall labor productivity. However, it is crucial to acknowledge that the impact of these measures does not occur in isolation but rather within the context of a comprehensive set of policies and economic conditions,
necessitating a critical analysis of causal relationships in the development and implementation of labor legislation.

3 METHODOLOGY

To achieve the objectives set forth in this article, the research is grounded in a comprehensive analysis of statistical data, legislative acts, and judicial practices in Kazakhstan. This approach facilitates the identification of relationships between unemployment levels and changes in labor legislation that regulate disciplinary responsibility in the labor market.

Data for the study were sourced from several channels:

- Official statistics, which include data on unemployment and labor disputes provided by the National Statistical Bureau and the Supreme Court of the Republic of Kazakhstan.
- Analysis of changes in the Labor Code of Kazakhstan affecting disciplinary measures and dismissal procedures.
- Review of decisions on labor disputes related to disciplinary sanctions and dismissals, based on open sources and legal databases.

The analytical methods employed included quantitative analysis, which involved using statistical methods to examine the dynamics of unemployment and labor disputes. Additionally, correlation analysis was used to identify the relationships between legislative changes and unemployment levels. Qualitative analysis included interpreting changes in legislation and their potential impacts on labor discipline and dismissals.

The following research hypotheses were formulated:

- Strengthening disciplinary responsibility in Kazakhstan has a positive impact on reducing unemployment levels by enhancing labor discipline and decreasing the number of labor conflicts.
- Legislative changes that tighten dismissal procedures lead to reduced labor mobility and could potentially increase unemployment levels due to the challenges associated with dismissing inefficient workers.
Judicial practices related to disciplinary sanctions and dismissals influence managerial practices within organizations, contributing to improved labor discipline and a reduction in labor disputes.

The outlined methods and approaches facilitated a comprehensive analysis, which is essential for understanding the complex relationships between legislation, its implementation, and the state of the labor market in Kazakhstan.

3.1 LABOR DISCIPLINE AND EMPLOYMENT PROTECTION: ANALYSIS OF KAZAKHSTAN’S LEGISLATION

Norms on labor discipline differentiate labor legislation depending on the nature of professional activity and working conditions of employees. This basis for differentiation is extensive in its content. Its specific normative position boils down to the fact that, compared to the general order, the legislature establishes special measures of disciplinary responsibility for various categories of employees, compared to the general provisions determined by labor legislation (in relation to state, civil servants, law enforcement officers, railway transport workers, etc.). Practically in every state management body of the Republic of Kazakhstan, relevant departmental regulations on labor discipline have been adopted and are successfully in operation. The mandatory requirement imposed by the LC RK on these normative legal acts is that the working conditions of individual categories of employees, regulated by other normative legal acts, must not reduce the level of rights, freedoms, and guarantees established by the LC RK (paragraph 4 of Article 8 of the LC RK). Thus, various aspects of labor discipline established by departmental (industry-specific) normative legal acts cannot worsen the position of employees in this field relative to the norms of the LC RK, which establish the general order for the application of incentives for labor and bringing to disciplinary responsibility.

One of the main duties of an employee, as provided by the LC RK, is the observance of labor discipline, that is, adherence to a certain order, behavior of people, consistent with the established norms of labor law in society, as well
Labor discipline should be considered in two aspects: in relation to the employer and in relation to the employee. The main duty of the employer is to provide employees with the means and materials necessary for the performance of their work duties, that is, to create normal working conditions for the employee in accordance with the legislation, labor and collective agreements. In addition, the employer organizes the production process by issuing employer acts within its authority, and also has the ability to hold employees accountable for violations of labor discipline. In relation to the employee, labor discipline is expressed in their duty to strictly adhere to the rules of behavior established in the normative legal acts on labor and the employer's acts. When concluding a labor contract, the employer is obliged to acquaint the employee with the employer's acts containing provisions on the internal labor order of the organization, enterprise, or institution. The norms of the internal labor order may be contained in the collective agreement in the part of the provisions on the responsibility of the members of the labor collective for compliance with labor and production discipline. Thus, the internal labor order of the organization, enterprise, or institution should be considered as a form of consolidation and specification of labor discipline.

Labor discipline in the science of labor law is also considered as an independent institution of the peculiarities of the part of the branch of labor law, uniting legal norms regulating the behavior of the employee and the employer. This legal institution is reflected in Chapter 5 of the LC RK “Labor Order. Labor Discipline”.

An employee’s fulfillment of their duties can be guaranteed in two ways (methods): incentives and coercion. Coercion as a method of ensuring labor discipline is expressed in the application of appropriate measures of moral and material impact on those who violate labor discipline.

Disciplinary responsibility of employees is a type of legal responsibility borne by employees for committing disciplinary offenses while performing their duties. It is a special legal state of the violator of labor discipline, in which they are placed by the holder of disciplinary power. It is expressed in a certain change in the totality of the labor rights and obligations of the violator, caused...
Disciplinary responsibility is the duty of an employee who has violated the requirements of labor law norms, employer’s acts, or an individual labor contract, to endure personal deprivations associated with the employer’s condemnation of their culpable unlawful behavior. Thus, disciplinary responsibility is possible only for specific behavioral acts - disciplinary offenses. A disciplinary offense is the unlawful, culpable failure to perform or improper performance by an employee of the duties imposed on them, rules of labor discipline. The degree and form of guilt of the employee in each specific case are determined individually and can be expressed either as intent or negligence. If an employee violates labor discipline through no fault of their own, their being held to disciplinary responsibility is not permitted.

The LC RK provides for the following types of disciplinary sanctions: reprimand; warning; severe reprimand; termination of the employment contract at the initiative of the employer on the grounds provided for in the LC RK.

In total, the LC RK stipulates ten disciplinary offenses that can lead to the dismissal of an employee as a disciplinary sanction. It should be noted that while a reprimand, warning, or severe reprimand can be applied to all possible disciplinary offenses, the termination of the employment contract, along with a reprimand and types of warnings, can only occur for a single gross violation of labor duties by the employee, which are included in the corresponding list of the LC RK (subparagraphs 8), (9), (10), (11), (12), (14), (15), (16), (17), and (18) of paragraph 1 of Article 52 of the LC RK). This list of grounds for termination of the employment contract as a disciplinary sanction is exhaustive and is not subject to an expansive interpretation.

Comparatively, the previous Labor Code of RK of 2007 (dated May 15, 2007, No. 251-III) as a basis for the termination of the employment contract established the presence of ten offenses by employees, which were recognized as disciplinary and led to the termination of the employment contract at the
initiative of the employer (subparagraphs 6)-13), (16) of paragraph 1 of Article 54 of the Labor Code of RK dated May 15, 2007, No. 251-III). The number of offenses leading to the dismissal of employees in the current LC RK of 2016 has not changed; however, their qualitative composition has changed.

In the current LC RK, a new disciplinary offense has appeared: the provision by an employee to the employer of knowingly false documents or information when concluding an employment contract or transferring to another job, if the authentic documents or information could have been grounds for refusing to conclude an employment contract or transfer to another job. Excluded from the list of disciplinary offenses leading to the termination of the employment contract was: the commission of culpable actions or inaction by an employee serving monetary or commodity values, or using their official position in their own interests or in the interests of a third party contrary to the interests of the employer in exchange for receiving material or other benefits for themselves or others, if these actions or inaction give grounds for loss of trust in them by the employer.


Thus, we conclude that the labor legislation of Kazakhstan has been significantly tightened since 2007 concerning the possibilities of dismissing employees at the initiative of the employer for committing disciplinary offenses. The strengthening of norms on labor discipline was also expressed in more detailed regulation of the procedure for bringing to responsibility. Thus, the Labor Codes of RK of 2007 and 2016, unlike the RK Law "On Labor" of 2000, contain a strictly specified procedure for the application of disciplinary sanctions, the terms of imposition, and the duration of the sanction.
3.2 CHARACTERISTICS OF THE INTERACTION BETWEEN LABOR DISCIPLINE LEGISLATION AND UNEMPLOYMENT LEVELS IN KAZAKHSTAN: STUDYING CHANGES IN LEGAL REGULATION AND THEIR IMPACT ON THE LABOR MARKET

Examining the role of unemployment as a tool for worker discipline is a novel approach for Kazakhstani social science, given the varying degree of employment guarantees offered by Kazakhstani legislation on the protection of workers' rights. Taking into account the level of unemployment and the content of Kazakhstani labor legislation on labor discipline (a liberal or strict approach to legal regulation during different periods of legislative development), we explore the relationship between changes in legislation on disciplinary offenses and the level of unemployment (at the national level).

In the study by Shapiro & Stiglitz (1984), it is shown that unemployment can act as a "means of labor discipline" in the context of moral hazard. Due to the threat of unemployment, incentives for employees to shirk work decrease in areas with high levels of unemployment, where it would be difficult to find new employment in case of dismissal, while shirking increases for the opposite reason when labor markets are tight.

Due to the complexity of observing behavior, the impact on the country's unemployment level of various variables and factors, empirical evidence of this link is quite scarce. The results of Cappelli & Chauvin (1991) showed an inverse relationship between local unemployment and disciplinary sanctions for employees working at different plants of a large American company.

In this direction, several studies have shown a dependency between unemployment in an industry or region and individual-level absenteeism, including absenteeism as a violation of labor discipline. Workers in high unemployment conditions, fearing job loss, will avoid being absent from work to reduce their chances of becoming unemployed (Leigh, 1985; Askildsen et al., 2005).

There are conclusions from the analysis of the general equilibrium of firing costs on employment outcomes. Firing costs borne by the employer tend to increase employment (Ljungqvist, 2002). Higher wage premiums are associated with lower levels of work shirking, as measured by disciplinary
dismissals. Labor discipline in workplaces is better where labor market conditions increase the costs associated with job searching and make it difficult to find alternative employment (Cappelli & Chauvin, 1991).

Pacitti’s (2011) results show that unemployment disciplines both the unemployed and current workers. The impact of unemployment on labor discipline and on the prohibition of counterproductive behavior of workers is assessed as positive.

Studies (Pedaci, 2010; Kimball, 1994, 1989) discuss that disciplinary responsibility is an important element in maintaining order and efficiency in workplaces. However, it cannot be considered the sole factor affecting the labor market, as other aspects, including economic policy, education, and technology, also play a significant role. The labor market functions as a result of the interaction of many factors, including legislation, economic conditions, the education level of the workforce, and technological changes, where no single element, including disciplinary responsibility, acts in isolation.

Kazakhstani labor legislation has undergone several stages of reform in terms of changing approaches to labor discipline regulation. The first stage: the post-Soviet period of 1991-1999 is characterized by a liberal approach to the regulation of labor discipline. The second stage: 2000-2006 is characterized by an even further weakening of legal regulation of labor relations, with limited state involvement in the regulation of labor discipline. During the period of 2007-2015, the first Labor Code of the Republic of Kazakhstan was in effect, establishing clear rules for disciplinary responsibility, and increasing by two and a half times the number of disciplinary offenses for which employee dismissal is permissible. The period from 2016 to the present is characterized by an increasing level of legal regulation in this area.

The main socio-economic indicators of the Republic of Kazakhstan regarding the unemployment level have been available since 1994 (Bureau of National Statistics, 2023). In the period of 1994-1999, the average unemployment rate was 11.9 percent. In the period of 2000-2006, it averaged 9.4 percent with a significant variation by year, namely 12.8 percent in 2000 and 7.8 percent in 2006. In the period of 2007-2015, the average registered
unemployment rate was 5.8 percent. In the period of 2016-2023, the average unemployment rate was 4.9 percent.

Thus, we find a correlation between the content of the liberal labor legislation regarding labor discipline in the period of 1991-2006 and the high level of registered unemployment. A strong connection has been established between the tightening of disciplinary responsibility, as provided for by labor legislation from 2007 to the present, and the reduction in the level of registered unemployment.

That is, the strengthening of disciplinary responsibility, increasing the employer's authority when bringing to responsibility, has positively influenced the level of unemployment in the country in the context of Kazakhstan's developing market, with its indicators decreasing.

Our data confirm the hypothesis about the influence of strict labor discipline legislation on increased productivity and the formation of a fear of dismissal. Strict discipline in the workplace and the threat of dismissal motivate employees to be more productive. This, in turn, can strengthen the company's financial position and reduce the need for layoffs, potentially lowering the unemployment rate. When employees fear losing their jobs, they may be less inclined to seek new opportunities or demand higher wages. This can lead to reduced employee turnover and, consequently, a lower unemployment rate.

However, it should be noted that on the other hand, excessively strict discipline and constant threat of dismissal can create a toxic work environment. This may increase employee turnover, intensify stress among workers, and worsen overall productivity, which in the long run could increase the unemployment rate. When the threat of dismissal is significant, employees may be less inclined to take risks by transitioning to new jobs, reducing workforce mobility and potentially leading to an inefficient allocation of labor resources. In countries with strong legal protection against unfair dismissal, including Kazakhstan, the threat of job loss may be less significant, which could contribute to a higher unemployment rate, as it may be more difficult for companies to terminate ineffective employees.
3.3 THE IMPACT OF ALTERNATIVE ASPECTS OF LEGAL REGULATION ON UNEMPLOYMENT LEVELS AND LABOR MARKET DYNAMICS

Previous research has yielded results indicating that there is no consistent negative or positive relationship between labor legislation as a whole and unemployment in developed countries. However, certain specific aspects of labor regulation may lead to a reduction in unemployment. In the case of working time regulation, this effect can be the combined result of agreements on work distribution and increased labor productivity. In the case of laws regarding workers' representation, the impact may stem from the positive influence of such laws on employee motivation and morale. Thus, there is some evidence that labor laws are compatible with increased firm-level efficiency and improved macroeconomic indicators (Deakin et al., 2014a; Deakin et al., 2014b).

Additionally, there is substantial information about the relationship between stringent legislation regarding the termination of employment contracts at the employer's initiative and effective economic growth. In particular, research has concluded that innovations at the firm level are influenced by laws regulating the ease with which firms can dismiss their employees. Using patents and inventions as proxies for innovation and a time-varying index of dismissal laws, it has been found that in the United States, dismissal laws (providing for non-burdensome contract termination procedures) promote innovation (Acharya et al., 2013).

Scientific studies (Levi et al., 2013; Davies & Collins, 2002; Mačernytė-Panomariovienė et al., 2022) typically find that the unification and strict regulation of labor relations provide greater protection for workers' rights and stability in labor relations. This can contribute to a reduction in unemployment levels and its stabilization.

However, there is a growing recognition worldwide that labor regulation is necessary to protect workers from arbitrary or unfair treatment and to ensure effective contract negotiations between employers and employees. Labor legislation is not simply imposed on the economy from external sources by governments or international labor conventions. The need for regulation is
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internal to how labor markets operate and is endogenous to the development
paths of countries. Labor laws adapt to changing circumstances. One of the
most significant changes in labor markets in recent decades is the increase in
non-standard forms of employment, such as part-time work, temporary
employment, and seasonal employment. As we can observe, while the number
of cases of these forms of employment has increased, countries are also
enacting laws to protect workers in non-standard employment, particularly by
introducing requirements for equal treatment of part-time workers with full-
time workers, as well as for permanent employees and temporary agency
workers. This is a global trend, although it is most pronounced in Europe (Adams
et al., 2015, July; Adams et al., 2019).

With the onset of the financial and economic crisis of 2008-2010, most
EU member states, especially those that had not reformed their employment
protection legislation before the crisis (unlike Germany), weakened or reduced
regulations related to individual or collective dismissals. This was sometimes
accompanied by reforms in working time schemes, atypical labor legislation,
decentralization of collective bargaining systems, reform of unemployment
insurance, and the restructuring of public services. Additionally, atypical
employment rules were reformed in countries like Poland, Portugal, Romania,
Slovakia, and Spain. Germany had initiated similar reforms earlier (the so-
called Hartz reforms from 2003 to 2005) with significant consequences for
increased employment instability and impoverishment of the working
population (Dörre & Schmalz, 2013). Other negative changes in legislation
included reforms of probationary periods (e.g., in Portugal and Romania).
Furthermore, special rules were established for small enterprises (e.g., in
England and Spain), which, in general, exempted them from the scope of
employment protection laws. Additionally, public services underwent structural
reforms as part of the European Commission's austerity program. Collectively,
these reforms, along with changes in dismissal and collective dismissal rules,
significantly eroded the protective role of labor legislation (Schömann, 2014).

However, the reforms have not lived up to the expectations of reducing
labor market rigidities and boosting economic recovery. On the contrary, the
reforms have led to highly unfavorable consequences, including instability and
impoverishment of the working population (Clauwaert & Schömann, 2012; Laulom, 2013; Cazes et al., 2012). In fact, empirical evidence suggests that reforms aimed at softening supposedly strict regulations on individual and collective dismissals, combined with atypical employment reforms, changes in unemployment benefit schemes, and restructuring of the public sector, have resulted in increased layoffs, youth unemployment, deteriorating working conditions, wage reductions, and a reduction in the guarantees established through collective bargaining. As noted by Ramaux (2012), this represents an “intellectual delay” in continuing to impose neoliberal reforms of harsh austerity and financial consolidation, despite the fact that such reforms undermine the economy and the labor market. Additionally, Barnard convincingly argues that there is a “pernicious problem with national labor law,” stemming from the ideology of right-leaning governments predisposed to deregulation, which used the crisis as a pretext for some deregulatory impulses (Barnard, 2013), as seen in the cases of the United Kingdom, Portugal, and Hungary. This aligns with a narrative of freedom that clearly favors employer engagement in ensuring employment, thereby deeply questioning worker protection in labor relations and undermining the foundations of labor law (Schömann, 2014).

The above conclusions of scientific research were developed based on the assessment of the previous global economic crisis that occurred fifteen years ago. As the results demonstrate, neither the affiliation to the legal family of labor law nor the normative traditions of employment regulation, nor the established traditions of worker social protection, are determining factors in addressing negative economic circumstances. Instead, the effectiveness of legal regulatory intervention takes precedence (Khamzina & Buribayev, 2020). At the same time, labor law liberalization during crises leads to negative social consequences in the labor market, such as an increase in unemployment.

Studies like “The Impact of Labor Legislation Liberalization on the Quality of Work Life (as exemplified by Russia and Kazakhstan) (Golovina, 2021) and others (Ismoilov, 2020, 2021; Djankov & Ramalho, 2009) indicate that labor law liberalization often results in increased labor market flexibility. However, it can also contribute to employment instability and the growth of temporary or informal employment, potentially leading to increased unemployment.
Therefore, we arrive at a well-founded position that, in the context of Kazakhstan’s socio-economic and legal development over 32 years of independence, labor law liberalization has been associated with an increase in the unemployment rate. In contrast, codification, standardization, and the implementation of strict regulation of labor relations have been accompanied by a significant decrease in the unemployment rate and its stabilization. Thus, strengthening disciplinary responsibility cannot be considered an independent factor influencing the labor market; this influence occurs through a series of mechanisms, where labor discipline and mechanisms ensuring the prevention of counterproductive behavior in the workplace are important but far from the sole areas of influence.

3.4 ANALYSIS OF THE RELATIONSHIP BETWEEN LABOR DISCIPLINE, TERMINATIONS, AND LABOR COURT CASES

One aspect of the problem we are analyzing is focused on studying the relationship between labor discipline, terminations, and cases brought to labor courts. Based on the data, this study provides an analysis of how these factors influence each other and identifies key patterns and trends. Labor discipline, terminations, and legal proceedings related to labor issues are crucial aspects of the labor market’s functioning. The interconnection between these elements can offer valuable insights for employers, employees, and legislators.

According to the Labor Code of the Republic of Kazakhstan, when disputes arise between an employee and an employer regarding the application of disciplinary measures, the employee has the right to sequentially seek resolution through a specially established body for individual labor disputes – the conciliation commission, and the court. The Constitution of Kazakhstan guarantees the right to judicial protection, including in the field of social-labor relations. Challenging disciplinary measures is one of the common types of legal disputes, as well as demands considered by conciliation commissions.

The study was conducted based on the analysis of data collected from various sources, including statistical data, labor inspection reports, and judicial
statistics. The analysis covers data from the past 10 years and includes both qualitative and quantitative analysis.

For the purposes of this section of the research, we used data from the Committee on Legal Statistics and Special Records of the General Prosecutor's Office for a nine-year period, from 2015 to 2023, regarding the work of first-instance courts on claims related to social-labor disputes. However, the statistical reporting form (Form No. 2 Report on the Consideration of Civil Cases by First Instance Courts) does not provide for a separate account of the details of claims related to challenging disciplinary measures. This circumstance necessitated working with the available materials in terms of using them as the primary data source. By labor dispute, we mean any appeal to the relevant judicial authority with a claim (application) during the reporting period to resolve disagreements between an employee and an employer, including those who were previously in an employment relationship, on issues related to the application of labor legislation of the Republic of Kazakhstan, the performance or modification of agreements, labor and (or) collective agreements, and employer's acts.

According to Form No. 2 "Report on the Consideration of Civil Cases by First Instance Courts," we can closely track the procedural progress of labor disputes in courts for each reporting period. Form No. 2 allows for the classification and compilation of separate analytical material on the consideration by first-instance courts of labor disputes, which include but are not limited to the following types of labor disputes included in the statistical form: reinstatement of dismissed employees; reinstatement of dismissed employees, including payment of wages; payment of wages and other payments; challenging orders imposing disciplinary measures for corruption offenses. It is not difficult to notice that the classification of disputes presented in Form No. 2 is not entirely successful. The number of disputes about reinstatement at work is included in the number of disputes about reinstatement of dismissed employees, including payment of wages. Disputes about the payment of wages and other payments, in turn, include disputes about reinstatement of dismissed employees, including payment of wages. The criterion of Form No. 2 "the number of disputes challenging orders imposing
disciplinary measures for corruption offenses" is not very informative, as the corresponding number of applications is negligible relative to the total number of labor disputes and has little significance for conducting analytical reviews (except, perhaps, satisfying the specific interest in determining the number of challenged court orders imposing disciplinary measures for corruption offenses). Furthermore, the inclusion of this criterion in Form No. 2, without separately specifying the criterion of disputes "challenging orders imposing disciplinary measures," i.e., in the absence of coverage by statistics of a significant group of labor disputes, obscures the analytical potential of judicial statistics.

Table 1.

**Information on the consideration of labor disputes by first-instance courts (includes data from the "Labor Disputes" and "Disputes over compensation for injury or death of a citizen in connection with the performance of labor duties" columns of statistical Form No. 2 "Report on the Consideration of Civil Cases by First Instance Courts")**

<table>
<thead>
<tr>
<th>Calendar period, year</th>
<th>Number of applications regarding labor disputes received during the reporting period</th>
<th>Including About payment of wages</th>
<th>On reinstatement of dismissed employees, including payment of wages</th>
<th>Other labor requirements, including on challenging disciplinary sanctions</th>
<th>On compensation for damage to the health or death of a citizen in connection with the performance of work duties</th>
<th>Total number of applications regarding labor disputes received by the courts during the reporting period (columns 2+6)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>8822</td>
<td>3497</td>
<td>2450</td>
<td>2875</td>
<td>427</td>
<td>9249</td>
</tr>
<tr>
<td>2013</td>
<td>9492</td>
<td>3712</td>
<td>2477</td>
<td>3303</td>
<td>382</td>
<td>9874</td>
</tr>
<tr>
<td>2014</td>
<td>10033</td>
<td>4293</td>
<td>2322</td>
<td>3418</td>
<td>404</td>
<td>10437</td>
</tr>
<tr>
<td>2015</td>
<td>10120</td>
<td>4429</td>
<td>2007</td>
<td>3684</td>
<td>50</td>
<td>10170</td>
</tr>
<tr>
<td>2016</td>
<td>8498</td>
<td>4108</td>
<td>1131</td>
<td>3259</td>
<td>722</td>
<td>9220</td>
</tr>
<tr>
<td>2017</td>
<td>8445</td>
<td>4683</td>
<td>1167</td>
<td>2595</td>
<td>1493</td>
<td>9938</td>
</tr>
<tr>
<td>2018</td>
<td>8047</td>
<td>4191</td>
<td>1048</td>
<td>2808</td>
<td>429</td>
<td>8476</td>
</tr>
<tr>
<td>2019</td>
<td>7855</td>
<td>3344</td>
<td>1048</td>
<td>3463</td>
<td>469</td>
<td>8324</td>
</tr>
<tr>
<td>2020</td>
<td>7388</td>
<td>3075</td>
<td>1072</td>
<td>3241</td>
<td>297</td>
<td>7685</td>
</tr>
<tr>
<td>2021</td>
<td>7918</td>
<td>3503</td>
<td>1015</td>
<td>3400</td>
<td>1002</td>
<td>8920</td>
</tr>
<tr>
<td>2022</td>
<td>7370</td>
<td>3324</td>
<td>918</td>
<td>3128</td>
<td>373</td>
<td>7743</td>
</tr>
</tbody>
</table>
The statistical Form No. 2 used by the courts of Kazakhstan is not very informative in terms of determining information about the consideration of various types of labor disputes. In our view, Form No. 2 needs to be supplemented with criteria for lawsuits related to job transfers, changes in working conditions, as well as information about lawsuits related to the fulfillment of employment contracts. The statistical form should objectively cover the existing division of individual labor disputes and their prevalence in practice. Therefore, the optimal breakdown of the "Labor Disputes" criterion in the statistical Form No. 2 includes: reinstatement of dismissed employees; challenging disciplinary penalties; job transfers, changes in working conditions; fulfillment of employment contract terms; employee liability.

However, the available data allowed us to conduct a comparative analysis of the number of disputes and the dynamics of the content of Kazakhstan's labor discipline legislation, which shows the following results.

Firstly, strengthening the legal regulation of labor discipline, introducing detailed regulation of disciplinary measures, did not lead to a reduction in court cases.

Secondly, in the long term, strict regulation of the application of disciplinary penalties leads to an increase in the number of cases related to unfair dismissal and appeals against disciplinary penalties.

Thirdly, in the context of Kazakhstan's conditions and practices, there is no strict correlation between the severity of disciplinary measures and the frequency of appeals to the court.

Fourth. Most often, appeals to the court to challenge the application of disciplinary penalties and for reinstatement at work are related to the non-compliance with the procedures for applying disciplinary penalties, including termination initiated by the employer.

Fifth. Our research has shown that court decisions on appeals against disciplinary penalties often influence subsequent personnel management practices in companies, affecting how employers address labor discipline issues. In other words, judicial practice and its corresponding reviews become
benchmarks for the application of labor legislation in enterprises and institutions.

Our study highlights the importance of compliance with labor legislation and fair treatment of employees to prevent legal disputes. To reduce legal disputes, it is necessary to strike a balance between the severity of disciplinary measures and the protection of workers’ rights. The research findings can be used to develop more effective human resource management strategies and improve labor legislation.

4 RESULTS AND CONCLUSION

Kazakhstan’s labor legislation governing disciplinary responsibility has undergone several stages of reform since the country gained independence. These legislative changes reflect significant shifts in the state’s approach to disciplinary responsibility and mirror the country’s socio-political and economic development.

The first stage, from 1991 to 1999, was marked by the dismantling of the planned socialist economy and the transition to a market economy. During this period, the country’s economy experienced stagnation. One of the priorities of state policy was the necessity to establish the institution of private property as a fundamental element of market relations. The state adopted privatization of state property as a tool to achieve this goal, which was the only existing form of property involved in economic activities at that time. Consequently, there was a significant change in the structure of labor relations: instead of essentially having a single employer represented by the state, new property owners emerged who simultaneously became employers. Wage labor lost its mandatory characteristic of collective organization, professional unions began to rapidly lose their previously held positions, and the regime of legality in labor relations was not fully ensured. During this period, labor discipline was regulated by the Labor Code of the Kazakh SSR (established by the Law of the Kazakh SSR dated July 21, 1972. Repealed by the Law of the Republic of Kazakhstan dated December 10, 1999, No. 494), which was characterized by relative leniency towards labor discipline and disciplinary offenses by workers,
as well as formalism in enforcing discipline rules. Paradoxically, this state of legislation contributed to the liberalization of wage labor and the involvement of a significant number of citizens in labor relations under new ownership.

The second stage, from 2000 to 2006, is characterized by macroeconomic and political stabilization and economic growth. During this period, the Law of the Republic of Kazakhstan of December 10, 1999, N 493 "On Labor" was in effect, which was the most liberal basic labor law in the entire legal history of Kazakhstan. The new conditions for the formation of new property owners and new labor relations required the creation of maximally comfortable conditions for employers, including in terms of freedom to terminate employment contracts and impose disciplinary responsibility on employees. The main purpose of the "On Labor" Law was to consolidate the transition from socialist labor legislation, adopted within the framework of strict state regulation of the economy and the presence of virtually one employer - the state, to new labor legislation that would adequately respond to the requests of actively forming market relations. In the era of the very first steps towards a market economy, capital accumulation, and the privatization process of state property, another law would have hindered the construction of a capitalist structure of the country's economy.

The third stage, from 2007 to 2015, is characterized by the entry into force of the first Labor Code of the Republic of Kazakhstan of May 15, 2007, No. 251-III, as well as comprehensive economic and political stabilization. In the development of the Labor Code of the Republic of Kazakhstan, a very complex task was solved: on the one hand, to create legal bases for the self-regulation of labor relations with minimal participation of the state in these processes, and on the other - to preserve the established high level of legal protection and guarantees of labor rights for workers, previously provided by the state.

It must be acknowledged that the 2007 Code had a number of important innovations, such as the formation of institutions of social partnership, its principles, bodies, mechanisms of conducting collective negotiations, etc. The Code introduced certain innovations in regulating wages, its standardization, as well as providing guarantees and compensations. Among the positive aspects of
the Code, one could also include the inclusion of norms regulating the protection of labor rights of workers and the resolution of labor disputes; issues of subjecting workers to disciplinary responsibility and their dismissal for violations of internal labor regulations were detailed. This codified law, at the time of its adoption, was considered transitional, contributing to further economic development of the country during the transition period, when it was especially necessary to ensure a balance of interests between workers, employers, and the state, and to provide a high level of social guarantees to workers.

The fourth stage, from 2016 to the present, is characterized by the implementation of deep social, political, and economic reforms, and economic growth. Reforming all spheres of public life and ensuring economic growth required flexible regulation of labor relations, stimulating employers (both large and small) to develop businesses and strive to preserve existing jobs. Maintaining a high level of social guarantees for workers was seen as an obstacle to innovative economic development, a restraining factor for further development of the labor market, the emergence of new jobs, and the creation of effective employment. The 2007 Code was mainly oriented towards large enterprises in traditional industries; it does not meet modern realities and does not take into account the active development of new diverse forms of involving citizens in labor activities.

At the fourth stage, the current Labor Code of the Republic of Kazakhstan came into force. Accordingly, the legal regulation of labor relations became more flexible and dynamic, with a greater role given to collective-bargaining relations, but with the preservation of legislative and supervisory functions of the state as a guarantor of enshrining a minimum volume of social rights in legislation and bringing violators of legislative requirements to responsibility. The institute of labor discipline became more regulated, the requirements for its compliance increased, and the power of the employer, which includes the dismissal of employees who have committed disciplinary offenses, got expanded. The new strict legislation on labor discipline and corresponding practice, reflecting a management style with high commitment, had a limited
impact on the number of labor disputes over unfair dismissals and the application of disciplinary sanctions.

Our research shows that strengthening disciplinary responsibility and expanding the powers of employers in Kazakhstan have had a significant impact on reducing unemployment in the country. This is due to the fact that the strictest adherence to labor discipline and the real threat of dismissal significantly increase labor productivity. In conditions of strict discipline in the workplace, employees strive for higher efficiency, which contributes to strengthening the economic position of enterprises and reduces the need for staff cuts. Furthermore, the fear of losing a job makes workers less active in seeking new opportunities and demanding wage increases, leading to lower staff turnover and, consequently, a low level of unemployment. These findings confirm the hypothesis that strict discipline and pressure on workers can have a positive impact on the overall state of the labor market.

The analysis conducted of the 32-year socio-economic and legal development of Kazakhstan, our research confirms that the liberalization of labor legislation correlated with an increase in unemployment. In contrast to this, processes of codification, unification, and strict regulation of labor relations were consistently associated with a noticeable decrease and stabilization of the unemployment rate. Thus, the strengthening of disciplinary responsibility influences the labor market not in isolation, but as part of a comprehensive set of measures. In this context, strict labor discipline and mechanisms preventing counterproductive behavior at the workplace play a key role, but they are only one of many factors shaping the overall dynamics of the labor market.

Our study provided an opportunity for in-depth comparative analysis of the number of labor disputes and the evolution of the content of Kazakhstan's legislation on labor discipline, revealing several key observations. The tightening of legal regulation in the field of labor discipline and the detailing of procedures for applying disciplinary measures did not lead to a decrease in the number of legal claims. In the long term, strict norms regarding disciplinary punishments lead to an increase in the number of legal cases related to challenging unfair dismissals and disciplinary sanctions.
In the context of Kazakhstan, there is no direct correlation between the strictness of disciplinary measures and the frequency of court appeals. The majority of court appeals are related to violations of procedures for applying disciplinary sanctions, especially in cases of dismissal at the initiative of the employer. The analysis of judicial practice on disciplinary sanction cases shows that court decisions often influence subsequent approaches of companies to personnel management and the resolution of labor discipline issues. Judicial practice becomes a benchmark for the application of law at enterprises.
REFERENCES


Khamzina, Zh. A., & Buribayev, Ye. A. (2020). Improving labor legislation in the context of legal support for the process of Kazakhstan’s accession to the OECD.


Panao, R. A. L., & Leon, B. X. D. (2018). Balancing the interests of labor and capital: an empirical analysis of Philippine Supreme Court labor cases from


