

Electronic Workbooks: A Comparative Analysis of Problems and Leading Prospects

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Abstract. The purpose of this paper is to identify the prospects for the transition to electronic workbooks, based on world practices in the legal regulation of their use, and the problems of such a transition. The article analyses the practice of using electronic labour books and electronic document management in labour relations in various countries, raises the problems of using digital technologies in labour relations, and explores the feasibility of introducing an electronic work registry book.

Based on the analysis of world practices, the positive and negative sides of the electronic workbook are examined, the issues of the gradual transition to electronic workbooks and the consequences of the abolition of the traditional workbook are highlighted. We conclude that there is a need for legal revision in the field of electronic document management in the field of labour relations.

Keywords: *electronic workbooks, legal regulation, labour relations, digitalization, leadership*

1 Introduction

The objectives of the study are: to explore the international practice of applying digital technologies in labour relations (on the example of Italian and Spanish legislation); to analyse the norms of Russian legislation governing the possibility of transmitting information about labour activity in electronic form and the problems of such a transfer; identify the problems of using digital technologies in labour relations.

On June 20, 2019, at the meeting of the Presidium of the Presidential Council for Strategic Development and National Projects, the passport of the national project National Program “Digital Economy of the Russian Federation” was approved, which set the tasks of support, inter alia:

- favourable legal conditions for the collection, storage and processing of data using new technologies, in terms of establishing the procedure for anonymizing personal data, the conditions and procedure for their use, clarifying the responsibility for their inappropriate processing;
- the procedure for obtaining consent to their processing, as well as ensuring normative regulation of digital interaction between the business community and the state in terms of: recording information on the employee’s labour activity in electronic form (“electronic workbook”) and concluding, amending, terminating and storing employment contracts, introducing personnel workflow in electronic form.

As indicated in federal projects, as part of the solution of these problems, the procedure for working with consents was improved, the procedure for anonymizing personal data, the conditions and procedure for their use, and the electronic workbook and the possibility of electronic personnel document management were introduced. Today, there is a rapid development of regulatory regulation of the digital environment, caused primarily by the rapid development of information technologies and the introduction of their results in all areas of public relations.

Prior to the entry into force of the norms of Federal Law No. 439-FL "On Amendments to the Labour Code of the Russian Federation with regard to the generation of information on labour activity in electronic form" in legal science, studies of the problems of the use of electronic document management were encountered. In particular, models of an electronic workbook based on blockchain technology were proposed (Makarova and Palij

2016), prospects for the abolition of paper workbooks were considered (Hejgetova 2019), problems, advantages and effectiveness of a future personnel document accounting system were considered (Slyusarev 2018). Now, after the entry into force of this law, it became clear that the transfer of information contained in the workbook to digital media creates only an electronic analogue of the workbook, and the employer has yet another obligation to transfer reports to the Pension Fund. In addition, statistical and analytical data were analysed.

The creative idea (research design) is to analyse the prospects for the transition to the creation of electronic databases on human labour activities, and in the case of Russian legislation at this stage there is simply a new reporting, the main task of which is to replace the workbook. The research design is based on a comparative legal analysis of Russian and foreign legislation, fixing the procedure for creating information databases on labour activity. In the research process, a formal legal method was used, based on which contradictions and uncertainties of Russian legislation were revealed, entailing problems of the creation and functioning of an information system about labour activity. The comparative legal method was the basis for the study of the legal experience of other countries regarding the creation of information databases on labour activity. The empirical basis of the study was the legislation of Russia, Spain, Italy, as well as legal and other practice of using information resources in the field of labour. The methods of analysis and synthesis, deduction and induction were applied.

2. International experience in creating information databases on labour activity

The foundations of the legal regulation of electronic document management in labour relations were laid down by Decree of the President of the Russian Federation dated 09.05.2017 No. 203 "On the Strategy for the Development of the Information Society in the Russian Federation for 2017 - 2030", in which the formation of a new technology is indicated as a priority in the development of the information society basis for the development of the economy and social sphere. Among the main tasks of applying information and communication technologies for the development of the social sphere, public administration system, interaction between citizens and the state, the development of electronic interaction technologies of citizens, organizations, state bodies, local governments is mentioned along with maintaining the possibility of citizens interacting with these organizations and bodies without using information technology.

One of the directions for the introduction of electronic document management in labour relations is the use, along with a paper workbook, of information on labour activity that is transmitted by the employer to the information system of the Pension Fund of the Russian Federation. Information will be transmitted in a specially approved form. At the time of writing, the Pension Fund of the Russian Federation submitted for public discussion the developed form of SZV-TD.

The practice of replacing a workbook with an information base is not new. For example, Spanish law provides for the maintenance of the Vida Laboral electronic system (work life), in Slovenia the labour books of citizens are replaced by the Pension Fund base, in Italy by the labour information system (Sistema Informativa Lavoro). Consider the main points of foreign experience.

The Spanish system is an electronic database that contains all the aspects of a person's labour activity necessary for social insurance. The Vida laboral report is a document containing information on labour activities, including the name of the employer, the start and end dates of the labour contract, its type, number of working days. As a rule, they resort to requesting a report on labour activity in order to apply for benefits, calculate the time remaining until retirement, prepare a resume, and submit it to some state bodies. Information from it can be obtained by an employee independently in electronic form, having a digital certificate. In his absence, a report on labour activity is sent by mail. In case of errors, the employee can report this using the service Request for correction of the report on working life. When accessing without an electronic digital certificate, all data must match the data of the Main Treasury of Social Security.

Four ways to obtain: using a digital electronic certificate Certificado digital; using the key Usuario + Contraseña; by e-mail within 24 hours (receiving by other methods occurs instantly); Via SMS using the mobile phone number used to authenticate. A social security number is also provided for information.

In Italy, there is a labour information system (Sistema Informativa Lavoro) - the Unified Employment Book (hereinafter - LUL), the main purpose of which is to document each individual labour relationship. For supervisors, this information system is a means of monitoring the actual employment of each employer. Employers must compile and maintain a single book of employment for all employees, both temporary and permanent (Secci 2018).

LUL can be saved through: processing and mechanic and graphic printing on continuous sheets by numbering each page and confirmation performed before commissioning INAIL; alternatively, by numbering and confirmation performed by entities authorized by INAIL, in continuous printing; laser printing: in this case, INAIL prior authorization is required to print and generate automatic numbering; on magnetic media (each record is a computer document, and compatibility, consistency and integrity of data along with a chronological sequence of operations are guaranteed): in this case there is no need for approval and authorization, but this requires a preliminary written message to the territorial labour inspectorate, in whose the competence is the employer.

Entries in the LUL are made by the end of the month following the reporting one. Storage is carried out by the employer, in specialized authorized centres, service and assistance centres of trade associations, which are required to store it for five years from the date of last registration (Secci 2018).

LUL must be kept confidential. In case of request for information by supervisory authorities, it should be immediately submitted by fax or e-mail. If the LUL is maintained by an employment consultant, other specialist or association, information from the LUL must be submitted no later than 15 days from the time of the request (Cancellieri 2018).

The following information is entered into the LUL about each employee, including those working abroad: personal data, qualification information; information about wages: information about experience; information about deductions, tax deductions; information about benefits received from the employer, social benefits. LUL should also contain an attendance calendar: opening hours; overtime; absenteeism hours, such as holidays and vacations. The LUL must be completed for each reporting month by the end of the next month: for example, in the case of November, the LUL must be completed by December 30.

Starting January 1, 2020, in the Russian Federation, the individual personal account of each insured in the compulsory pension insurance system will be supplemented by the section "Information on labour activity", the contents of which will be filled out by transmitting reports by employers in the form of SZV-TD, the main function of which will be transferring to the Pension Fund RF information on the labour activity of workers. In turn, Italy abandoned the practice. In this country, since 2019, LUL should have been maintained online at the Ministry of Labour and Social Policy, in accordance with legislative act n. 151/2015. Nevertheless, on October 15, 2018, an act was adopted that simplified this procedure: the entry into force of electronic LUL was cancelled, thereby avoiding the unnecessary burden for companies and consultants. In particular, the Act of 2018 abolished Art. 15 of the legislative decree n. 151 of September 15, 2015, which contained a rather complicated procedure for maintaining a telematic LUL. Thus, it was not LUL itself that was abolished, but only its introduction in electronic format from January 1, 2019.

3. Electronic workbooks in the Russian Federation

From January 1, 2020, electronic work books were introduced in Russia as a result of the adoption of Federal Law of 16.12.2019 N 439-F3 "On Amendments to the Labour Code of the Russian Federation regarding the generation of information on labour activities in electronic form". This is a new format for a document well known to working Russians. The ongoing transformations of labour legislation are very large-scale and affect the interests of every able-bodied citizen of Russia. And, in addition, inevitably affect the structure and content of social relations in the world of work.

The Labour Code of the Russian Federation is supplemented by Art. 66.1, according to which information on labour activity includes information on the seniority of the employee, about himself, the work he performs, transfers to another permanent job and dismissal, the grounds for termination of the employment contract. Such information the employer will be required to transmit to the RF PF information system. In addition to changing the Labour Code of the Russian Federation, the Federal Law of the Russian Federation of 01.04.1996 No. 27-FL On Individual (Personified) Accounting in the Compulsory Pension Insurance System is subject to change.

It must be understood that the "electronic workbook" is a conditional concept. All data on the labour activity of Russians will be stored in the information system of the Pension Fund in the personal account of the insured in electronic form.

From January 1, 2020, the employee has the right to write a statement on the maintenance of the workbook on paper. If the employee has not written this application, from January 1, 2021, the employer issues the labour book for storage to the employee and is released from liability for its storage. The formation of information on labour activity in the form of an electronic document is carried out by the employer using software and hardware tools used by him to automate his activities, or using the electronic service provided by the Pension Fund of the Russian Federation.

The transfer of information is carried out within the framework of the existing format for the interaction of companies with the territorial bodies of the Pension Fund. At the same time, the fund has already developed forms by which the employer will transmit information about labour activity and give it to the employee.

According to the established form, the RF PF will need to submit information about all hired and dismissed employees, as well as about those with whom personnel changes occurred (for example, a transfer). This will need to be done monthly until the 15th day of the month following the reporting month, reflecting information only about employees whose personnel changes were made in the past month. Since 2021, information on admission and dismissal will have to be reported within a business day following the publication of the relevant order.

The employer will accept this information from the new employee in hard copy or as an electronic document authenticated with a digital signature. The personnel service must enter data into the personnel records system and replenish them as labour relations develop. In the event of dismissal, the employer will be required to issue an employee with a document containing information on seniority.

Thus, from January 1, 2020, an alternative version of the paper labour book has appeared - information about the labour activity of workers stored on the information resources of the Pension Fund of the Russian Federation (Krashennikov et al. 2019). The amendments to the Labour Code of the Russian Federation provide the following benefits:

- safety of personal data in a single information system of the FIU;
- additional employment opportunities for remote workers due to the ease of interaction with the personnel service of the employer;
- reduction of costs for the employer and employee during employment due to the convenience and speed of obtaining information, reduction of paper workflow.

However, the new norms do not solve the eternal problem of liability for making an inaccurate, invalid or erroneous entry in information about the employee's labour activity. The provisions of the law provide for the possibility of correcting the information entered, but only upon the written application of the employee and only by the employer, who, upon receipt of the application, is obliged to correct or supplement the record and transfer the relevant information to the Pension Fund. And whether the Pension Fund of the Russian Federation will have the authority to annul suspicious workbooks in the future (Tereshchenko 2016).

4. Problems and prospects of transition to electronic workbooks

Supporters of the abolition of work books emphasize that in the structure of modern Russian labour relations, the work book has completely lost its meaning, has exhausted its purpose and has fully fulfilled its social and regulatory role, currently hinders the dynamic development of social relations in the world of work and should be irrevocably cancelled.

Earlier, we noted that the tasks of the digital economy are, *inter alia*, ensuring regulatory regulation of the digital interaction of the business community and the state in terms of recording information about the employee's labour activity in electronic form and introducing personnel document management in electronic form. In other words, the transition to electronic document management will facilitate the activities of only the Pension Fund of the Russian Federation: when assigning a pension there will be no need to request information from the employer - they will all be in the information base.

For employers, as Ofman, the changes introduced do not simplify the work with personnel documents. This is manifested in the fact that the refusal of at least one employee to use electronic signatures in labour relations can lead to duplication of electronic and traditional ("paper") personnel documents, which in turn can lead to additional financial costs from employers (Ofman 2018).

We believe that the digitalization of work books will allow workers to quickly access information about work activities, remotely obtain a pension according to the personal account without documentary confirmation, and to the employer to reduce the costs of purchasing, maintaining and storing paper work books and minimize errors and inaccuracies in labour information activities of workers. Employers will not need to store forms. In addition, there will be no obligation to take into account and ensure the safety of completed books (with some exceptions). Also, the probability of errors when entering information is minimized, the risk of losing the document disappears. In our opinion, these are the only pluses.

Workers, especially those who are aged, will not trust paperless documents. According to Setdarova (2013) for so many citizens, "labour" has a very important psychological significance. After all, it captures the entire labour biography of the employee, contains information about incentives, departmental and government awards, which in turn can give the right to certain benefits.

An electronic workbook - is it good or not? Of course, their digitalization will add to the hassle of employers. After all, the frequency of reporting will be quite tough. And if an employee changes several jobs during 2020? The employer transmits information on appointments, transfers, layoffs only once a month during 2020, so the employee physically will not be able to physically be able to obtain complete information about labour activity from the MFC, the State Service portal or the Pension Fund of Russia. For example, if an employee quits on April 1, 2020, the employer will only provide information about this on May 15, 2020. From this moment, it will be possible to see these data in the information on the employee's labour activity. A month and a half before the transfer of information, you can probably change several jobs.

There are a number of problems in terms of filling the database with a view to its further correct operation (Poluboyarov 2019). Here are some statistics. According to Rosstat (2019) in the second quarter of 2019, 6.7% of the payroll employees were hired, 7.3% of the payroll employees left for various reasons. That is, these are 2,242.5 admissions and 2,424.0 dismissals without regard to small businesses. As of July 2019, the number of employees amounted to 71.6 million people, and no one counted how many entries in each of them were in the workbook.

The digitization of work does not solve the problem of staff recruitment: it is possible to verify whether a candidate meets the requirements of the employer and his resume legally only when he is employed, when the

employee is required to submit either a work book or information about work. In principle, this problem also existed with paperwork books, but if we consider digitalization as a new and modern phenomenon, then in relation to labour activity, only a paper document is replaced by an information system.

Another problem is the security of the information system of information on labour activity. According to InfoWatch (2019) in 2018, 270 information leaks were recorded in the Russian Federation, of which 80.2% were personal data leaks, 77.9% of leaks were caused by an employee. 90.5% of all leaks occurred as a result of the activities of internal violators. By type of incident, a simple unskilled leak amounted to 71.1%. As for information leakage channels, 42.7% of leaks occurred from networks and 44.6% from paper media. Therefore, the argument in favour of the electronic workbook as a more reliable means of storing information about labour activity, in our opinion, is untenable. According to the InfoWatch report (2019) in the first half of 2019, the trend, a year earlier, continued to tighten the regulation of the sphere of information security, certain procedures related to the transfer, storage, processing of information of limited access by government agencies around the world. Hence the noticeable increase in the number of fines for leaks of confidential data, primarily user information. According to preliminary InfoWatch data, in 2019 the number of registered information leaks from commercial companies and government organizations around the world increased by about 10% compared to 2018 (InfoWatch 2019). In Russia, the number of leaks per year increased by more than 40%, the number of compromised records increased about six times and amounted to about 170 million.

5. Discussion

We can conclude with the introduction of electronic workbooks, electronic document management, problems of a technical, legal and practical nature may arise. They propose to solve technical problems using blockchain technologies, which are based on a distributed registry system, as well as a smart contract. However, we believe that creating a workbook using a distributed database is difficult for two reasons. Firstly, the transparency of operations carried out in the system and copying of transactions in such a way that any participant has information about the actions of other participants in the system. Secondly, each block of information is associated with the previous one and is digitally signed, which eliminates the possibility of deleting data. In the latter case, if an error is detected in the information on labour activity, it will not be possible to correct it.

As for smart contracts, their functioning takes place in a technological environment and their execution is carried out using code. All legal regulation of a smart contract is concentrated in its executable code (Galich 2018). In relation to the record from labour activity, the computer code will not be able to recognize the erroneous record. Or, for example, recognition of dismissal as unlawful by a court decision will not affect the automated execution of the code.

As we see, the use of alternative methods of processing information about labour relations has several shortcomings, both legal and technical in nature (Battagin et al. 2011). The study showed it is too early to talk about the pros and cons of the transition to the digitalization of labour activity. As stated in the explanatory note to the draft federal law, its adoption will increase the level of safety of information about labour activity, simplify the employment procedure for employees in terms of interaction with the personnel service of the employer, and reduce the costs of the employer and employee associated with employment, but what will all this be provided for while there is no clarity?

6. Conclusions

Thus, we can conclude the ongoing changes in labour legislation are quite serious and concern the interests of a significant number of citizens, namely, working able-bodied citizens, and, of course, have an impact on social and labour relations.

One of the directions of introduction of electronic document management in labour relations is the use of information about labour activity, which is transmitted by the employer to the information system of the Pension Fund of the Russian Federation, along with a paper work record.

The process of digitizing workbooks has several positive and negative aspects. Supporters and opponents of the introduction of electronic workbooks support the opposition, offering arguments for and against. Nevertheless, the fact remains, and a few consistent actions have already been taken in this direction. It is important that the transition to electronic workbooks is gradual. In the future, employers will be able to register new employees exclusively using electronic workbooks.

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