

Labor disputes in international practice: Examples from Poland, Germany, and the USA

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Abstract: This study aims to identify effective labor dispute resolution practices in other countries that can be adapted to improve the legal system of Kazakhstan. The study uses a formal legal method to examine the legal regulation of labor dispute resolution, a statistical method for data collection and analysis, and a comparative method to compare international experience with Kazakh practice. As a result, the main problems in the field of labor dispute resolution are analyzed and highlighted,

including difficulties with the accessibility and effectiveness of judicial procedures and insufficient use of alternative dispute resolution methods such as mediation and arbitration. In addition, the study's main results show that Poland, Germany, and the United States have different but effective approaches to resolving labor disputes. Mediation and arbitration are actively used in Poland, which helps reduce the courts' burden and quickly resolve conflicts. Germany stands out for its system of labor courts, which specialize exclusively in labor disputes and ensure high efficiency in their resolution. In the United States, the National Labor Relations Board (NLRB) plays a key role, effectively monitoring compliance with labor laws and resolving labor disputes through administrative procedures. Based on international experience, recommendations are formulated to improve legal practice in Kazakhstan, including introducing and supporting mediation, creating specialized judicial structures, and strengthening the institutional framework for effective management and resolution of labor disputes.

Keywords: Legislative reforms. Mediation. Arbitration. Collective bargaining. Workers' rights. Trade unions.

Contents: 1 Introduction – 2 Materials and Methods – 3 Results – 4 Discussion – 5 Conclusions – References

1 Introduction

In the context of a rapidly changing economic environment and active integration processes, effective resolution of labor disputes is of critical importance for ensuring the sustainable economic development of Kazakhstan. Examining international experience in this area is necessary not only to adapt best practices but also to harmonize Kazakh legislation with international standards. Notably, effective resolution of labor disputes contributes to economic development and plays a critical role in strengthening workers' rights. In addition, improved working conditions and fair dispute resolution contribute to social stability and create a favorable environment for productivity growth and innovation, which ultimately benefits public welfare and the quality of life of citizens. However, in the context of investigating the mechanisms for resolving labor disputes, some problems require further research.

One of the main problems is the limited access to judicial procedures for low-paid and unskilled workers, especially in remote and sparsely populated areas.¹ This disparity in access to justice leads to the fact that many labor disputes remain unresolved or are resolved against vulnerable categories of workers, which undermines confidence in the legal system and contributes to social injustice. Analyzing this problem, Benjawan Tangsatapornpan² emphasizes that traditional dispute resolution methods may be ineffective and insufficiently accessible to many

¹ SPYTSKA, Liana. Analysis of the most unusual court decisions in the world practice in terms of the right to justice. *Social and Legal Studies*, vol. 5, no. 4, pp. 39-45, 2022. DOI: <https://doi.org/10.32518/2617-4162-2022-5-4-39-45>

² TANGSATAPORNPAN, Benjawan. The future of work and labour dispute settlement. *Thai Legal Studies*, vol. 2, no. 1, pp. 90-116, 2022. DOI: <https://doi.org/10.54157/tls.257801>

workers and suggests using modern technologies to increase the accessibility of justice, such as online platforms for filing complaints and managing cases. Hiba Hafiz³ focuses on the need for systemic reforms in the legal regulation of labor relations to eliminate inequality among vulnerable workers, including the creation of specialized institutions for the provision of legal services and consultations. In addition, the study by Nguyen Nang Quang⁴ should be noted, which identified substantial gaps in judicial methods for resolving individual labor disputes, especially in remote areas where there are no specialized courts and qualified lawyers, as well as insufficient efficiency in the execution of court decisions. Despite the comprehensive analysis of the problems by the authors, some aspects that require further research remain unresolved, namely, the issues of interaction between different levels of the legal system and state institutions in the process of resolving labor disputes have not been examined in detail, which could identify structural problems and suggest ways to solve them.

Insufficient quality of legal assistance and consultations for employees is another serious problem that complicates the process of protecting their labor rights.⁵ This may be due to a shortage of qualified lawyers specializing in labor law. This often results in workers lacking the necessary support during complex and lengthy processes to safeguard their rights, thereby decreasing their chances of a fair dispute resolution and enhancing inequality in labor relations. Jieren Hu and Daniel Martin,⁶ considering mechanisms for resolving labor disputes and protecting the rights of migrants, emphasize the need to improve legal support for this category of workers, noting that many of them do not know their rights and cannot use them due to the lack of accessible and understandable legal information.

Alissa Klots,⁷ in turn, assesses the impact of class and gender aspects on the ability of employees to defend their labor rights, noting that legal aid is often insufficiently qualified or absent at all, which exacerbates the vulnerability of

³ HAFIZ, Hiba. Structural labour rights. *Michigan Law Review*, vol. 119, no. 4, pp. 651-728, 2021. DOI: <https://doi.org/10.36644/mlr.119.4.structural>

⁴ QUANG, Nguyen Nang. 2023. Resolution of individual labour disputes by court method – Theory and practice. *International Journal of Learning and Development*, 13(4) 72-82. DOI: <https://doi.org/10.5296/ijld.v13i4.21571>

⁵ RYSKALIYEV, Dauletbai U.; ZHAPAKOV, Sabyrzhan M.; APAKHAYEV, Nurlan; MOLDAKHMETOVA, Zhanar; BURIBAYEV, Yermek A.; KHAMZINA, Zhanna A. Issues of gender equality in the workplace: The case study of Kazakhstan. *Space and Culture, India*, vol. 7, no. 2, pp. 15-26, 2019. DOI: <https://doi.org/10.20896/saci.v7i2.450>

⁶ HU, Jieren; MARTIN, Daniel. Labour dispute resolution and migrant workers' legal rights protection in China. *Chinese Journal of International Review*, vol. 2, no. 1, Art. no. 2050004, 2020. DOI: <https://doi.org/10.1142/S2630531320500043>

⁷ KLOTS, Alissa. Just like any other worker? Class, gender, and labour rights. In *Domestic Service in the Soviet Union: Women's Emancipation and the Gendered Hierarchy of Labour*. Cambridge: Cambridge University Press, pp. 64-91, 2024. DOI: <https://doi.org/10.1017/9781009467193.006>

workers. The study by Zachary R. Calo⁸ emphasizes the importance of a systematic approach to the protection of labor rights, also noting the insufficient quality and accessibility of legal aid, ignorance of legal mechanisms by employees, as well as the inefficiency of labor dispute resolution systems due to bureaucratic obstacles and corruption. However, despite the important conclusions of the authors, the role of trade unions and other civil society organizations in providing legal support and protecting workers' rights has not been sufficiently analyzed. In addition, it is crucial to consider the experiences of other countries that have successfully implemented innovative approaches to provide affordable and high-quality legal assistance to employees.

Another problem is the high level of corruption and inefficiency of judicial processes, which undermines confidence in the justice system and fairness in labor disputes. In the context of this problem, the paper of Mary Wanjiru,⁹ analyzes the impact of international trade agreements on labor standards and workers' rights, stressing the importance of harmonizing national legislation with international standards to improve working conditions and protect labor rights. Therewith, Yu Bai et al.,¹⁰ highlighting the same issue, explore how disclosure of information about corruption affects the protection of labor rights, emphasizing that transparency and anti-corruption measures improve legal mechanisms for the fair resolution of labor disputes. Despite the important conclusions drawn in the studies by the authors, several aspects have not been considered and require further research. In particular, it is necessary to examine specific methods and tools that can be implemented to increase the transparency of judicial processes in labor disputes and assess their practical effectiveness in various jurisdictions.

An analysis of these authors' studies leads to the conclusion that many aspects remain unresolved in the context of investigating mechanisms for resolving labor disputes. Therefore, the purpose of this study was to compare the international experience in resolving labor disputes with the legal system of Kazakhstan to develop recommendations for improving mechanisms for the protection of labor rights. The study aimed to achieve the following primary objectives:

- analysis of the legal system of Kazakhstan and identification of problems in the field of labor disputes;

⁸ CALO, Zachary R. Labour rights and dispute system design: Assessing the legal legacy of the 2022 Qatar World Cup. *German Law Journal*, vol. 24, no. 9, pp. 1729-1739, 2024. DOI: <https://doi.org/10.1017/glj.2023.122>

⁹ WANJIRU, Mary. The role of international trade agreements in shaping labour standards and worker rights. *International Journal of Law and Policy*, vol. 9, no. 1, pp. 38-48, 2024. DOI: <https://doi.org/10.47604/ijlp.2646>

¹⁰ BAI, Yu; LI, Yanjun; UMER, Hamza. Corruption disclosure and its impact on labour-related actions. *SSRN Electronic Journal*, 2024. DOI: <https://doi.org/10.2139/ssrn.4737238>

- examination of labor dispute resolution mechanisms in other countries;
- comparison of international experience with practice in Kazakhstan to identify areas for improvement;
- development of recommendations to improve the system of labor dispute resolution in Kazakhstan based on international experience.

2 Materials and Methods

A formal legal method was used to study the legal regulation of labor dispute resolution in the Republic of Kazakhstan, which included a comprehensive review of legislative acts and an analysis of judicial practice. Within the framework of this method, the Constitution of the Republic of Kazakhstan¹¹ and the Labor Code of the Republic of Kazakhstan¹² were analyzed. In addition, related regulations governing labor relations and the resolution of labor disputes were included in the analysis, such as the Law of the Republic of Kazakhstan No. 211-V “On Professional Unions”¹³ and the Law of the Republic of Kazakhstan No. 314-V “On Minimum Social Standards and Their Guarantees”.¹⁴ Special attention was paid to the compliance of national legislation with international labor law standards. Within the framework of this method, a thorough analysis of the decisions of the labor dispute courts was conducted to identify typical problems, systemic deficiencies, and trends in law enforcement. The analysis of judicial practice included a study of precedents and a synthesis of court decisions that were described by the Supreme Court of the Republic of Kazakhstan¹⁵ to understand how courts interpret and apply labor legislation in practice. This allowed the identification of not only theoretical aspects but also practical problems faced by employees and employers in the process of resolving labor disputes. This approach provided a comprehensive understanding of current issues and allowed the development of recommendations for improving the mechanism for resolving labor disputes in Kazakhstan, considering both legislative and practical aspects.

¹¹ CONSTITUTION OF THE REPUBLIC OF KAZAKHSTAN. 1995. Retrieved from https://www.akorda.kz/kz/official_documents/constitution

¹² LABOUR CODE OF THE REPUBLIC OF KAZAKHSTAN. 2015. Retrieved from <https://adilet.zan.kz/eng/docs/K1500000414>

¹³ LAW OF THE REPUBLIC OF KAZAKHSTAN NO. 211-V “ON PROFESSIONAL UNIONS”. 2014. Retrieved from <https://adilet.zan.kz/eng/docs/Z1400000211>

¹⁴ LAW OF THE REPUBLIC OF KAZAKHSTAN NO. 314-V “ON MINIMUM SOCIAL STANDARDS AND THEIR GUARANTEES”. 2015. Retrieved from <https://adilet.zan.kz/eng/docs/Z1500000314->

¹⁵ SUPREME COURT OF THE REPUBLIC OF KAZAKHSTAN. *Bulletin of the Supreme Court of the Republic of Kazakhstan*, vol. 7, no. 2023, 2023. Retrieved from https://sud.gov.kz/sites/default/files/pagefiles/byulleten_no_7_2023_g.pdf

The comparative method used in this study included a comprehensive analysis of various approaches to resolving labor disputes, and the main regulations governing these approaches were studied, namely in Germany – the Dismissal Protection Act,¹⁶ in Poland – the Act of Labor Code,¹⁷ and in the USA – the National Labor Relations Act.¹⁸ These countries have “different but effective approaches to resolving labor disputes” that could provide useful insights for improving the mechanisms in Kazakhstan. The examination of the practical implementation of mechanisms for resolving labor disputes through judicial and administrative procedures was the focus of the study. The analysis included an assessment of the effectiveness of institutional mechanisms such as mediation, arbitration, and specialized labor courts in the context of their impact on the fairness of labor conflict resolution and the protection of workers’ rights. The use of this method allowed identifying the strengths of each of the systems under consideration, as well as their applicability and potential for adaptation in the context of Kazakh practice. In particular, the issues of accessibility of legal aid, the timing of dispute resolution, the level of corruption, and public confidence in the justice system were highlighted.

Specifically, Germany stands out for its system of specialized labor courts, which ensure a high degree of efficiency in resolving labor conflicts. Poland is highlighted for its focus on out-of-court dispute resolution through mediation, which helps maintain working relationships and avoid lengthy litigation. The USA is examined for its use of collective bargaining, mediation, and the role of the National Labor Relations Board in monitoring compliance with labor laws and resolving disputes through administrative procedures. This approach facilitated the systematization and comparison of various approaches to labor relations regulation, enabling the formulation of recommendations for enhancing Kazakhstan’s legal system, drawing from international experience and best practices from other nations.

A statistical method was used to analyze data on labor disputes in Kazakhstan. In the course of the study, data on the number of filed and considered cases for 2021-2022, their types and characteristics, and the results of dispute resolution were collected and systematized.¹⁹ The analysis was conducted based on statistical indicators, such as the average time for dispute resolution and their

¹⁶ DISMISSAL PROTECTION ACT. 1969. Retrieved from <https://www.gesetze-im-internet.de/kschg/BJNR004990951.html>

¹⁷ ACT OF LABOUR CODE. 1974. Retrieved from <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19740240141/U/D19740141Lj.pdf>

¹⁸ NATIONAL LABOUR RELATIONS BOARD (NLRB). 1935. National Labour Relations Act. Retrieved from <https://www.nlr.gov/guidance/key-reference-materials/national-labour-relations-act>

¹⁹ SUPREME COURT OF THE REPUBLIC OF KAZAKHSTAN. *Bulletin of the Supreme Court of the Republic of Kazakhstan*, vol. 7, no. 2023, 2023. Retrieved from https://sud.gov.kz/sites/default/files/pagefiles/byulleten_no_7_2023_g.pdf

effectiveness, which allowed identifying key trends and problematic aspects in the functioning of the labor conflict resolution system. Additionally, this method allowed for the identification of the most common dispute types, the duration required for their resolution, and the factors that significantly impact case outcomes. This information served as the foundation for formulating recommendations aimed at enhancing the labor conflict resolution system.

3 Results

Labor disputes in Kazakhstan represent an important area of legal and social relations affecting the interests of both employees and employers. In the context of economic changes, the growing number of entrepreneurial initiatives, and the desire to improve working conditions, the need for effective resolution of labor conflicts becomes evident. Labor disputes are often related to key aspects of labor relations, such as compliance with working conditions, timely payment of wages, and protection of labor and workers' rights. Their effective resolution contributes to social stability, increased productivity, and trust between employees and employers. Given the ongoing reforms of Kazakhstan's legal system and the desire to integrate with international standards, the examination of labor dispute resolution mechanisms is an important step to creating a fair and effective labor relations system.

Labor relations in the Republic of Kazakhstan are mainly regulated by the Constitution of the Republic of Kazakhstan,²⁰ Labor Code of the Republic of Kazakhstan No. 414-V,²¹ and the Law of the Republic of Kazakhstan No. 211-V "On Professional Unions"²² and Law of the Republic of Kazakhstan No. 314-V "On minimum social standards and their guarantees",²³ providing a legal framework for protecting the rights and interests of employees and employers. The Constitution of the Republic of Kazakhstan²⁴ enshrines the fundamental rights of workers aimed at ensuring social justice and protecting their interests. Article 24 guarantees everyone the right to work, which includes the opportunity to freely choose a profession and occupation. The right to work also includes protection from unemployment, which

²⁰ CONSTITUTION OF THE REPUBLIC OF KAZAKHSTAN. 1995. Retrieved from https://www.akorda.kz/kz/official_documents/constitution

²¹ LABOUR CODE OF THE REPUBLIC OF KAZAKHSTAN. 2015. Retrieved from <https://adilet.zan.kz/eng/docs/K150000414>

²² LAW OF THE REPUBLIC OF KAZAKHSTAN NO. 211-V "ON PROFESSIONAL UNIONS". 2014. Retrieved from <https://adilet.zan.kz/eng/docs/Z140000211>

²³ LAW OF THE REPUBLIC OF KAZAKHSTAN NO. 314-V "ON MINIMUM SOCIAL STANDARDS AND THEIR GUARANTEES". 2015. Retrieved from <https://adilet.zan.kz/eng/docs/Z1500000314>

²⁴ CONSTITUTION OF THE REPUBLIC OF KAZAKHSTAN. 1995. Retrieved from https://www.akorda.kz/kz/official_documents/constitution

obliges the state to do everything to ensure full employment for the population, provide access to training and retraining, and provide social support in case of job loss.²⁵

The right to fair working conditions covers several key aspects: fair pay, reasonable working hours, the right to rest and vacation, and working conditions that meet safety and hygiene standards. These provisions are aimed at ensuring the well-being of employees and their families and creating healthy and safe working conditions.²⁶ In addition, the Constitution of the Republic of Kazakhstan²⁷ grants the right to form trade unions, which allows employees to collectively defend their interests and conduct collective negotiations with employers on working conditions, wages, and social guarantees. Trade unions play an important role in preventing labor conflicts and ensuring social dialogue. This right also includes the possibility to participate in strikes in case of violation of labor rights or working conditions.²⁸ These constitutional norms create a legal framework, which is detailed in the Labor Code of the Republic of Kazakhstan.²⁹

According to the Labor Code of the Republic of Kazakhstan,³⁰ labor disputes arise when employees and employers disagree on issues related to the fulfillment of an employment contract, compliance with labor legislation, and established labour protection standards. The main types of labor disputes are individual and collective disputes. Individual labor disputes relate to specific employees and their rights, such as non-payment of wages, unjustified dismissals, illegal transfers, and changes in working conditions.³¹ Collective labor disputes cover broader issues affecting the interests of an entire team of employees, such as violations of collective agreements, disagreement with changes in working conditions, and demands for higher wages. The statistical data of the Supreme Court of the

²⁵ APAKHAYEV, Nurlan; MADIYAROVA, Ainur S.; AIGARINOVA, Gulnar; RYSKALIYEV, Dauletbai U.; BURIBAYEV, Yermek A.; KHAMZINA, Zhanna A. Current trends of legal regulation of relationships in the social protection sphere. *Man in India*, vol. 97, no. 11, pp. 221-231, 2017.

²⁶ GERA, Anton. The right to work in international and national law in the time of globalization. *Interdisciplinary Journal of Research and Development*, vol. 11, no. 1, Art. no. S1, pp. 123-130, 2024. DOI: <https://doi.org/10.56345/ijrdv11n1s119>

²⁷ CONSTITUTION OF THE REPUBLIC OF KAZAKHSTAN. 1995. Retrieved from https://www.akorda.kz/kz/official_documents/constitution

²⁸ LAW OF THE REPUBLIC OF KAZAKHSTAN NO. 211-V "ON PROFESSIONAL UNIONS". 2014. Retrieved from <https://adilet.zan.kz/eng/docs/Z1400000211>

²⁹ LABOUR CODE OF THE REPUBLIC OF KAZAKHSTAN. 2015. Retrieved from <https://adilet.zan.kz/eng/docs/K1500000414>

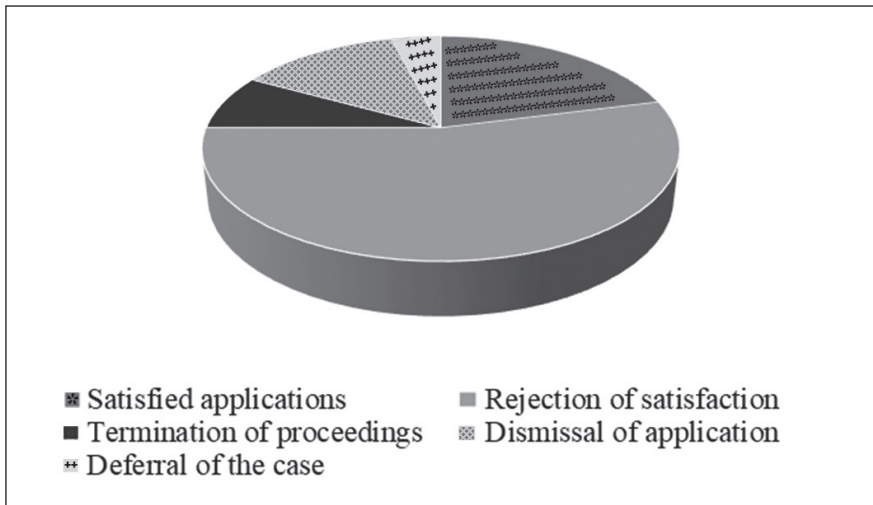
³⁰ LABOUR CODE OF THE REPUBLIC OF KAZAKHSTAN. 2015. Retrieved from <https://adilet.zan.kz/eng/docs/K1500000414>

³¹ DAUTBAYEVA-MUKHTAROVA, Erkaikratyzy; ASKAROVA, Aliya Otarbayevna; SULEYMEANOVA, Saule Zhusupbekovna. Civil law regulation of the right to life and right to health in the field of chemical safety of the Republic of Kazakhstan. *Middle East Journal of Scientific Research*, vol. 14, no. 4, pp. 502-507, 2013. DOI: <https://doi.org/10.5829/idosi.mejsr.2013.14.4.2121>

Republic of Kazakhstan³² allow objectively assessing the effectiveness of existing mechanisms for the settlement of labor disputes, both collective and individual. Based on the information received, it is possible to determine to what extent the existing mechanisms contribute to the fair and rapid resolution of labor conflicts and identify areas that require improvement to increase the effectiveness of labor rights protection.

An analysis of statistics for 2021-2022 shows a steady increase in the number of labor disputes in Kazakhstan, which indicates an increased activity of employees in protecting their labor rights. The number of claims received increased by 7.4%, from 919 in 2021 to 987 in 2022, which may indicate both the growing awareness of workers` rights and the deterioration of working conditions. The efficiency of the judicial system shows a positive trend: the share of completed cases increased from 73.4% to 76%, and the percentage of cases with a decision increased from 73.5% to 76.7%. However, despite these improvements, the decision structure remained relatively stable: about 21% of claims were satisfied, while about 53% of cases were rejected (Figure 1).

Figure 1. Statistics of decisions on labor disputes for 2021-2022



Source: compiled by the author based on Supreme Court of the Republic of Kazakhstan.³³

³² SUPREME COURT OF THE REPUBLIC OF KAZAKHSTAN. *Bulletin of the Supreme Court of the Republic of Kazakhstan*, vol. 7, no. 2023, 2023. Retrieved from https://sud.gov.kz/sites/default/files/pagefiles/byulleten_no_7_2023_g.pdf

³³ SUPREME COURT OF THE REPUBLIC OF KAZAKHSTAN. *Bulletin of the Supreme Court of the Republic of Kazakhstan*, vol. 7, no. 2023, 2023. Retrieved from https://sud.gov.kz/sites/default/files/pagefiles/byulleten_no_7_2023_g.pdf

The high level of refusals to satisfy claims indicates substantial problems in the mechanisms for protecting workers' rights. Considering these mechanisms in more detail, it can be stated that the mechanism for regulating an individual labor dispute in the Republic of Kazakhstan consists of several stages. In the first stage, the employee addresses the employer with a written claim, which allows them to try to resolve the dispute at the enterprise level. This step promotes direct dialogue between the parties and a quick settlement of the conflict. If the dispute is not resolved, the employee may apply to a conciliation commission consisting of an equal number of representatives of employees and the employer, which ensures the objectivity of the case.³⁴ The Commission is obliged to consider the claim within 15 calendar days, providing an operational solution. The employee can apply to the court in civil proceedings if they disagree with the commission's decision. The judicial review includes a detailed examination of all the circumstances of the case and the adoption of a binding decision.³⁵ An analysis of this mechanism shows that it is aimed at ensuring a balance of interests of both parties, provides an opportunity for pre-trial settlement, and includes an independent judicial assessment, which in general should contribute to protecting the rights of employees and maintaining the stability of labor relations.

However, there are several issues with Kazakhstan's mechanism for regulating individual labor disputes through conciliation commissions.³⁶ Firstly, not all workers, such as migrant workers, small enterprise employees, civil servants, and law enforcement officials, have access to these commissions. Secondly, the deadlines for applying to the dismissal commission (1 month) are considered insufficient, and there is also no clear definition of "valid reasons" for restoring missed deadlines. Furthermore, the commission lacks a standard form of agreement and clearly defined procedures for its operations. Additionally, establishing the existence of an employment relationship can be challenging, particularly when pertinent documents are missing. In addition, the lack of alternative mechanisms for pre-trial dispute resolution limits the ability of employees to protect their rights.³⁷

³⁴ ABDRASULOV, Yermek Bayakhmetovich; SHALABAEV, S.R.; MUGAUOVA, Ajnur I. Interpretation of the constitution and of law-transforming principles within activity of courts and the agency of constitutional control in the republic of Kazakhstan. *European Research Studies Journal*, vol. 18, no. 4, pp. 93-102, 2015.

³⁵ LABOUR CODE OF THE REPUBLIC OF KAZAKHSTAN. 2015. Retrieved from <https://adilet.zan.kz/eng/docs/K1500000414>

³⁶ KHAMZINA, Zhanna; BURIBAYEV, Yermek; ALMAGANBETOV, Pernebay; TAZHMAGAMBET, Amantay; SAMALDYKOVA, Zaur; APAKHAYEV, Nurlan. Labor disputes in Kazakhstan: Results of legal regulation and future prospects. *Journal of Legal, Ethical and Regulatory Issues*, vol. 23, no. 1, pp. 1-14, 2020.

³⁷ OĖLU XAMMƏDOV, Elxan Əlitahir. Procedure for out-of-court resolution of individual labour disputes. *Scientific Work*, vol. 15, no. 4, pp. 280-284, 2021. DOI: <https://doi.org/10.36719/2663-4619/65/280-284>

Examples of such problems can be found in judicial practice. The Supreme Court of the Republic of Kazakhstan³⁸ reported that there is no uniform approach to the pre-trial procedure for resolving labor disputes for civil servants and law enforcement officers in Kazakhstan. Certain courts mandated the mandatory consideration of disputes in the Conciliation Commission, a requirement that is not legally applicable to civil servants. The Ust-Kamenogorsk City Court returned the claim to the State Institution “Health Department of the East Kazakhstan region”, demanding consideration by the conciliation commission. Similarly, the court of the city of Konaev dismissed the claim against the mayor of the city, which was supported by the Supreme Court of the Republic of Kazakhstan. Various solutions were proposed, including the creation of conciliation commissions in law enforcement agencies or the introduction of mandatory appeals to higher officials. There were also questions about the deadlines for going to court and their observance in cases of labor disputes involving civil servants and law enforcement officers.

Another example is the case in 2022 when a migrant worker from Uzbekistan working at a construction site in Almaty was faced with illegal dismissal and non-payment of wages. The employer refused to pay the remaining salary for three months, citing the absence of a written employment contract and motivating the dismissal with an allegedly improper performance of duties. The migrant asked the company’s conciliation commission for help. Upon attempting to appeal to the conciliation commission, it became apparent that the company had not established a conciliation commission, despite the legislative requirements. Moreover, the migrant worker was unable to file a complaint in time due to the language barrier and lack of knowledge of their rights. When they finally received help from a local non-governmental organization and tried to initiate proceedings, the deadline for contacting the commission had already expired. Subsequently, the migrant was forced to go to court.³⁹ As a result of the plaintiff’s failure to provide evidence confirming the appeal to the conciliation commission or their failure to comply with the commission’s decision, the court returned the statement of claim to the plaintiff. These examples show how it is practically impossible for some entities in Kazakhstan to apply to conciliation commissions and how existing legal mechanisms do not always effectively protect their rights.

³⁸ SUPREME COURT OF THE REPUBLIC OF KAZAKHSTAN. *Bulletin of the Supreme Court of the Republic of Kazakhstan*, vol. 7, no. 2023, 2023. Retrieved from https://sud.gov.kz/sites/default/files/pagefiles/byulleten_no_7_2023_g.pdf

³⁹ TASYBAYEVA, Saule K. Current issues of resolving individual labour disputes. *Journal of Actual Problems of Jurisprudence*, vol. 102, no. 2, pp. 80-86, 2022. DOI: <https://doi.org/10.26577/JAPJ.2022.v102.i2.08>

The mechanism for regulating collective labor disputes in Kazakhstan is enshrined in the Labor Code of the Republic of Kazakhstan⁴⁰ and other regulatory legal acts. This mechanism includes several successive stages. First, employees make demands on the employer. Then, the employer is obliged to consider these requirements and look for ways to meet them. In cases where the positions of the parties are irreconcilable, conciliation procedures are applied, such as the formation of a conciliation commission or an appeal to labor arbitration. As a last resort, if no consensus is reached, employees have the right to strike as a measure of collective protest and protection of their interests. However, there are substantial problems with this mechanism. In particular, this mechanism imposes strict restrictions on strikes, which include an extensive list of grounds for declaring them illegal. Strict sanctions are also provided for participation in illegal strikes, including possible criminal liability. Additionally, the procedure for declaring a strike as legal requires compliance with complex formalities and procedures. The United Nations (UN) Special Rapporteur expressed concern that legal norms focus more on limiting strikes than on supporting the right to freedom of association. Additionally, the quorum requirements for deciding to hold a strike at an employee meeting and their conference differ, leading to additional challenges in organizing and conducting strikes.

The conflict in the Mangystau region between employees of West Oil Software and the employer, which began in December 2023, clearly demonstrates several serious problems in the mechanism of collectively resolving labor disputes in Kazakhstan. About 500 oil workers demanding better working conditions and transfer to a subsidiary of KazMunaiGas continue to protest, despite the recognition of the strike as illegal by the court. Dismissals of strikers, police interrogations, threats of criminal prosecution, and pressure on relatives of protesters indicate substantial shortcomings in legal and institutional mechanisms for the protection of labor rights.⁴¹ These actions exacerbate tensions, increasing the risk of escalation of the conflict and possible intervention of destructive forces, which can lead to a socio-political crisis similar to the tragic events in Zhanaosen in 2011. Such situations confirm the need to review existing procedures and ensure fairer and more effective resolution of labor disputes, both collective and individual.

It is necessary to pay attention to global practices in this area to identify ways to improve existing mechanisms. In Germany, the practice of resolving labor disputes is characterized by a high degree of organization and protection of

⁴⁰ LABOUR CODE OF THE REPUBLIC OF KAZAKHSTAN. 2015. Retrieved from <https://adilet.zan.kz/eng/docs/K1500000414>

⁴¹ KUMENOV, Akmaz. 2023. Kazakhstan: Oil workers persist with strike despite firings. Retrieved from <https://eurasianet.org/kazakhstan-oil-workers-persist-with-strike-despite-firings>

labor rights, which is the basis for stable labor relations and social harmony. The *Arbeitsgerichte* system of labor courts plays a critical role in resolving individual and collective disputes between employees and employers.⁴² These courts are specialized in labor law and have broad powers to deal with various aspects of labor disputes, including dismissals, working conditions, wages, and other controversial issues. Before going to court, the parties are also required to undergo pre-trial settlement procedures, such as mediation or consultations with trade unions, which helps prevent litigation and speeds up the dispute resolution process.

Mediation is a process in which a neutral mediator helps the parties to agree on a solution to a dispute. The mediator has specialized skills in the field of labor law and the ability to ensure a constructive dialogue between the parties. The mediator helps to identify a common point of view and find compromise solutions that satisfy both sides.⁴³ The main advantage of mediation is that it allows maintaining working relationships and preventing long and conflicting lawsuits. In addition, in Germany, workers often turn to trade unions for advice and support. Trade unions provide advice on labor legislation and can also act as intermediaries in resolving disputes between employees and employers.⁴⁴ They also play an important role in collective bargaining on working conditions and social guarantees, which helps to prevent conflicts in enterprises.

Thus, the effectiveness of German practice in the settlement of labor disputes underlines the importance of specialized labor courts, which play a vital role in ensuring a quick and fair resolution of conflicts between employees and employers. These courts not only reduce the time of proceedings due to their specialization but also provide the parties with the opportunity to peacefully resolve disputes through pre-trial procedures. This approach actively contributes to strengthening social dialogue and cooperation between the parties to labor relations, which is the basis for stability, law, and order in the modern economic and social environment. The efficient operation of specialized courts also contributes to conflict prevention and supports the conditions for sustainable business development and social well-being, which makes them an integral element of German labor law.

⁴² BERGER, Helge; NEUGART, Michael. How German labour courts decide: An econometric case study. *German Economic Review*, vol. 13, no. 1, pp. 56-70, 2012. DOI: <https://doi.org/10.1111/j.1468-0475.2011.00539.x>

⁴³ HAN, Nguyen Mai; CHAU, Mac Giang; DUY, Nguyen Bao. Perfecting the mechanism of successful mediation agreement under the laws of Vietnam and the experience of Germany, USA, Australia, and Singapore. *Journal of Law and Sustainable Development*, vol. 11, no. 10, Art. no. e1760, 2023. DOI: <https://doi.org/10.55908/sdgs.v11i10.1760>

⁴⁴ ARTUS, Ingrid; HOLLAND, Judith. Trade unions, collective bargaining and gender in Germany. In ELOMÄKI, A.; KANTOLA, J.; KOSKINEN SANDBERG, P. (Eds.), *Social Partners and Gender Equality: Change and Continuity in Gendered Corporatism in Europe*. Cham: Palgrave Macmillan, pp. 223-244, 2022. DOI: https://doi.org/10.1007/978-3-030-81178-5_10

Poland, which underwent substantial economic reforms in the early 1990s and joined the European Union, also has extensive experience in resolving labor conflicts.⁴⁵ The modern system is based on the Labor Code, which focuses on the extrajudicial settlement of conflicts. The legislation encourages parties to dialogue and compromise by offering mechanisms for conciliation procedures before going to court.⁴⁶ This approach contributes to effective dispute resolution and strengthening of working relations, reflecting changes in the country's economy and social sphere after the transition to market relations and integration into the European community.

Poland has developed a special law on collective labor disputes, which introduces the institution of mediation as an important stage in conflict resolution. This legislative act allows the parties involved in the conflict to engage neutral intermediaries, specially trained and certified in mediation, to facilitate dialogue and achieve a mutually acceptable solution. Mediators act as facilitators, helping the parties to find a common language and develop constructive solutions that consider the interests of both employees and employers.⁴⁷ The mediation system in Poland is multilevel and integrated into the overall structure of labor dispute resolution. It provides flexibility and the ability to personalize the conflict resolution process depending on the specifics of each case.

The Polish model of labor dispute settlement is characterized by an emphasis on the protection of workers' rights. The system provides for two main dispute resolution mechanisms: judicial proceedings and a conciliation procedure. Therewith, employees are given the freedom to choose the most appropriate option, which contributes to effective and fair conflict resolution.⁴⁸ The trial provides an opportunity to obtain an official decision from the court, while the reconciliation procedure encourages the parties to dialogue and compromise under the guidance of a neutral mediator.

A special feature of the Polish judicial system is the presence of specialized departments on labor law and social security at all levels – from local courts to the

⁴⁵ JABLONSKIS, Alvydas; PETERSONE, Mara; KETNERS, Karlis. Insights into the definition of customs logistics. *Intellectual Economics*, vol. 12, no. 1, pp. 16-33, 2018. DOI: <https://doi.org/10.13165/IE-18-12-1-02>

⁴⁶ GODLEWSKA-BUJOK, Barbara; WALCZAK, Krzysztof. Does care matter – The principles of the Polish labour law versus care practices. *Italian Labour Law E-Journal*, vol. 16, no. 1, pp. 95-107, 2023. DOI: <https://doi.org/10.6092/issn.1561-8048/16676>

⁴⁷ CICHOBŁAZIŃSKI, Leszek. Resolving collective disputes in Poland: A narrative perspective. In MÜLLER, A.P.; BECKER, L. (Eds.), *Narrative and Innovation: New Ideas for Business Administration, Strategic Management and Entrepreneurship*. Wiesbaden: Springer VS, pp. 119-129, 2013. DOI: https://doi.org/10.1007/978-3-658-01375-2_7

⁴⁸ KOBROŃ-GAŚIOROWSKA, Łucja. 2022. Economically dependent standard as a criterion of employment rights for semi-employed workers in Poland. *Acta Universitatis Lodzianis. Folia Iuridica*, 101, 119-131. DOI: <https://doi.org/10.18778/0208-6069.101.09>

Supreme Court. This structural distribution ensures a high level of competence in considering labor disputes, taking into account their legal and social significance. Polish legislation is aimed at facilitating workers' access to justice using several mechanisms: in addition to the possibility of filing lawsuits at the place of registration of the plaintiff, the law provides for the right to protection at the place of actual performance of work duties, which increases the availability of legal assistance. It is especially substantial that the procedural rules consider the specifics of work collectives, allowing employees without legal education to submit applications and other documents orally, which greatly simplifies the process and provides wider access to judicial protection of labor rights.⁴⁹ The Polish judicial system actively protects the interests of employees, having broad powers, including the ability to control the actions of the parties to prevent any form of infringement of labor rights. A particularly substantial aspect is the ability of courts to immediately execute decisions on payments in favor of employees, which ensures prompt restoration of violated rights and protection from possible financial losses. This comprehensive approach reflects the desire of the Polish legal system to create effective mechanisms for the protection of labor rights, considering the potential vulnerability of workers in labor relations and ensuring fairness and speed in resolving labor disputes.

In the United States, labor dispute resolution mechanisms include several key methods. First of all, collective bargaining in the United States should be noted, which is a central element of labor relations and covers a process in which employee representatives, usually unionized, and employers jointly discuss and agree on working conditions. These negotiations are conducted to conclude collective agreements that regulate a wide range of issues: wages, working hours, working conditions, benefits, and mechanisms for resolving labor disputes.⁵⁰ Regular renegotiations of contracts allow adapting working conditions to changing economic and social conditions. Mediation in the United States is used as a means of resolving labor disputes when negotiations reach an impasse. In this voluntary process, an independent mediator helps the parties find a mutually acceptable solution, avoiding going to court.⁵¹ Mediation focuses on confidentiality and the desire for compromise, which allows preserving the relationship between the parties and reducing the cost of time and resources. The mediator does not have

⁴⁹ GUTOWSKI, Maciej. Direct application of the Constitution of the Republic of Poland in judicial practice. *Legal Studies*, vol. 2, no. 226, pp. 75-105, 2022. DOI: <https://doi.org/10.37232/sp.2022i>

⁵⁰ GAMONAL, Sergio C.; ROSADO MARZÁN, César F. Principled labour law: U.S. labour law through a Latin American method. Oxford: Oxford University Press, 2019. DOI: <https://doi.org/10.1093/oso/9780190052669.001.0001>

⁵¹ KOBROŃ-GAŚIOROWSKA, Łucja. 2022. Economically dependent standard as a criterion of employment rights for semi-employed workers in Poland. *Acta Universitatis Lodzianensis. Folia Iuridica*, 101, 119-131. DOI: <https://doi.org/10.18778/0208-6069.101.09>

the right to make binding decisions but only promotes dialogue and the search for solutions that satisfy both sides. The process may include separate meetings with each party and joint sessions to discuss proposals and develop agreements.

In the case where mediation does not lead to a decision, arbitration is used. This is a more formal process in which an independent arbitrator reviews the dispute and makes a decision binding on both parties. Arbitration may be provided in advance in a collective agreement as the preferred method of dispute resolution or agreed upon by the parties in the process of conflict.⁵² Arbitrators examine the evidence presented, hold hearings where the parties can present their arguments, and decide based on facts and legislation. The arbitration differs from litigation in greater flexibility, lower costs, and speed, as well as the ability to choose an arbitrator with specialized knowledge in the field of labor law. The National Labor Relations Board (NLRB)⁵³ is a key federal body responsible for protecting workers' rights to unionize and participate in collective bargaining. This body was established in 1935 as part of the National Labor Relations Act (NLRA). The NLRB examines complaints from employees and trade unions about violations of labor laws, such as unjustified dismissal for union activities, intimidation of employees, obstruction of organized activities, or the employer's refusal to negotiate in decent faith. Employees and unions can file complaints with the NLRB's regional offices, after which investigations begin. If the investigation confirms violations, the NLRB may issue binding orders, such as reinstatement of illegally dismissed employees, payment of compensation for lost wages, or re-election of trade unions. In addition, the NLRB may require employers to stop illegal activities and fulfill obligations under collective agreements. In cases where the parties disagree with NLRB decisions, they can appeal them to federal courts, which makes this mechanism an important element of protecting labor rights and maintaining stable labor relations in the United States.⁵⁴ In addition, labor disputes⁵⁴ in the United States can be considered in courts, which provides employees and employers with the opportunity to protect their rights based on current legislation. Employees can file lawsuits on various issues, including discrimination based on race, gender, age, religion, or disability, wrongful dismissal, violation of the terms of an employment contract, and other labor offenses. Court proceedings are usually lengthy and expensive processes that require substantial financial and time resources.⁵⁵ However, the

⁵² HARTLEY, Roger C. Fulfilling the pledge: Securing industrial democracy for American workers in a digital economy. Cambridge: The MIT Press, 2024. DOI: <https://doi.org/10.7551/mitpress/15128.001.0001>

⁵³ NATIONAL LABOUR RELATIONS BOARD (NLRB). 1935. National Labour Relations Act. Retrieved from <https://www.nlr.gov/guidance/key-reference-materials/national-labour-relations-act>

⁵⁴ SZYMANSKI, Charles F. The idea of the "general clause" in American labour law. *Bialystok Legal Studies*, vol. 26, no. 2, pp. 11-49, 2021. DOI: <https://doi.org/10.15290/bsp.2021.26.02.01>

⁵⁵ SZYMANSKI, Charles F. The idea of the "general clause" in American labour law. *Bialystok Legal Studies*, vol. 26, no. 2, pp. 11-49, 2021. DOI: <https://doi.org/10.15290/bsp.2021.26.02.01>

judicial system plays an important role in ensuring justice, as courts can make decisions on compensation for moral and material damage, reinstatement at work, and the imposition of penalties for employers for illegal actions. The courts also interpret and develop labor laws, setting precedents for future cases. There are also federal and state occupational safety inspections in the United States, such as the Occupational Safety and Health Administration (OSHA), which operates under the U.S. Department of Labor. OSHA and similar government agencies monitor compliance with workplace safety and health standards. They have the right to conduct inspections of workplaces, both planned and unplanned, based on employee complaints or information about potential violations. When violations are detected, inspectors can impose fines and prescribe the elimination of detected violations. Employees have the right to report unsafe working conditions without fear of reprisals, which initiates inspections and potential corrective actions. OSHA also provides training and resources for employers and employees to help create a safe work environment and prevent injury and occupational diseases.⁵⁶ These measures contribute to improving safety standards and protecting the health of workers at the national level.

Thus, the mechanisms for resolving labor disputes in the United States create a comprehensive and multi-layered system for protecting the rights of employees and employers. These mechanisms allow for quick and effective responses to a wide range of labor conflicts, providing both administrative and legal means of resolving disputes. Based on the analysis of labor disputes in Poland, Germany, and the USA, recommendations can be made to improve the mechanisms for resolving labor disputes in Kazakhstan (Table 1).

Table 1. Recommendations for improving labor dispute resolution mechanisms in Kazakhstan

(continua)

| Recommendation | Description | Expected results |
|--------------------------------------|---|--|
| Creation of specialized labor courts | The introduction of specialized courts with judges with in-depth knowledge of labor law and experience in resolving labor conflicts. These courts will work on accelerated procedures to reduce the time of consideration of cases. | Accelerating and improving the quality of labor dispute resolution, reducing the burden on general courts, and increasing confidence in the judicial system. |

⁵⁶ BOSETTI, Luisa. Occupational safety and health administration. In IDOWU, S., SCHMIDPETER, R., CAPALDI, N., ZU, L., DEL BALDO, M., ABREU, R. (Eds.), *Encyclopedia of Sustainable Management*. Cham: Springer, p. 1-7, 2021. DOI: https://doi.org/10.1007/978-3-030-02006-4_922-1

(conclusão)

| Recommendation | Description | Expected results |
|---|---|--|
| Strengthening the system of pre-trial conflict resolution | Mandatory introduction of mediation with professional mediators before the trial. This will help the parties reach agreements in the early stages of disputes. | Reducing the number of cases reaching court, saving time and resources of the parties, reducing the cost of litigation. |
| Strengthening the role of trade unions | The expansion of the powers of trade unions, allowing them to more effectively protect the rights of workers and participate in negotiations with employers. | Improving working conditions, reducing the number of labor conflicts, and increasing social protection of employees. |
| Creation of an independent labor dispute resolution body | The creation of an independent body that will consider complaints and make binding decisions. | Ensuring objective and fair consideration of labor disputes, increasing the effectiveness of protecting the rights of both employees and employers. |
| Simplification of the procedure for employees to apply for protection of their rights | Simplify the submission of applications for employees, including the possibility of oral treatment, which will facilitate access to legal protection. | Reducing bureaucratic obstacles for employees, increasing the accessibility and effectiveness of legal protection, and expeditious dispute resolution. |
| Review of restrictions on strikes | Simplification of procedures for organizing strikes, reduction of the number of cases when they can be considered illegal, and reduction of sanctions for participation in strikes. | Protection of the right to collective action, improvement of working conditions, prevention of illegal strikes, and improvement of dialogue between employees and employers. |

Source: compiled by the author based on Dismissal Protection Act,⁵⁷ Act of Labor Code,⁵⁸ National Labor Relations Act.⁵⁹

Based on Table 1, it can be stated that to improve the mechanisms for resolving labor disputes in Kazakhstan, the following is necessary:

1. Creation of specialized labor courts. It is advisable to create specialized labor courts following the example of Germany and Poland, which will increase the efficiency and speed of considering labor disputes. These courts should include judges with high qualifications in the field of labor law and experience in resolving labor disputes. The specialization of judges and the use of accelerated case

⁵⁷ DISMISSAL PROTECTION ACT. 1969. Retrieved from <https://www.gesetze-im-internet.de/kschg/BJNR004990951.html>

⁵⁸ ACT OF LABOUR CODE. 1974. Retrieved from <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19740240141/U/D19740141Lj.pdf>

⁵⁹ NATIONAL LABOUR RELATIONS BOARD (NLRB). 1935. National Labour Relations Act. Retrieved from <https://www.nlr.gov/guidance/key-reference-materials/national-labour-relations-act>

review procedures will help reduce the time for dispute resolution and the burden on general courts. Such a system would ensure a better and fairer examination of labor cases and increase the confidence of employees and employers in the judicial system.

2. Strengthening the system of pre-trial conflict resolution. The system of pre-trial conflict resolution should be expanded and strengthened by introducing a mandatory mediation procedure with the participation of professional mediators specializing in labor law. Mediation should become a mandatory stage before going to court, which will allow for resolving many disputes early, saving time and resources for both sides. Professional mediators will be able to offer mutually acceptable solutions that help maintain working relationships and prevent the escalation of conflicts. It will also help to unload the courts and reduce the cost of litigation.

3. Strengthening the role of trade unions. It is important to strengthen the role of trade unions in protecting workers' rights and collective bargaining by giving them more authority, following the example of the United States. Trade unions should be able to effectively represent the interests of employees, negotiate with employers, and participate in the settlement of labor disputes. Strengthening the rights of trade unions and providing them with additional tools to protect labor rights will help improve working conditions, reduce the number of conflicts, and increase the level of social protection for employees.

4. Creation of an independent labor dispute resolution body. It is also useful to create an independent labor dispute resolution body, similar to the National Labor Relations Board of the United States, which would investigate complaints and make binding decisions. This body should be independent of government agencies and employers, which will ensure objectivity and fairness in the consideration of cases. It should have the authority to conduct investigations, impose sanctions, and make binding decisions, which will increase the effectiveness of protecting the rights of employees and employers.

5. Simplification of the procedure for employees to apply for protection of their rights. It is worth simplifying the procedure for employees to apply for protection of their rights by allowing applications to be submitted orally, as is the practice in Poland. Simplifying application procedures will reduce the bureaucratic burden on employees, especially those who do not have legal knowledge or do not have the opportunity to receive qualified legal assistance. This will make legal protection more accessible and effective, contributing to the prompt resolution of disputes and the protection of labor rights.

6. Review of restrictions on strikes. Restrictions on strikes should be reviewed, making the procedure for organizing them more accessible and less

formalized. Current strict restrictions and complex procedural requirements often impede the exercise of the right to strike. Simplification of procedures, reduction of the list of cases when strikes can be considered illegal, and reduction of sanctions for participation in strikes will help protect the right to collective action and improve working conditions. It will also help prevent illegal strikes and improve the dialogue between employees and employers.

Thus, an analysis of the existing mechanisms for resolving labor disputes in Kazakhstan shows that the system still faces serious problems. The high percentage of refusals to satisfy claims, difficulties with access to conciliation commissions for some categories of workers, and substantial restrictions on strikes indicate the need for reforms. International experience can serve as a useful guideline for improving the mechanisms for resolving labor conflicts in Kazakhstan. These measures will help increase the effectiveness of labor rights protection, strengthen confidence in the justice system, and contribute to a fairer and expeditious resolution of labor disputes.

4 Discussion

An analysis of the study's results revealed a rise in labor disputes, which may not always result in the protection of workers' rights. The main difficulties are related to limited access to legal mechanisms for certain categories of workers and strict formal requirements for strikes, which require examining and adapting international experience to improve existing methods of resolving labor disputes. In particular, the results of the study highlighted problems in the mechanisms of labor dispute regulation. In the field of individual labor disputes, problems with access to conciliation commissions for certain categories of employees, short deadlines for submitting applications, and the lack of clearly defined procedures for the work of commissions were identified. In collective labor disputes, there are strict restrictions on strikes, sanctions for participating in protest actions, and difficulties in organizing strikes due to any formal requirements. An analysis of the statistics of court decisions has shown that these factors substantially complicate the effective resolution of labor conflicts and the protection of workers' rights. The same conclusions can be traced to other authors. For example, Mahmoud A. Alabdali and Abdulrahman S. Basahal⁶⁰ also highlight several critical issues related to labor disputes. This study can agree that one of the main problems, according

⁶⁰ ALABDALI, Mahmoud A.; BASAHAL, Abdulrahman S. Strategies for mitigating labour disputes in the private sector: Insights from Saudi HR and legal experts. *Employee Responsibilities and Rights Journal*, 2024. DOI: <https://doi.org/10.1007/s10672-024-09506-4>

to the authors, is the lack of effective communication between employees and management, which often leads to misunderstandings and escalation of conflicts.

In addition, attention should also be paid to the authors' conclusions that human resources departments often do not have sufficient resources and skills to effectively resolve labor disputes. In turn, Tshilidzi Marwala and Letlhokwa George Mpedi⁶¹ focus on the problems of interaction between labor law and modern technologies. The authors note that the legislation on labor disputes is not flexible enough and does not involve the use of new technologies. They also emphasize that employees' lack of access to legal resources and information is a serious obstacle to the effective resolution of labor disputes. However, one can only partially agree with such conclusions since the use of new technologies in labor disputes is limited due to difficulties in adapting the legal system to modern innovations. Given that the effectiveness of technologies such as artificial intelligence in the field of labor law has not been proven, their integration into official procedures is not yet possible.

The analysis of practices from Poland, Germany, and the USA allowed identifying effective mechanisms for resolving labor disputes in different countries. It was determined that Germany has a highly organized system of labor courts and mediation, which contributes to effective dispute resolution and the prevention of litigation; Poland focuses on out-of-court conflict resolution and mediation, which helps strengthen working relationships; and in the United States, collective bargaining and mediation are the key methods of resolving labor disputes, with special attention being paid to compromise. These approaches demonstrate the importance of alternative dispute resolution methods and their potential to improve labor relations. Other researchers have reached similar conclusions. Julie Olajumoke Coker et al.,⁶² analyzing the use of alternative methods, note that in the United States, mediation and arbitration are actively used to resolve both commercial and labor disputes, which helps reduce the burden on the courts and contributes to faster and more effective conflict resolution, which was noted in the study. Bojan V. Božović,⁶³ in turn compares the approaches of northern and southern European countries, revealing that in northern Europe, where mediation and arbitration are widespread, the level of labor conflicts is lower and their

⁶¹ MARWALA, Tshilidzi; MPEDI, Letlhokwa George. Labour law. In *Artificial Intelligence and the Law*. Singapore: Palgrave Macmillan, pp. 189-214, 2024. DOI: https://doi.org/10.1007/978-981-97-2827-5_10

⁶² COKER, Julie Olajumoke; IJIGA, Amina Catherine; UZOUGBO, Ngozi Samuel; OKOLIE, Chwukwuma Albert; OGUEJIOFOR, Bisola Beatrice; AKAGHA, Onyinyechi Vivian. Exploring alternative dispute resolution mechanisms in resolving commercial and labour disputes: Comparative analysis of Nigeria and the United States. *Socio Economy and Policy Studies*, vol. 3, no. 2, pp. 119-123, 2023. DOI: <https://doi.org/10.26480/seps.02.2023.119.123>

⁶³ BOŽOVIĆ, Bojan V. North and south of European labour and social judiciary. *Proceedings of the Faculty of Law, Novi Sad*, vol. 49, no. 4, pp. 2025-2045, 2015. DOI: <https://doi.org/10.5937/zrpfns49-9356>

resolution is faster than in southern Europe, where these mechanisms are less developed, which also confirms the effectiveness of alternative methods.

As a result of the study, it was proposed to introduce the practice of these countries to improve the existing mechanisms for resolving labor disputes in the form of the creation of specialized labor courts, strengthening the system of pre-trial conflict resolution, strengthening the role of trade unions, creating an independent labor dispute resolution body, simplifying the procedure for employees to apply for protection of their rights, and reviewing restrictions on conducting strikes. Other authors, considering the problems of resolving labor disputes, also propose effective mechanisms in this area. Malvika Sharma and Manish Kumar Yadav⁶⁴ argue in their study that arbitration is a revolutionary method of dispute resolution since it allows you to quickly and effectively resolve conflicts by passing the court. Arbitration procedures are often flexible and less formal, which helps to process cases more quickly and reduce costs for both parties.

Boban Vidojević⁶⁵ comes to the same conclusion but already specifies that arbitration is an effective tool for resolving individual labor disputes. Indeed, one can agree with the effectiveness of this tool as a method of pre-trial dispute settlement. However, the idea of using revolutionary arbitration as the sole mechanism for resolving labor disputes is questionable, as it may fail to take into account the cultural and legal characteristics of various countries and industries, and may also be less effective in cases that require in-depth legal analysis and judicial precedent. In turn, Siti Nurhayati et al.⁶⁶ propose a combined model for industrial conflict resolution that integrates mediation and arbitration, creating a more flexible and efficient process. In their work, the authors emphasize that mediation at the initial stage allows the parties to the conflict to find a mutually acceptable solution in an informal setting, which helps reduce tension and strengthen working relations. If mediation does not lead to a settlement of the dispute, the case is referred to arbitration, where a binding decision is made. The authors also note that the combined model contributes to a better understanding of the needs of both sides of the conflict, which increases the effectiveness of labor dispute resolution and contributes to maintaining stability in labor relations, which should be agreed with.

⁶⁴ SHARMA, Malvika; YADAV, Manish Kumar. Arbitration: The revolution in resolving dispute. In JOSHI, N. (Ed.), *Mediation: A New Path for Dispute Resolution*. New Delhi: Integrity Education, pp. 89-102, 2024. Retrieved from https://www.researchgate.net/publication/378831234_Arbitration_The_Revolution_in_Resolving_Dispute

⁶⁵ VIDOJEVIĆ, Boban. Arbitration for individual labour disputes. *Messenger of Law*, vol. 11, no. 1, pp. 17-29, 2022. DOI: <https://doi.org/10.46793/GP.1101.17V>

⁶⁶ NURHAYATI, Siti; RAFIANTI, Fitri; WAKHYUNI, Emi; HUTABARAT, Willyam Lorencius. Advocacy model for combined process (med-arbitration) – Based resolution of industrial relations conflicts between trade unions and businesses. *PENA JUSTISIA: Communication Media and Legal Studies*, vol. 23, no. 1, pp. 250-267, 2024. DOI: <https://doi.org/10.31941/pj.v23i1.4146>

Kadek Agus Sudiarawan et al.⁶⁷ explore the role of collective labor agreements as an autonomous right of a company, focusing on their importance in conflict prevention and regulation of labor relations. The authors emphasize that such agreements concluded between employers and trade unions create a legal basis for working conditions and contribute to maintaining stable and transparent working relations. They also provide a mechanism for resolving conflicts at an early stage through negotiation and mediation before the case reaches litigation or arbitration. Such conclusions of the authors are justified since collective labor agreements help to establish clear rules and responsibilities for both parties, which reduces the likelihood of disputes and conflicts. Jia Liu et al.⁶⁸ discuss the use of artificial intelligence (AI) neural networks to analyze labor rights and disputes, emphasizing that this technology allows for more accurate prediction of the outcomes of labor conflicts and helps in their prevention. However, there is room for disagreement regarding the effectiveness of this method. The use of AI in such a complex field as labor disputes may be limited due to the lack of accuracy of algorithms and the complexity of interpreting the results. In addition, full confidence in AI can ignore the human factor and the individual characteristics of each case, which can lead to unfair decisions. Therefore, the use of AI neural networks should be considered as an auxiliary tool and not as the main method of resolving labor disputes.

In general, the study showed that the effectiveness of labor dispute resolution mechanisms depends on their flexibility, accessibility, and ability to adapt to modern conditions. While worldwide models such as arbitration, mediation, and combined methods have proven effective in various countries, their application requires considering local legal and cultural characteristics. The introduction of international experience and its adaptation to local conditions can substantially improve existing mechanisms for resolving labor disputes and contribute to more effective protection of workers' rights.

5 Conclusions

An analysis of Kazakhstan's labor dispute resolution mechanisms has uncovered numerous significant issues that compromise the efficacy of safeguarding

⁶⁷ SUDIARAWAN, Kadek Agus; MARTANA, Putu Ade Hariestha; MARTANA, Nyoman A.; HERMANTO, Bagus. Position of collective labour agreement as a company autonomous law: Industrial relation dispute settlement approach. *Udayana Master Law Journal*, vol. 8, no. 4, pp. 457-470, 2019. Retrieved from https://www.researchgate.net/publication/343162057_Position_of_Collective_Labour_Agreement_as_a_Company_Autonomous_Law_Industrial_Relation_Dispute_Settlement_Approach

⁶⁸ LIU, Jia; YANG, Ying; XIAO, Bao-Yao; HUANG, Zhi-Tao; NIE, Xiao-Hui; LIU, Wen-Jie; CHANG, Shih-Feng. Taking AI neural network to analyze labour rights and labour disputes. *E3S Web of Conferences*, vol. 290, Art. no. 02028, 2021. DOI: <https://doi.org/10.1051/e3sconf/202129002028>

workers' labor rights. One of the most substantial problems is the high percentage of refusals to satisfy employees' claims, which indicates the weak protection of their interests in the existing legal system. In addition, access to conciliation commissions for a number of categories of employees is severely limited, which hinders their ability to resolve conflicts peacefully. It is also important to note the excessive restrictions on strikes, which include strict procedural requirements and severe sanctions for participating in illegal protests. These restrictions make it substantially more difficult for employees to exercise their right to collective action, which reduces their ability to effectively protect their labor rights and interests.

The examination of international experience allowed us to establish that countries such as Poland, Germany, and the USA have more effective approaches to resolving labor disputes. In Poland, the focus is on out-of-court conflict resolution and mediation, which helps maintain working relationships, avoid lengthy litigation, and prevent disputes from escalating. Germany has a highly organized system of labor courts and mediation. Specialized labor courts with qualified judges with in-depth knowledge of labor law ensure rapid and fair consideration of cases. In addition, it was revealed that in the United States, collective bargaining and mediation are the key methods of resolving labor disputes. The American model pays special attention to reaching compromises between employees and employers. Consequently, the experience of Poland, Germany, and the USA demonstrates that a combination of specialized judicial structures, mediation, and the active role of trade unions can substantially improve the mechanism for resolving labor disputes and contribute to maintaining stable and fair labor relations.

The analysis of international experience facilitated the formulation of several recommendations aimed at enhancing Kazakhstan's labor dispute resolution system. First of all, it is recommended to create specialized labor courts, as in Germany, where judges have high qualifications in the field of labor law and experience in resolving labor disputes, which ensures a quick and fair hearing of cases. A mandatory mediation procedure should also be introduced, which will help reduce the number of court proceedings. Strengthening the role of trade unions, as implemented in the United States, where unions are actively involved in collective bargaining and protect workers' rights, will help ensure more balanced and fair working conditions. In addition, the creation of an independent labor dispute resolution body, such as the National Labor Relations Board of the United States, can increase objectivity and fairness in conflict resolution. Simplifying the procedure for employees to apply for protection of their rights, such as allowing oral applications as practiced in Poland, can enhance the accessibility and effectiveness of legal protection. The revision of restrictions on strikes, simplification of procedures for their organization, and reduction of sanctions for participation in protest actions

will help to protect the right to collective action and improve working conditions. The implementation of these measures can substantially improve the effectiveness of labor rights protection and contribute to a more equitable resolution of labor conflicts in Kazakhstan.

Limitations of the study include a lack of complete statistical data on all aspects of labor disputes in Kazakhstan and a limited amount of analysis of international experience. For further research, it might be useful to look closely at how well the suggested changes work in the Kazakh labor market and legal system, come up with specific ways to put them into action and think about the possible economic and social effects of these changes.

Resumo: Este estudo tem como objetivo identificar práticas eficazes de resolução de disputas trabalhistas em outros países que possam ser adaptadas para aprimorar o sistema jurídico do Cazaquistão. A pesquisa utiliza o método jurídico formal para examinar a regulamentação legal da resolução de conflitos trabalhistas, o método estatístico para coleta e análise de dados, e o método comparativo para confrontar a experiência internacional com a prática cazaque. Como resultado, são analisados e destacados os principais problemas na área da resolução de disputas laborais, incluindo dificuldades relacionadas à acessibilidade e à eficácia dos procedimentos judiciais, bem como o uso insuficiente de métodos alternativos de resolução de conflitos, como a mediação e a arbitragem. Além disso, os principais achados do estudo mostram que Polônia, Alemanha e Estados Unidos apresentam abordagens distintas, porém eficazes, na resolução de disputas trabalhistas. Na Polônia, a mediação e a arbitragem são amplamente utilizadas, o que ajuda a reduzir a carga dos tribunais e a resolver conflitos de forma célere. A Alemanha se destaca por seu sistema de tribunais do trabalho, especializados exclusivamente em disputas laborais e altamente eficientes em sua resolução. Nos Estados Unidos, o National Labor Relations Board (NLRB) desempenha um papel fundamental, monitorando de forma eficaz o cumprimento das leis trabalhistas e solucionando disputas por meio de procedimentos administrativos. Com base na experiência internacional, o estudo formula recomendações para aprimorar a prática jurídica no Cazaquistão, incluindo a introdução e o fortalecimento da mediação, a criação de estruturas judiciais especializadas e o reforço do arcabouço institucional para uma gestão e resolução eficazes dos conflitos trabalhistas.

Palavras-chave: Reformas legislativas. Mediação. Arbitragem. Negociação coletiva. Direitos dos trabalhadores. Sindicatos.

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Informação bibliográfica deste texto, conforme a NBR 6023:2018 da Associação Brasileira de Normas Técnicas (ABNT):

TASSYBAYEVA, Saule; ADILOVA, Kultay; OMIRALI, Zhazira; ILYASSOVA, Baktygul; AITKHOZHIN, Kabdulsamikh. Labor disputes in international practice: Examples from Poland, Germany, and the USA. *Revista Brasileira de Alternative Dispute Resolution – RBADR*, Belo Horizonte, ano 07, n. 13, p. 231-259, jan./jun. 2025. DOI: 10.52028/rbadr.v7.i13.ART12.KUN
