



## Features of Disciplinary Measures in the Labor Legislation of Foreign Countries

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**Abstract:** This article is devoted to the specifics of disciplinary measures under the legislation of foreign countries, such as the USA, Japan, France, Germany, CIS countries. The procedure for applying disciplinary measures to an employee for violating labor discipline is disclosed. As a result of a comparative legal study of the experience of foreign countries, proposals are made on the need for amendments and additions to the current legislation of the Republic of Uzbekistan in the field of disciplinary responsibility of an employee.

**Key words:** disciplinary offense, disciplinary responsibility, disciplinary measures, disciplinary proceedings.

### Introduction

The peculiarity of disciplinary responsibility in the labor law of the Republic of Uzbekistan is to ensure labor discipline at enterprises, organizations, then in foreign countries labor discipline is considered as one of the institutions of labor law.

It should be noted that the main goal of the development of this institution of law in the legislation of foreign countries was to "ensure labor order at work".

The peculiarity of the application of disciplinary responsibility to employees in these countries is that the existing legal norms and regulatory issues of labor discipline are aimed at creating a comfortable psychological environment for employees of the enterprise.

### Materials and techniques

In the process of research, general scientific and special methods of scientific knowledge were used: systemic, comparative-legal, analytical, logical, legal, etc. This made it possible to provide a certain degree of reliability and validity.

### Research results

Most laws of foreign countries provide for an employee or employee as subjects of disciplinary responsibility. This norm is explicitly stated in the normative legal acts of the national legislation of foreign countries. For example, under German law, in particular under the Dienstund Treupflicht Law [1], the main principle of labor relations between an employee and an employer is the employee's loyalty and conscientious performance of their duties. In the Basic Law of Japan – in article 15 of the Constitution, the status of employees is defined as "servants to the whole society"[2], while the Constitution of Italy (article 98) defines its employees as "exclusively in the service of the people"[3]. Similar definitions are also reflected in the legislation of many other countries, in particular, Greece, Bulgaria, and Albania.

So, if we said that the disciplinary responsibility of an employee occurs if an employee, while at work, commits a particular disciplinary offense, the list of which is provided for in the local acts of the enterprise, then the legislation of foreign countries provides for disciplinary responsibility against an employee if the employee committed a disciplinary offense outside of work, but provided that this offense has harmed the interests of the employer. This practice is typical for such countries as the USA, Canada, Great Britain, France. In Japan, this rule is provided for if the misconduct committed by an employee directly harms the reputation of the employer.

But I must say that the list of disciplinary violations that give grounds for bringing an employee to justice is different in many countries.

For example, in Belgium and Japan, there is an obligation to establish all types of disciplinary offenses in national legislation, and in the UK, Germany, Austria, Switzerland, in addition to the list of disciplinary offenses provided for in the legislation, an employee can also be involved for offenses that are not reflected in regulatory legal acts.

In other countries, such as the USA, Canada, France, Australia, New Zealand, there are no such requirements for the establishment of types of offenses, since it is believed that these violations "have in practice countless forms of manifestations" [4].

If we say that the employee's duty is to perform his work duties in good faith, then the list of grounds that give the employer the right to hold the employee accountable is referred to as "violation of labor and official duties"[5], "any omission in the performance of labor and official duties"[6].

Now let's look at the types of disciplinary penalties applied to workers in developed countries.

German legislation provides for seven types of disciplinary penalties, including: payment of a fine, reduction of wages, transfer to another low-paid position in the same profession, dismissal, reduction of pension, refusal to pay a pension [7].

From the above, it can be understood that disciplinary measures in Germany are characterized by severe action, and it is clear that "iron discipline" in Germany is not in vain.

In the United States, the basis for bringing an employee to disciplinary responsibility is a violation of the principles provided for in the codes of ethics of employees and employees [8]. For violation of such rules, employees and employees are warned, reprimanded, demoted, reduced the cost of additional labor, removed from office without pay for up to 14 days, granted unpaid leave for up to 30 days, lower the qualifications of the employee, lower wages, dismissal. If we consider the experience of this country, it must be said that the US legislation provides for such a type of disciplinary punishment as a warning of dismissal with mandatory re-examination of the employee. The essence of this disciplinary sanction is as follows: an employee is warned about dismissal and a certain (up to two years) period is set during which he can improve. During this period, his salary is reduced to a minimum. After re-examination, his salary rises to the previous level, or he is fired.

In Japan, except for "non-fulfillment of labor and official duties," an employee can also be brought to disciplinary responsibility for "committing acts that defame an employee or an employee as a "servant of the whole people"[9]. The types of disciplinary penalties are: dismissal, removal from office, reduction of wages. It should be pointed out that the salary can be reduced to one fifth of the salary and last up to three years. At the same time, no other additional monetary incentives are assigned to the employee during this period. And in respect of persons who are of retirement age, two disciplinary measures may be imposed in the form of a reduction in the size of a pension and a refusal to pay a pension[10].

In France, a warning is applied and, in particular, deprivation of a special status (rank), temporary suspension from office for up to 15 days, official transfer to another job, demotion, dismissal [11] and other disciplinary measures provided for by the legislation of the country. For example, the

consequence of termination of employment relations with an employee is the loss of his right to a pension [12].

### **Analysis of research results**

Many are also interested in the types of disciplinary penalties that can be applied to employees in countries near and far abroad.

Now let's briefly consider this question.

For example, in the neighboring Republic of Kazakhstan, the Republic of Tajikistan, the types of disciplinary penalties include remark, reprimand, severe reprimand, termination of an employment contract [13].

In the Russian Federation, disciplinary measures such as reprimand, reprimand and dismissal on appropriate grounds are applied.

In addition, Article 192 of the Labor Code of the Russian Federation provides that other types of disciplinary penalties may be applied to certain categories of employees by law, charter and regulatory act.

Uzbekistan and Kazakhstan prohibit the use of other types of disciplinary penalties, except those specified in the Labor Codes of these countries.

In the Republic of Kyrgyzstan, the Republic of Belarus, the types of disciplinary penalties include a remark, reprimand, dismissal on appropriate grounds [14].

In the Republic of Armenia, types of disciplinary penalties are applied to an employee brought to disciplinary responsibility in the form of a reprimand, severe reprimand, termination of an employment contract.

In the Republic of Turkmenistan, the types of disciplinary penalties are reprimand, severe reprimand, transfer of up to three months to a lower-paid job or a lower position, dismissal [15].

### **Conclusion**

Taking into account the experience of the USA, China and France, it must be said that the legislation of these countries provides for such a type of disciplinary punishment as a warning of dismissal with mandatory re-examination of an employee. The essence of this disciplinary sanction is as follows: an employee is warned about dismissal and a certain (up to two years) period is set during which he can improve. During this period, his salary is reduced to a minimum. After re-examination, his salary rises to the previous level, or he is fired. Therefore, taking into account the experience of the above-mentioned advanced countries, in our opinion, it is advisable to include in the list of disciplinary penalties specified in part 1 of Article 181 of the Labor Code of the Republic of Uzbekistan such a type of sanction as a warning about the dismissal of an employee.

Thus, after analyzing the practice of foreign countries, we can come to the conclusion that disciplinary responsibility as one of the types of legal responsibility is intersectoral in nature:

1) the goal is to ensure the existing labor discipline and sustainable operation of the enterprise by punishing unscrupulous employees;

2) the legal norms regulating the disciplinary responsibility of an employee are provided for in local acts of enterprises and organizations.

Measures and disciplinary penalties in most countries generally coincide, which indicates the complex nature of this type of responsibility [16]. But at the same time, along with the main disciplinary penalties provided for in the legislation, additional measures of influence of a material nature may also be applied. The prevailing feature in this case is the detailed regulation of the procedure for applying penalties to employees who violated the labor discipline of the enterprise.

Thus, after conducting a comparative analysis of the legislation of foreign countries in the field of the application of disciplinary measures, we can conclude that the presence of such serious disciplinary

measures, which are a kind of mechanism for deterring employees from committing illegal acts, plays a stimulating role and serves to increase the efficiency of work at the enterprise.

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