

to humanity's history of progress, not by glossing over the social contradictions, but by helping to overcome them.

However, to achieve it, the human rights conception must be integrated into an overall conception of society which, proceeding from the historical law-governed processes of human life in a community, reflects the social contradictions together with the chance of solving them and thus helps those dedicated to the cause of progress to become aware of their tasks. It lies within the responsibility of the scientist to profess his adherence to the consequences deriving from this formula, of course only after having penetrated with the imperative thoroughness to the roots of this theory. But the root for Man – according to Marx²⁹ – is Man himself!

29 Marx-Engels, Werke, Berlin 1956, vol. 1, p. 385.

ARTIKEL

Rights in Work and Rights based on Work and Labour Relations Regulation*

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Introduction

Yugoslavia as the federal self-managing community of nations and nationalities has been building a new legal system. This building of a new legal system has already started during the Socialist Revolution in the Second World War. After the Second World War and the Socialist Revolution, the building up of the legal system on new foundations was continued to the present time. The systematic building up the legal system has started by bringing the Law on invalidity of legal regulations brought up before April 6, 1941 and during the occupation of the Yugoslav territories by the enemy. This Law stipulated, however, that the legal rules of the solar regulations should be further applied, as far as necessary, if they were not in collision with a newly-established socialistic relations. This priority referred to the legal rules of the civil law the application of which extends to the present time when private-property and contract relations are concerned. But, as the social-property relations are the predominant relations in the Yugoslav self-managing socialist society, the contemporary Yugoslav Law is turned toward these relations.

In the Yugoslav constitutional system, in addition to the Constitution of the Socialist Federal Republic of Yugoslavia, there are also the constitutions of the socialist republics and the autonomous regions. They must be in conformity with the Constitution of the S.F.R. of Yugoslavia. When we speak about the Constitution in the Yugoslav Law, then we most frequently think about the entire constitutional matter /about all constitutions/ or the Constitution of the S.F.R. of Yugoslavia. If the workers rights are concerned, the rights of man and citizen, then we have in mind the

* Editor's note: We have induced Doctor Vlajko Brajić, who is a professor of law and sociology of labour legislation at the Pravni University, Beograd, to write a basic introduction to the special Yugoslav system of labour legislation, intended for Nordic lawyers. We hope later on to supply this introduction with special studies.

Constitution of S.F.R. of Yugoslavia. In addition to the constitutions, there are also the federal, republican and provincial laws in addition to these also sublaw enactments. The sublaw enactments in the field of working relations – in the labour law – are not of great significance or better to say have no application at all.

The characteristic of the Yugoslav legal system is the self-management right of the organizations of the associated labour and working and other communities. According to the traditional conception, the self-management right is in hierarchy beyond the law. In the Yugoslav Law the self-management right has another meaning and place – it has its field when and if it is determined that one relation is regulated by the self-management general enactment then it cannot be regulated by some other regulation. Exceptionally and temporarily, it can be regulated by the Law but only until it is regulated by the self-management general enactment.

All legal enactments and thus also the self-management general enactments must be in conformity with the Constitution. There are special courts – Constitutional courts which control the constitutionality of legal enactments.

The people's rights and rights based on work according to the Constitution of the Socialist Federal Republic of Yugoslavia

The Constitution of S.F.R. of Yugoslavia includes the provisions on the rights of a man and a citizen among which are also the rights of workers and other working people based on work. In addition to traditional rights, the Constitution also guarantees new rights /Art. 153-203/. The new rights are also contained in the other parts of the Constitution which contain several different rights and more detailed study thereof. The new rights are not only new but also significant for the position of a man and worker at work and in society as they refer to the essential and the basic life conditions and people relations. These are, so to say, socio-economic and self-management rights. Besides the right to work, such rights are: right to self-management, right to organize the workers in the basic organizations of the associated labour, right to work with socially-owned resources and other rights.

The provisions of the Constitution on social property indicate that no one may acquire the right of ownership of socially-owned resources which serve for the satisfaction of common and general social needs and that only labour and the results of labour determine the social and material position of man based on equal rights and responsibilities. No one may gain any material or other benefits, directly or indirectly, by exploiting the labour of others /Art. 11-12/.

For the realization of these relations it is guaranteed by the Constitution in the following articles the right to work with socially-owned resources and the right to associate in the basic organization of associated labour – the right to organize the basic organization of associated labour.

According to the Art. 13 of the Constitution of the S.F.R. of Yugoslavia:

»Workers in associated labour working with socially-owned resources shall have the inalienable right to work with these resources to satisfy their personal and social needs and to manage, freely and on an equal footing with other workers in associated labour, their labour and the conditions and results thereof.

The rights, obligations and responsibilities concerning the disposal, utilization and management of social resources shall be regulated by the constitution and statute, in line with the nature and purpose of these resources«.

Article 14 of the Constitution of the S.F.R. of Yugoslavia sets fourth:

»Exercising their right to work with socially-owned resources, all workers in associated labours working with socially-owned resources, shall be guaranteed the right in the basic organizations of associated labour in which they work and in any other forms of pooling of labour and resources, together and on equal footing with other workers, to manage the work and business of the organizations of associated labour and the affairs and resources in the totality of relations of social reproduction, to regulate mutual relations in labour, to decide on income realized through various forms of pooling of labour and resources, and to earn personal income.

Basic organizations of associated labour are the basic forms of associated labour in which the workers directly and on terms of equality realize their socio-economic and other self-management rights and decide on other questions concerning their socio-economic status.

Any act or conduct that violates these rights of the workers shall be unconstitutional«.

Basic organizations of associated labour are organized in an working organization and composite organizations. The Yugoslav right and practice do not recognize enterprise any more, but the basic organization of associated labour and other organizations of associated labour which are developed by self-managing transformation of enterprises and found on social property and self-management.

By working with socially-owned resources in the basic organizations of associated labour and other forms of pooling of labour and resources, workers acquire an income and the right to personal income. On the total income realized in the basic organization of the associated labour and the different forms of pooling of labour and resources, the workers decide in the basic organizations of the associated labour in conformity with their

rights and responsibilities toward other workers in the associated labour and the social community as a whole.

The constitutional provisions on acquiring and distribution of income and worker's rights speak in fact about considerably changed relations in society and among people, being the socialist and self-managing relations. Articles 45-160 in the Law on Associated Labour deal in detail with relations concerning the acquiring and distribution of income.

It is not our intention to speak here about all rights of workers and working people and citizens. This brief presentation indicate the essence of changes and really performed changes in the scope of work and working relations and their regulations, the right and position of workers before all.

Rights based on work according to the Law on Associated Labour

New socio-economic self-management rights established in the Constitution have been worked out in the Law on Associated Labour. The Law on Associated Labour regulates the socio-economic relations of workers in the associated labour, self-managing organization of the associated labour, realization of self-management of workers in the associated labour. All these parts and numerous articles of the Law /671 in total/ detail in fact with the rights, obligations and responsibilities of workers at work and based on work.

As it was already mentioned, the Law on Associated Labour deals with the rights of workers for acquiring of income and deciding on its distribution, with the rights to work with the socially-owned resources, organization of the basic organization of associated labour, regulation of self-managing relations in the associated labour, etc. All these rights are worked out in details and obligations and responsibilities of workers established. A separate chapter deals with the working relations /Art. 161-226/.

The Law on Associated Labour is unofficially also called the Small Constitution. Taken from the legal point of view, the associated labour act is not a constitution. The fact is, however, that the Yugoslav Constitution contains a series of provisions on social, economic, cultural, and self-management rights and regulates the socio-economic relations and not only organization of the state and principles of the legal system. It can be reasonably said that the Law on Associated Labour does not include the provisions on the organization of the supreme bodies of state power or the principles of legal system but, as it was said, regulates the socio-economic relations. However, when it is studied more closely, it can be seen that the Law on Associated Labour speaks about the decision making, delegates and delegations thus dealing with the basis of the delegate system and power of the working class, self-management as a state form and power of the working class and all working people. In addition, the Law on Associated Labour also contains the principles and provisions of legal system.

Henceforth, the Law on Associated Labour has some main characteristics of the constitution. For that reason, it can be called the small constitution. Starting from this fact and with the aim to point out the significance of the Law on Associated Labour, it was given the name of small constitution. It possibly points out the transformation of the constitution toward a new and different act – points out the changes in view concerning the constitutional law as a whole – for these changes have already been made in the Yugoslav constitutional system.

In the socialist self-managing society, basic provisions on associated labour are of great significance for the socio-economic legal and political system, henceforth they have some constitutional characteristics.

Regulation of rights and obligations in work and based on work

Besides being regulated by the Constitution and the Law on Associated Labour, the relations in associated labour are also regulated by other laws and self-management general enactments. There is no federal law in the field of working relations /except the Law on Associated Labour/ but there are republic and provincial laws. These laws are by a great deal some kind of instructions how the working relations are to be regulated by the self-management general enactments.

Labour relations and other relations in associated labour are regulated by self-management general enactments on the basis of the Constitution itself. Labour relations and other relations can be regulated by the law only if and when these relations are not in the field of self-management regulation. If it is provisioned by the Constitution or the law that certain relation is to be regulated by a self-management general enactment, it can be regulated by the law only exceptionally and temporarily by the time it is regulated by the self-management general enactment.

Self-management general enactments.

According to the provisions of the Law on Associated Labour /Art. 573-578/ under the self-management general enactments are presumed the social compacts and self-management agreements by which the self-managing relations and other general enactments of the organizations of associated labour and other self-managing organizations and communities are regulated in a general manner.

Participants in the self-management agreements and social compacts are enjoying same right. Self-manage agreement and social compacts are concluded by free will and in accordance with the expressed will of participants.

Self-management general enactments must be in conformity with the Constitution and cannot be in collision with the law or the principles of the socialistic self-managing society.

Self-management general enactments are to be published before their enforcement.

Social compacts.

Social compacts provide and reconcile the self-managing regulation of socio-economic and other relations of broader common interest for the participants /Art 579-585 of the Law on Associated Labour/. Social compacts are concluded by the agencies of the socio-political communities and interested organizations of associated labour, chambers of economy and other general associations, self-managing communities of interest, trade-unions, and other socio-political and social organizations. On behalf of participants in social compacts, social compacts are concluded by their authorized bodies. Social compacts participants are obliged to undertake necessary measures for the implementation of the concluded social compacts. Organizations, communities and agencies that did not take part in conclusion of a social compact may join to it later by a separate written declaration.

In order to implement a social compact it is necessary to regulate the corresponding relation by the self-management agreement on the basis set forth in the social compact. A social compact may be directly implemented only exceptionally. It derives from the provisions of the laws although it was not strictly set forth, so that these provisions may be interpreted in a different way. For instance, according to some opinions, social compacts may not be directly implemented.

Self-management agreements.

Self-management agreements /Art. 586-608 of the Law on Associated Labour/ regulate and reconcile socio-economic and other self-managing relations and interests in social reproduction and in other forms of realization of socio-economic position of workers and other working people and their self-managing organizations and communities. By a self-management agreement the work of workers is associated in a basic organization of associated labour as well as the work of workers into a working community and the work and the resources in working organizations and other organizations of associated labour, by it also the criteria for income distribution are regulated as well as mutual rights, obligations and responsibilities of workers in associated labour, measures to be taken for their realization, etc.

The self-management agreement on association in the basic organization of associated labour is the basic and the highest self-management general enactment and all other self-management general enactments must be in conformity with it.

Self-management agreements are concluded by workers in the basic organization of associated labour, i.e. in working community, organization of associated labour, banks and other financial institutions, associations of insurance companies of property and persons, self-managing communities of interest and other self-managing organizations and communities, chambers of economy and other general associations of self-managing organizations and communities and trade-unions.

Besides the trade-union, also other socio-political organizations may be participants in the self-management agreement when the relations of interest for implementation of their aims and tasks provisioned by their statutes are being established.

If the self-management agreement is concluded with the aim of realization of unallowed interest and goals, or if it deals with an unallowed subject, such agreement has no legal effect. The aim and subject of the self-management agreement are unallowed if they are not in conformity with the constitution or if they are in collision with the law or the principles of the socialistic self-managing society.

Workers and other working people give the initiative for conclusion of the self-management agreement directly or through their self-managing organizations or communities, as well as through trade-union or other socio-political organization, socio-political community and chambers of economy.

The trade-union is entitled to give the initiative for conclusion of self-management agreements. The trade-union takes part in conclusion of that self-management agreement which regulates the labour relation of workers in associated labour or stipulates the criteria for net income distribution and distribution of sources for personal incomes and common consumptions of workers.

If a self-management agreement, or a part of it, is not in conformity with the constitution, or if it is in collision with the socialistic morals, such self-management agreement, or its part, is null and void.

Self-management agreements are most frequent and most significant self-management general enactments and they represent the symbol of the self-management general enactments.

Other self-management general enactments.

Other self-management general enactments /Art. 609-615/ of the Law on Associated Labour/ are the enactments that regulate, on a general manner, the socio-economic and other self-managing relations among the

workers and other working people in organizations of associated labour, self-managing communities of interest and other self-managing organizations and communities, regulate the manner of realization of rights, obligations and responsibilities in these organizations and communities, establish the bodies in these organizations and communities, their scope, authorizations, and the manner or realization of their functions, as well as regulate the other matters of the internal organization of labour and business in the self-managing organizations and communities / statute, regulations, decree by which certain matter is regulated in a general manner, standing orders, etc/.

Which self-management general enactments are to be passed in the organization of associated labour, other self-managing organization and community, which relations to be regulated by these enactments, by whom they are to be passed as well as proceedings for their enforcement, all this is stipulated by the self-management agreement and the Statute.

The proceedings of passing and realization of individual self-management enactments in the organization of associated labour in the field of realization of rights, obligations and responsibilities of workers are regulated by the Statute or by some other self-management general enactment.

The Statute of the basic organization of associated labour is passed by the workers of the basic organization by the majority of votes of 10 workers on the proposal of worker's council. Other self-management general enactments of the basic organization of associated labour are passed by all workers by majority of votes or by the workers' council by majority of votes of all members.

The statute cannot be in collision with the self-management agreement on association and all the others self-management general enactments must be in conformity with the statute.

Those provisions of the self-management general enactments which are in collision with the self-management agreement on association and with the statute shall not be applied.

All individual enactments in organizations of associated labour and communities must be in conformity with the corresponding general enactments.

It must be ensured that every worker in the basic organization of associated labour is provided for the self-management agreement on association, the statute, the self-management general enactment by which the labour relations are regulated with amendments and supplements and all other self-management general enactments must also be placed at worker's disposal.

Conclusions.

This brief exposition has no ambition to give informations on the entire legal system of the socialistic self-managing Yugoslavia. However, what

was said is dealing with the most important part of it, or better to say it concerns the very foundation of it. But, even when the rights in work and the rights based on work are concerned, as well as the regulation of labour relations, only the most elementary informations are presented here. It is of great importance to realize, when speaking the Yugoslav legal system, that the rights guaranteed to workers in work and based on work, in addition to the known socio-economic rights, are new and substantially essential for the rights in work and the rights based on work. The self-management as the principle, as the system, and as the basic and complex right proves it in a best way. In the self-management system, on the basis of the constitution and the Law on Associated Labour, the workers enjoy the right to associate in the basic organization of associated labour, the right to work with the socially-owned sources, the right to income, as well as the right to regulate the labour relations and other relations by self-management general enactments which represent the guarantee of the new role and position of working people in Yugoslavia. To this effect, the Law on Associated Labour represents the extraordinary contribution to the legal regulation of labour relations and the great contribution to the theory as well.

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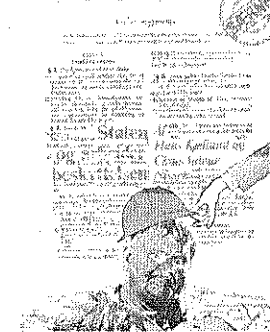
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