PROBLEMS IN ASSIGNING PREFERENTIAL PENSIONS: LEGAL ANALYSIS AND PROSPECTS FOR IMPROVEMENT

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Abstract
This thesis examines the legal and practical problems that arise when assigning preferential (early) pensions to citizens engaged in hazardous or arduous labour. Drawing on the legislation of the Republic of Uzbekistan and comparative foreign practice, the paper identifies gaps in the classification of hazardous occupations, procedural difficulties in proving eligibility, and an uneven distribution of the financial burden between the state and employers. Based on this analysis, concrete proposals are formulated for improving the legal mechanism of assigning preferential pensions.

Keywords: *Preferential pension, right to social security, hazardous working conditions, occupational risk, workplace attestation, burden of proof, legal regulation*

Introduction

One of the defining features of a social state is its ability to guarantee citizens a decent standard of living and reliable social protection. The Constitution of the Republic of Uzbekistan affirms every citizen's right to social security in old age, in the event of disability, and in other cases established by law. One specific expression of this guarantee is the early, or preferential, assignment of pensions to persons employed in work with hazardous, arduous, or otherwise harmful conditions. The institution of preferential pensions is designed to compensate for the additional wear placed on an employee's health by such conditions. In practice, however, the mechanisms for assigning this type of pension face a number of legal and administrative obstacles that limit the full realization of citizens' constitutional rights. This thesis systematizes these problems and proposes directions for improving the legal framework.

The legal nature of a preferential pension differs from that of an ordinary old-age pension. Whereas an ordinary pension is granted once a person reaches the statutory retirement age, the decisive criterion for a preferential pension is the level of occupational hazard associated with the work performed. Legal scholarship increasingly views early retirement not merely as compensation for health already lost, but as an integral part of a broader, forward-looking system of occupational-risk management and workplace safety. Understood this way, preferential-pension legislation should not only address the consequences of hazardous work but also create incentives for employers to reduce such hazards in the first place.

1. Gaps in the classification of hazardous occupations. Entitlement to a preferential pension in Uzbekistan rests on special lists approved by the government (Lists No. 1, 2 and 3). These lists were largely formed during an earlier stage of industrial development and do not fully reflect the structural changes that have since occurred in the labour market, including new technologies and newly emerging occupational risks. As a result, employees who in practice work under genuinely hazardous conditions may be denied preferential treatment simply because their profession is not explicitly named in an outdated list.

2. Procedural barriers and the distribution of the burden of proof. Assigning a preferential pension requires not only proof that an employee worked in a hazardous occupation, but also documentary confirmation, normally through the results of a workplace attestation, that the employee was engaged in such conditions for a full working day. Where an employer fails to conduct a timely attestation or loses the relevant archival documents, it is in practice the employee who bears the consequences, even though maintaining such records and ensuring occupational safety is squarely the employer’s legal obligation. National legislation currently lacks a clear rule preventing an employee’s rights from being restricted purely because of an employer’s administrative failure.

3. Financing mechanisms and employer liability. The financial burden of paying preferential pensions is currently absorbed almost entirely by the general state pension fund. In effect, all taxpayers share the cost created by the small number of employers who maintain hazardous working conditions and derive an economic benefit from them. A more balanced model would gradually shift part of this financial responsibility to the employers who create the hazard, for example through additional mandatory insurance contributions for hazardous occupations a mechanism that is not yet comprehensively regulated in national legislation.

The experience of a number of developed economies, including several European Union member states and OECD countries, shows a gradual shift from a purely compensatory model of preferential pensions toward an occupational-insurance model. In Germany and Sweden, for instance, employers who engage workers in hazardous sectors are required to pay elevated contributions to dedicated occupational pension funds. Such arrangements serve two purposes simultaneously: they build sufficient capital to finance early retirement, because higher contributions raise labour costs, they create a direct financial incentive for employers to modernize working conditions and reduce hazards. Introducing a comparable mechanism, potentially through a dedicated legislative act on occupational pensions, could be a useful reference point for Uzbekistan.

Conclusion

Based on the analysis above, the following measures are proposed to improve the legal regulation of preferential-pension assignment:

First, a full inventory and revision of the lists of professions entitled to preferential pensions is needed, bringing them in line with modern technological processes and international standards of occupational hygiene.

Second, the Law "On the State Pension Provision of Citizens" should be supplemented with a rule protecting employees whose employer failed to conduct a timely attestation or lost the relevant records. In such cases, preferential length of service should be recognized through an administrative, out-of-court procedure based on expert assessment or witness testimony, establishing as a legal principle that the absence of a document must not be used against the employee.

Third, a gradual transition toward an occupational-insurance system is advisable, together with a legal basis for mandatory supplementary pension contributions payable by employers who engage workers in hazardous conditions. Such reforms would strengthen social-protection guarantees while also supporting the long-term financial sustainability of the pension system.

List of Used Literature:

[1] Law of the Republic of Uzbekistan "On the State Pension Provision of Citizens", No. 938-XII, 3 September 1993 (as amended).

[2] Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 592, 13 October 2022, "On Approving the Regulation on the Procedure for Assigning and Paying State Pensions".

[3] International Labour Organization (ILO). Conventions and Reports on Occupational Safety and Health, 2023. https://www.ilo.org/topics-and-sectors/safety-and-health-work

[4] International Labour Office. Social security and the rule of law: General Survey concerning social security instruments in light of the 2008 Declaration on Social Justice for a Fair Globalization. Report III (Part 1B), 2011.

[5] Hartley, G.R.; Abels, M. Riding the Demographic Wave: Pensions and Retirement Income in an Aging World. World Bank Social Protection Discussion Paper No. 2512, March 2025. https://doi.org/10.1596/43042

[6] OECD. Pensions at a Glance 2023: OECD and G20 Indicators. OECD Publishing, 2023. https://doi.org/10.1787/678055dd-en