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# Labor Law

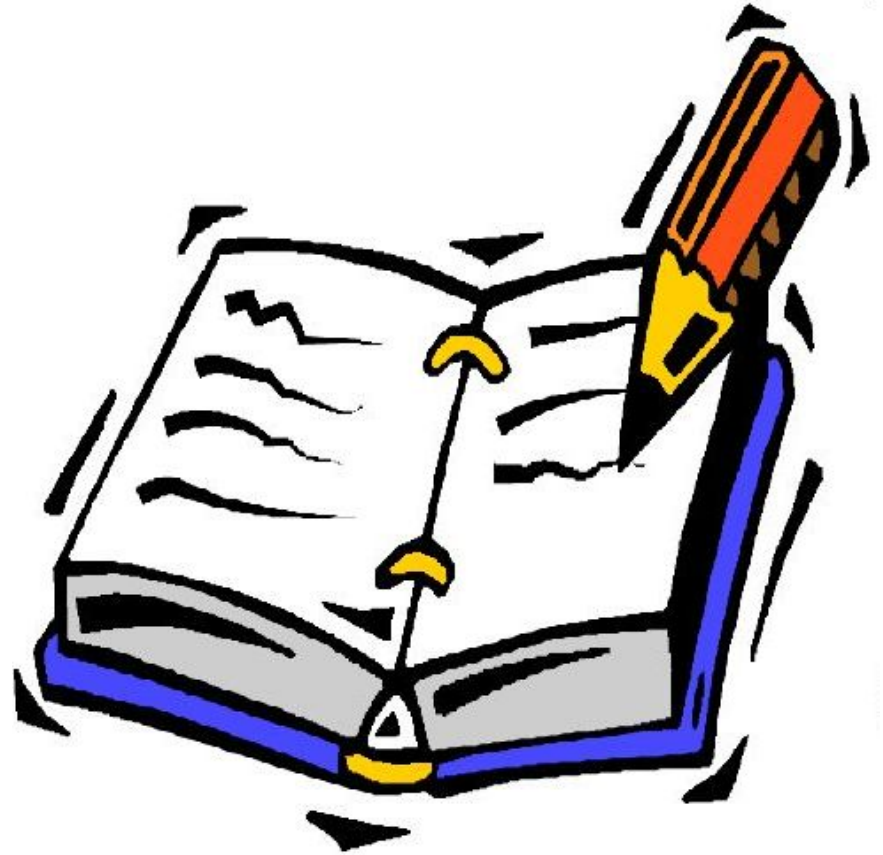
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Zhanat Alimanov, assistant professor

# Home assignment

## 15. Sections 6 & 12, Tax Code

- Compare definitions of **LABOR & CIVIL** Contracts (Art. 1 (39), 24, 27, 28, Labor Code. Please find articles of the Civil Code yourself)



# Table

**Constitution &  
Constitutional  
Statutes**

**Civil Code**

**Labor Code**

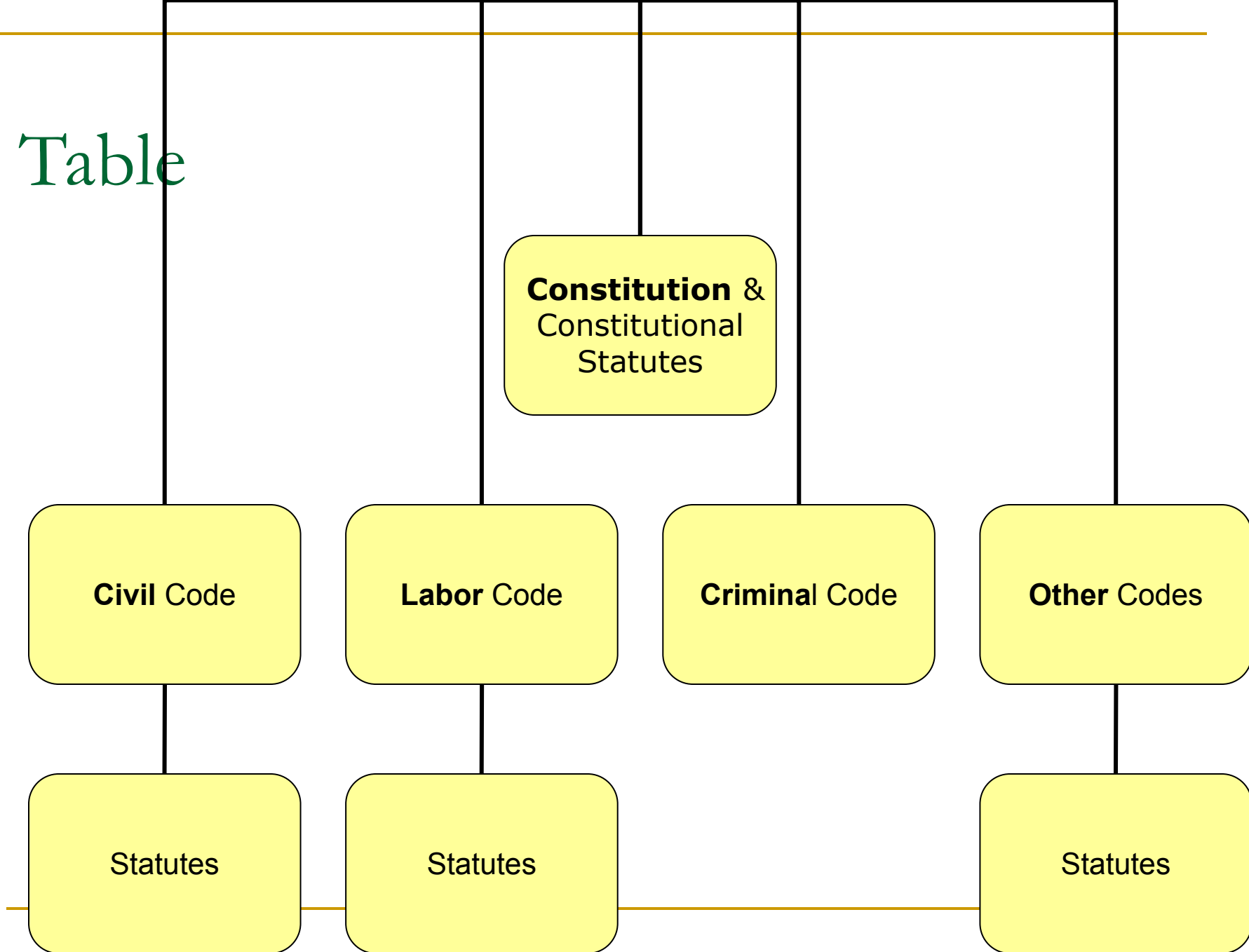
**Criminal Code**

**Other Codes**

Statutes

Statutes

Statutes



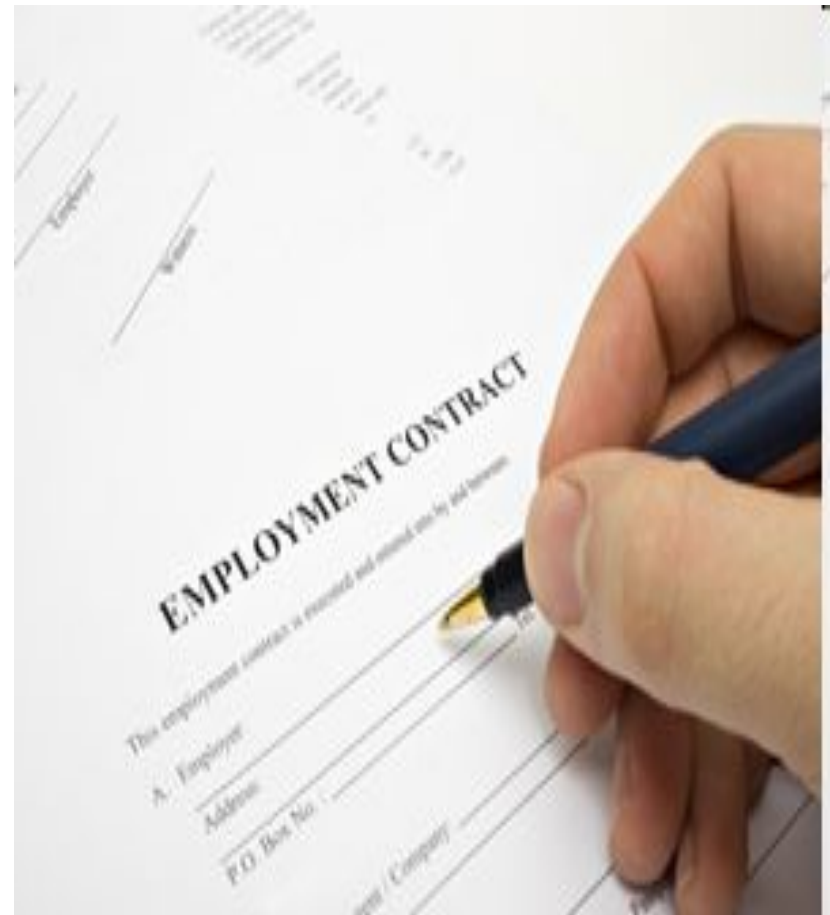
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# Terms

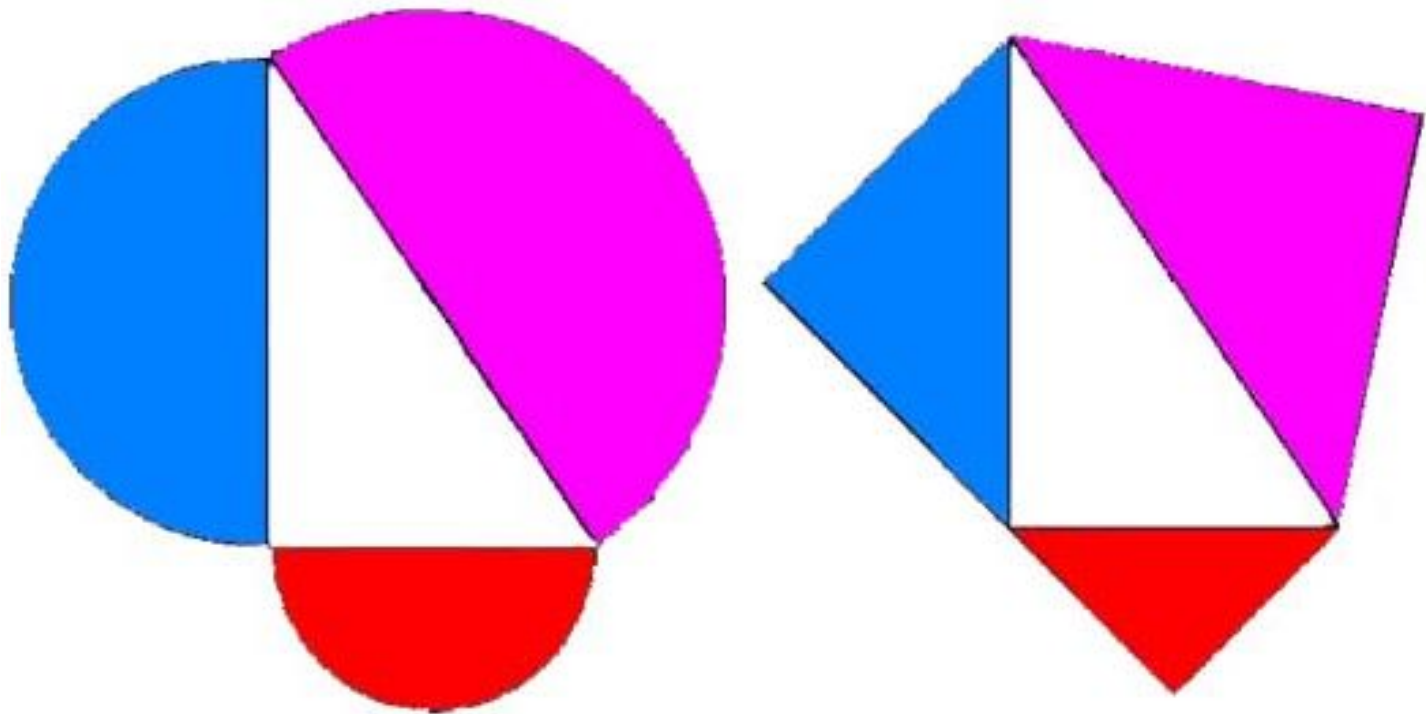
1. Labor Code – трудовой кодекс
  2. Labor Contract (**LC**) – трудовой договор
  3. Civil Contract (**CC**) – гражданский договор
  4. Employer - Работодатель
  5. Employee - Работник
-

# Plan

1. **Similarities (Общие черты):** Labor Contract vs. Civil Contract
2. **Differences (Общие черты):** Labor Contract vs. Civil Contract



# 1. Similarities (Общие черты)



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# Example 1

**Boris**, head of KZ soccer club, found very talented soccer player **Kairat**. Boris would like to invest money in Kairat, to make him a soccer star. They make contract, under which:

- (1) Kairat **cannot** quit the club **without** consent of the Club;
- (2) Kairat has to score at least 30 goals per Season;
- (3) Boris offers Kairat a salary of **KZT 10mln.** per month.



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# Example 1

## TERMS:

- (1) Kairat **cannot** quit the club **without** consent of the Club;
- (2) Kairat has to score at least 30 goals per Season;
- (3) Boris offers Kairat a salary of **KZT 10mln.** per month.

**Do these relationships  
have to be regulated by  
CIVIL or LABOR LAW?**





# Example 1

## TERMS:

- (1) Kairat **cannot** quit the club **without** consent of the Club;
- (2) Kairat has to score at least 30 goals per Season;
- (3) Boris offers Kairat a salary of **KZT 10mln.** per month.

**Do these relationships  
have to be regulated by  
CIVIL or LABOR LAW?  
Art. 8, 24 (Labor Code  
& Art. 1, Civil Code)**



Table

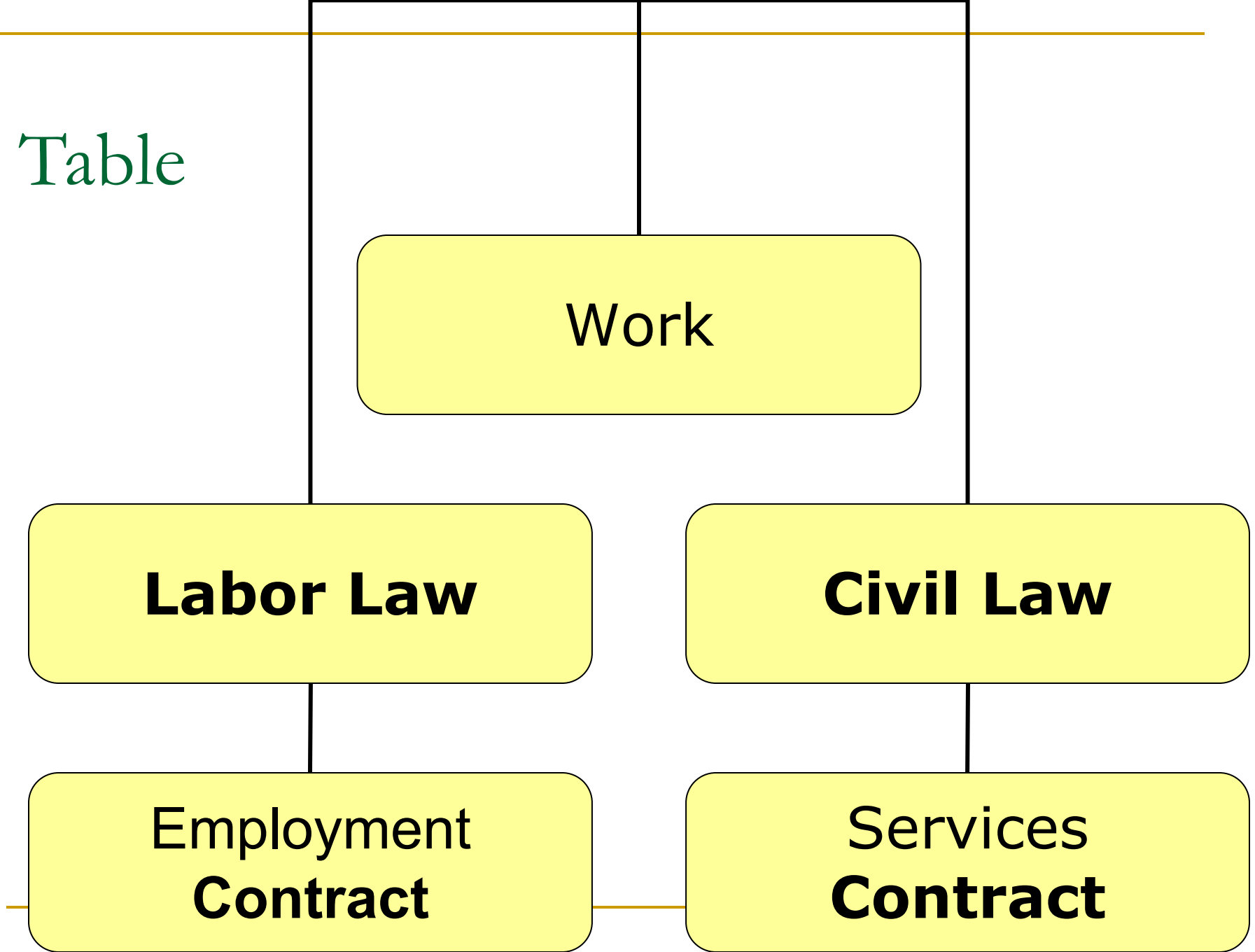
Work

**Labor Law**

**Civil Law**

Employment  
**Contract**

Services  
**Contract**



## 2. Differences (Общие черты)



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# Example 1

Let's assume that Kairat would to quit KZ club for Manchester United. One month ahead he notifies the Club in written form about it. The Club is outraged. The total investments in Kairat amounts to KZT 10 bln.

Does Kairat have the right to quit the Club?

**(1) Civil Law Contract?**

**(2) Labor Law Contract?**



## Example 1

Let's assume that Kairat would to quit KZ club for Manchester United. One month ahead he notifies the Club in written form about it. The Club is outraged. The total investments in Kairat amounts to KZT 10 bln.

Does Kairat have the right to quit the Club, i.e., rescind (расторгнуть) the contract?

**(1) Civil Law Contract? Art. 382 & 386, Civil Code**

**(2) Labor Law Contract? Art. 10; 23 & 56, Labor Code**



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# Example 1

Let's assume that it is Boris who would like to quit Kairat's employment.

Does Boris have the right to do it?

**(1) Civil Law Contract?**

**(2) Labor Law Contract?**



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# Example 1

Let's assume that it is Boris who would like to quit Kairat's employment because Kairat hits only 3 goals per season, instead of 30.

Does Boris have the right to do it?

**(1) Civil Law Contract? Art. 401, Civil Code**

**(2) Labor Law Contract? Art. 10; 23 & 52, Labor Code**



# Differences

## RESCISSION\*

Labor Contract

Civil Contract

Art. 52, 56,  
23 (2/2); &10

art. 401



\*расторжение



# Consequences (art. 401, 403, 354)

## TERMS

Labor Contract    Civil Contract

23 (2/2); 14 & 10    art. 2, 382 & 380



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# Example

What are the **consequences** if Kairat quits the Club anyway, and starts to play for Manchester United?

**(1) Civil Law Contract**

**(2) Labor Law Contract?**



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# Example

What are the **consequences** if Kairat quits the Club anyway, and starts to play for Manchester United?

**(1) Civil Law Contract: Art. 350 & 9 (4).  
Kairat would be liable.**

**(2) Labor Law Contract? Art. 10; 23 & 56,  
Labor Code; the Club & Boris would be  
liable art. 14 (Labor Code): criminal &  
administrative liability)**



# Consequences (art. 401, 403, 354)

## BREACH

Labor Contract

Civil Contract

art. 113 & 161 (LC)

art. 349, 350, 9

87 (Administrative Code  
Code)

(4) & 401, (Civil

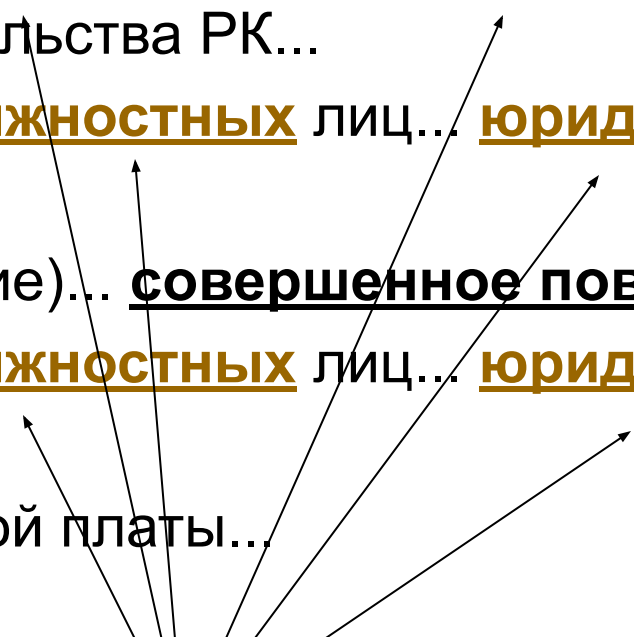
148 (Criminal Code)

**Mostly Employer is liable!**

**Both parties are liable!**



# Art. 87 Административного Кодекса Нарушение трудоого законодательства

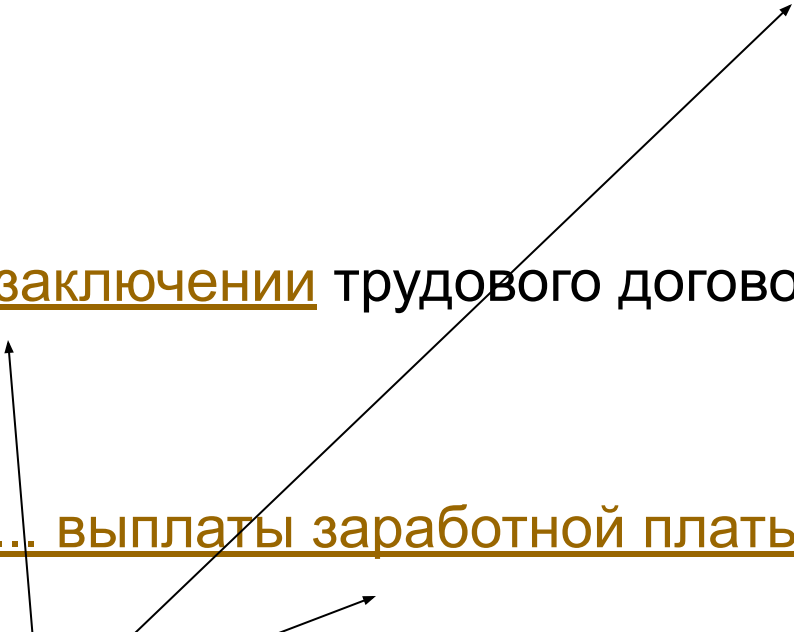
1. Нарушение работодателем или должностным лицом  
трудоого законодательства РК...  
— влечет штраф на должностных лиц... юридических лиц...
  2. Действие (бездействие)... совершенное повторно...  
— влечет штраф на должностных лиц... юридических лиц...
  3. Невыплата заработной платы...  
— влекут штраф...
- 

**No liability of the Employee!!!\***

\*нет ответственности РАБОТНИКА

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# Art. 148 Уголовного Кодекса Нарушение трудового законодательства РК

1. Незаконное прекращение трудового договора с работником...  
– наказывается...
  2. Необоснованный отказ в заключении трудового договора...  
– наказывается...
  3. Неоднократная задержка... выплаты заработной платы...  
– наказывается...
- 

**No liability of the Employee!!!\***

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\*нет ответственности РАБОТНИКА

# Differences

| <b>CIVIL CONTRACT</b>  | <b>LABOR CONTRACT</b>  |
|--|--|
| <b>Name of Parties</b> (art. 683)  | <b>Name of Parties</b> (art.24)  |
| <b>Form</b> (art. 151) <b>Oral and Written</b>   | <b>Form</b> (art. 1 (36) & art. 33) <b>Only written</b>  |
| <b>Payment upon result</b> (683, 349, 401)   | <b>Payment upon time</b> (art. 113)  |
| <b>Rescission</b> (Расторжение)  | <b>Rescission</b>  |
| <b>Terms</b> (art. 2 (2) & 382 & 380)  | <b>Terms</b> 23 (2/2); 14 &10  |
| <b>Liabilities</b> (ответственность) (349, 350)  | <b>Liabilities</b> (Chapter 10(Labor Code), art. 148(Criminal Code), art. 87 (Administrative Code) |
| <b>Parties(стороны):</b> <u>Any physical</u> & <u>legal</u> entities can be Parties                            | <b>Parties(стороны):</b> <u>Only</u> legal entities and IE can employ (art. 19, Civil Code)        |
| Does <b><u>not</u></b> need to provide <b><u>work conditions</u></b> (all equipment, vacation, insurance, etc) | <b>Provide <u>work conditions</u></b> (all equipment, vacation, insurance, etc) (art. 1 (36)       |