

### TRADE UNIONS OF RUSSIA IN THE SYSTEM OF SOCIAL PARTNERSHIP: LEGAL REGULATION, PROBLEMS AND PROSPECTS OF DEVELOPMENT

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The subject. Proclaiming the ideas of partnership and solidarity, the state designates a completely new development focused on socio-economic relations in Russia, involving new principles of interaction between society, business and the state.

The revision of the status of subjects of social partnership will be aimed at further development of the system of guarantees of human and civil rights and freedoms.

Purpose of the study. The purpose of this work is a comprehensive analysis of the trade union as a subject of social partnership based on the study, analysis and generalization of the scientific base, current legislation and practice of its application.

Effective protection of the rights and legitimate interests of employees is possible only if there is an effective mechanism of implementation of trade union control over their compliance. Therefore, it seems that in the near future the share of public control over compliance with labor legislation and labor protection should increase.

Methodology. In the process of achieving the goal and solving the tasks set, the general scientific dialectical methods of cognition, as well as logical, historical, comparative legal and formal legal methods were used. Structural and systemic methods are also the basis of the study. The conclusions of the work are based on dialectical unity and the struggle of opposites.

The main results. In the process of scientific research, it can be concluded that a society should be able to exercise public control over the observance of human rights in this society. During the reforms, trade unions lost the right to legislative initiative at the federal level, the rights to state supervision of compliance with labor legislation and the state of labor protection, and consideration of individual labor disputes. At the same time, trade unions have received a number of new rights, for example, to participate in the resolution of collective labor disputes, in collective bargaining, to conclude social partnership agreements, etc.

Despite the declared principle of independence of trade unions from the state, as a result, it is impossible to create and legalize the legal status of the trade union movement without a state regulator. Therefore, the independence of any legal entity is, in principle, relative. Nevertheless, associations of employees are provided with a sufficient amount of corporate independence, which actually ensures their national and individual characteristics.

Conclusions. Trade unions are an important element of civil society. Without increasing their role, it is impossible to achieve harmony in social and labor relations.

In this regard, the question of the new status of trade unions in Russia should be raised. This conclusion is justified by the fact that free and independent trade unions are the guarantors of social justice and security. Consequently, the use of the market mechanism by the population depends on whether it is possible to regulate the labor market within the framework of law and policy. Moreover, the labor market improves the status of employees in relation to employers only with strong trade unions.

## 1. Introduction.

Over the past decades, Russian trade unions have been in the process of searching for new approaches to the content and forms of their activities. This process is accompanied by a reassessment of old values, as well as the formation of new positions on a variety of issues that one has to face in the labor process.

An analysis of the current situation in which Russian trade unions operate makes it possible to theoretically comprehend and substantiate their role and place in our country. This analysis allows and at the same time to answer some specific questions of their further existence and legal regulation.

For example, the issues of the development of the trade union movement and their role in building a new society were given great attention in pre-revolutionary Russia, including by Soviet scientists [see. about it: 1, p. 40-49; 2, p. 20; 3, p. 5-30; 4; 5, p. 82-86].

First scientific works on the legal regulation of the activities of Soviet trade unions appeared only by the mid-1920s. Such scientists as Ya.A. Kantorovich [6], A.M. Kilinsky [7] prepared the first comments on the Soviet legislation on trade unions.

Subsequently, I.Ya. Kiselev [8], M.V. Lushnikov [9], L.M. Mikhailov [10], A.F. Nurtdinov [11], I.O. Snigirev [12], S.Yu. Chucha [13, p. 60-62] and others. These works are extremely useful in terms of identifying the causes and general patterns of the emergence of the trade union movement and building a system of social partnership as a whole.

The Constitution of the Russian Federation enshrines the right of everyone to associate, including the right to form trade unions in Article 30. An analysis of this constitutional norm allows us to conclude that the legislator among all types of public associations highlights precisely the trade unions.

This is due to the fact that the state sets itself the goal of gradually overcoming social inequality, promoting society towards social homogeneity. And the normative consolidation of the possibility of workers to unite in a special legal form actively contributes to the achievement of this goal, since

trade unions in the system of social partnership equalize the legal status and working conditions of various categories of workers. In order to understand the role and value of trade unions in the system of social partnership and in the development of the state as a whole, it is necessary, at least in general terms, to trace the history of the formation and formation of the trade union movement in Russia.

## 2. Historical overview of the formation of the trade union movement in Russia

First trade unions appeared over 200 years ago. Many lawyers quite rightly point out that trade unions arose contrary to the law [14, p. 194].

Trade unions in Russia as a mass social movement arose during the revolutionary events of 1905-1906. The first All-Russian Conference of Trade Unions was held in Moscow in October 1905, the second - in St. Petersburg in February 1906. But already on March 3, 1906, the tsarist government issued the Provisional Rules on Professional Societies. This document contained strict conditions for regulating the activities of trade unions. On their basis, more than 600 trade union organizations were closed and more than 700 more were denied registration, and the number of their members fell from 245.3 thousand people at the beginning of 1907 to 13 thousand at the end of 1909 [15, p.183].

From the first years of Soviet power trade unions began to transfer some of the functions that were performed in many countries by state, municipal and other bodies. This line of work was consistently carried out in subsequent years, up to the "perestroika" of the late 1980s.

In 1933, the functions of state labor inspectorates were transferred to the trade unions, thus, they received the right, in the person of their representatives, to conduct an inspection of any enterprise, to issue orders to eliminate the violations of the established standards in the field of labor protection and safety noted in this case.

The period from 1950 to 1970 was the most fruitful for both the country and the trade unions. It is to the period under consideration that the emergence of a number of legal acts that developed and strengthened the rights and powers of trade

unions at enterprises and in the economy, which increased the role of collective agreements in the system of capitalist legal regulation of labor [16, p. 244].

Thus, by the mid-1980s, the trade unions of the USSR had an extensive and stable structure, organically integrated into the political system of society. By this time, Russian trade unions did not have their own governing bodies and developed within the framework of the all-union structure of the trade unions of the USSR, guided in their activities by the unified Charter of trade unions of the USSR, adopted in 1963. The new Charter, adopted in 1987, became the basis for their functioning until March 1990, when independent republican trade union centers began to be created. During this critical period, not only the Russian trade union movement was revived, but also the skills in the activities of trade union organizations to protect the interests of workers in the context of political and economic reforms.

In the first half of the 1990s, the legal basis for social partnership in Russia began to be created, such regulatory legal acts were adopted as: Decrees of the President of the Russian Federation "On Ensuring the Rights of Trade Unions in the Transition to a Market Economy", "On the Creation of the Russian Tripartite Commission for regulation of social and labor relations" and "On social partnership and resolution of labor disputes (conflicts)"; federal law "On Collective Agreements and Agreements". At the same time, the USSR Law "On trade unions, rights and guarantees of their activities" (1990) was adopted - the first state law on trade unions in the history of the country, which provided them with serious legal support in protecting the rights of workers.

The current legislation on trade unions, first of all, is presented in the form of the Law of 12.01.1996. No. 10-FZ "On trade unions, their rights and guarantees of activity", as well as the Labor Code of the Russian Federation.

Scholars emphasize the fact that, in contrast to Western countries, where social partnership arose as a result of a long and stubborn struggle for the rights of workers and their trade unions, in Russia social partnership was planted by state authorities as one of the mechanisms for

regulating the labor market [see . about it: 17].

Taking into account the historical experience of Russia, we can conclude that reasonable state intervention in socio-economic processes has its limits, going beyond which has the opposite effect.

### **3. The evolution of the trade union movement in Russia**

Modern trade unions in Russia are associated with the proclamation and legislative consolidation of a person's right to freely dispose of himself, including his ability to work, with the formation of the labor market. At the same time, the real emergence and, all the more so, the legalization of the activity of the working class falls on a much later time - in the last third of the century before last. This circumstance was largely connected with the idea that existed in the first decades of this century, according to which any association formed on the basis of a common profession leads to a restriction of the personal freedom of the individual and the revival of the estate-corporate system of the feudal community. However, in the late XIX and early XX centuries. the activity of trade unions was recognized by society, legalized by the state, and trade unions are beginning to play an active and completely irreplaceable role in regulating the relations of dependent labor in all industrialized countries [See. about it:18].

Having replaced the state in certain areas of public life, the trade unions themselves became part of the state apparatus. I. O. Snigireva wrote: "The legal status of trade unions in the sphere of production and labor depends on their place in the political system of Soviet society, their role in the construction of communism ... all the affairs of society" [19, p.39]. Based on the above opinion, it can be noted that the main task of the Soviet trade unions was by no means the protection of the rights and legitimate interests of workers and employees, but the implementation of public and political functions [20, p.20].

The current legislation recognizes trade union pluralism. All trade unions enjoy equal rights and guarantees. At the federal level, the types of trade union organizations are legally fixed, the criteria for each are determined, such as primary trade union organizations, all-Russian, interregional, territorial organizations of trade unions and their associations.

Today, the FNPR (Federation of Independent Trade Unions of Russia) is the largest public structure in Russia, which includes 120 member organizations (80 territorial trade unions and 40 sectoral trade unions), uniting about 20 million people in their ranks.

The status of trade unions in the sphere of labor is determined by international legal norms, the law on trade unions, the Labor Code, other federal laws and laws of the constituent entities of the Russian Federation, agreements and collective agreements. In the course of the reforms, trade unions lost the right to legislative initiative at the federal level, the rights to state supervision over compliance with labor legislation and the state of labor protection, and the consideration of individual labor disputes. At the same time, trade unions received a number of new rights, for example, to participate in the resolution of collective labor disputes, in collective negotiations, to conclude social partnership agreements, etc.

The rights of trade unions in the sphere of labor represent a special legal category - rights-duties, where the right and duty are inseparable unity. The duties that they bear to their members are of a public nature and are fixed in their charters and regulations. The obligations of trade unions to enter into collective negotiations (Article 36 of the Labor Code), to participate in conciliation procedures in resolving a collective labor dispute (Article 401 of the Labor Code) are essentially obligations to employees. In addition, the initiators of the negotiation of conciliation procedures are, as a rule, trade unions or the workers themselves as the most interested party in their conduct [19, p.39].

A trade union is a form of non-profit organization based on membership. Membership presupposes the existence of a long-term and organizationally defined relationship. Union members have their own statutory rights, duties and responsibilities. Despite the declared principle of independence of trade unions from the state, as a result, it is impossible to create and legalize the legal status of the trade union movement without a state regulator. Therefore, the independence of any subject of law is, in principle, relative. Nevertheless, workers' associations have been

given a sufficient amount of corporate independence, which in fact ensures their national and individual characteristics [See. about it:21]. With regard to corporate independence, the experience of foreign countries, in particular the UK, is quite interesting. British legislation regulates in detail issues relating to the relationship of English trade unions with their members. In accordance with the charter of trade unions, a trade union agreement is concluded with each member of the trade union. Trade unions have the right to establish in their charters disciplinary measures against members, such as fines and expulsion from the union. In modern literature, a proposal is substantiated about the possible reception by Russian legislation of this experience in the legal regulation of intra-trade union relations [See. about it: 22; 23]. However, it is worth noting that any borrowing should take into account the specifics of national legislation. In this regard, it is proposed to establish the above changes at the level of framework norms, which will ensure a certain level of transparency of trade unions in relation to their members and intra-trade union democracy.

Disputes continue between employers and trade union organizations over the names of the latter. Until now, the position of employers on the need for full compliance of the name of the trade union organization with the name of the employer remains relevant. Such a position is completely contrary to the proclaimed principle of the independence of trade unions. Consequently, appropriate changes should be made to the current legislation (the Civil Code of the Russian Federation, the Labor Code of the Russian Federation, the Federal Law of January 12, 1996 "On trade unions, their rights and guarantees of activity"). These changes should emphasize the right of trade union organizations to choose their name without reference to the name of the employer.

As a definite conclusion, it is worth noting that the exercise of control powers by trade unions is the implementation of a protective function. Effective protection of the rights and legitimate interests of workers is possible only if there is an effective mechanism for exercising trade union control over their observance. Therefore, it seems that in the near future the share of public control over

compliance with labor legislation and labor protection should increase. A society that claims to be the highest level of self-organization, to be called a civil society, must be able to exercise public control over the observance of human rights in this society [24, p.450].

Trade unions are an important element of civil society. Without increasing their role, it is impossible to achieve harmony in social and labor relations.

#### **4. Prospects for the development of the trade union movement in the light of the development of the information society.**

In the current period of widespread digitalization, the development of two opposite types of employment has begun. On the one hand, there is an increased demand for highly qualified office workers, primarily in the financial and legal spheres. At the same time, there are many jobs in the service sector that do not require special qualifications. Employers are reluctant to hire workers on the terms of an employment contract, especially during the next economic crisis, complicated by the Covid-19 pandemic [25, p. 133].

The protection of the labor rights of employees during the period of frequent use of remote (remote) work also remains a fairly relevant issue [See. about it 26].

Despite the fact that the state is gradually taking new support measures for employees and employers, adopting new legal acts that systematize legal problems in labor relations, employers still commit significant violations of the labor rights of employees.

Trade unions are the basic social institution of society, and in terms of the content of their main functions, they act as a regulatory institution included in the system of social and labor relations. Trade unions are becoming a necessary institution of a democratic society with a market economy, as a guarantor of industrial democracy and as a center of power representing the interests of employees in the labor market.

The new Article 75.1 of the Constitution of the Russian Federation provides that “Conditions are created in the Russian Federation for the sustainable economic growth of the country and

the improvement of the well-being of citizens, for mutual trust between the state and society, the protection of the dignity of citizens and respect for the working person are guaranteed, the balance of the rights and duties of a citizen, social partnership are ensured , economic, political and social solidarity”.

Proclaiming the ideas of partnership and solidarity, the state marks a completely new development, focused on socio-economic relations in Russia, involving new principles of interaction between society, business and the state.

The appearance in the Constitution of the Russian Federation of fairly new concepts, such as "solidarity" and "justice", suggests the emergence of a new model of social partnership in the labor sphere. Solidarity is understood as cooperation for the sake of achieving common goals, a balance of interests, mutual support and respect.

Moreover, in the concept of "social solidarity" there are individual ideas of O. Comte, who said that society is higher than all its constituent parts. Each element of the social system must be considered in the light of the whole. In this he saw the basis and necessity of solidarity. Comte called the ideal society sociocracy, which is interpreted as the power of the whole society, or rather, in the interests of the whole society. In the works of I. Comte, sociocracy is opposed to conservative aristocracy and even democracy [27, p.34].

Improving the level of well-being of citizens is in close connection with social solidarity. It assumes the availability and equality of the initial principles of the operation of economic instruments in relation to all citizens of the Russian Federation. All this can be interpreted as the dominance of public interest over personal interest, since only through the unification of the forces of sufficiently strong and independent subjects can socially significant results be achieved for society and the state [28, p.169].

Social partnership should focus on building relationships between employers, the state and trade unions, based on equal cooperation, mutual concessions and compromises. The purpose of their joint work should be to prevent collective labor disputes, resolve disagreements and ensure social peace and stability in society[29, p.131].

In some cases, the unification of workers in a

trade union may be hindered by the legal regulation of the creation of a trade union organization that is not clear to them, especially in terms of registering it as a legal entity. In addition to the complex procedure for registering a trade union organization as a legal entity, the costly procedure for liquidating it as a legal entity is added - this also reduces the likelihood of workers joining a trade union.

It is permissible to simplify the procedure for the liquidation of primary trade union organizations as legal entities, and also to provide for the possibility of releasing them from incurring the necessary liquidation expenses. A trade union organization is an association of citizens that is created and registered as a legal entity not to make a profit, but to protect the rights of workers. Thus, during the liquidation of the trade union, the expenses are borne by the workers themselves, who have united to fight for their interests, which is unacceptable. And in order to exercise state control over the activities of trade unions in the digital age, it is quite justified to create a single digital platform for the electronic registration of such organizations, which will significantly reduce costs and bureaucratic procedures.

It should be noted that not in all EAEU countries, trade unions can function both in the form of legal entities and without their registration as such[30, p.165].

In today's labor market, free and independent trade unions are the guarantors of social justice and security. The use of the market mechanism by the population depends on whether the market can be regulated within the framework of law and policy. Only one thing is indisputable, that the labor market noticeably improves the status of employees in relation to employers only with strong trade unions. Trade unions are a counterbalance to the power of entrepreneurs. But various social achievements and programs that protect rights and change the approach to the labor market do not come automatically, they must be developed [See. 31].

Thus, through constitutional norms, given their universally binding, uncompromising and basic nature, there is a further strengthening of the constitutional status of the individual by

concretizing his social rights as a person, as an employee, as an entrepreneur, as a member of society and as a citizen.

## 5. Conclusion

Trade unions are collective organizations whose primary task is to improve the financial and non-financial conditions of employment of their members. They can unite both employees of the same industry, regardless of their profession (for example, everyone who works in the automotive industry - from the chief designer to the secretary), and employees of the same profession, regardless of the place of work (for example, drivers).

The increase in productivity is achieved primarily because workers, instead of "voting with their feet", can now express their dissatisfaction with the level of wages and working conditions directly to the employer. Consequently, the turnover of the labor force is reduced (it is unprofitable for employees to quit if the union can achieve better conditions). In this situation, it is beneficial for the employer to invest in employee training, which also contributes to increased productivity.

Moreover, unions are able to convey information to managers about new methods of work or use of technology offered by workers, which is beneficial for both parties. And finally, it has been proven that workers united in a trade union are characterized by a higher level of labor morality, motivation and labor discipline.

The establishment and strengthening of Russia's international economic ties on a new basis makes it necessary to establish strong ties between Russian trade unions and the trade union centers of industrialized countries. Our professional movements should be constantly engaged in the development of the EAEU Trade Union Confederation, the International Confederation of Free Trade Unions, and other international trade union organizations.

The result of such interaction could be full membership in these organizations in the interests of unity and international solidarity. Trade unions take an active part in the work of the International Labor Organization. Active globalization and political confrontations that are changing the economic relations of the EAEU countries should radically

change the trajectory of their development right now. The priority in foreign policy should be the strengthening and development of comprehensive cooperation in the spirit of good neighborliness with all member countries of the EAEU [32].

It seems important to create a single data bank on socio-economic issues on the basis of foreign experience, as well as a system for disseminating this information in the trade union movement in Russia.

In addition, despite some positive results achieved in their activities by trade unions, it is extremely important that the state develop and adopt a federal program to support the activities of trade unions in Russia for the coming years.

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