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REPORT OF THE RUSSIAN FEDERATION ON THEMATIC GROUP "COMPLIANCE WITH LABOUR RIGHTS"

Article 2 – The right to just conditions of work .

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake :

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit ...

According to p. 5 art. 37 Constitution of the Russian Federation everyone shall have the right to rest and license. Those working by labor contracts shall be guaranteed the fixed duration of the working time, days off and holidays, and the annual paid leave established by the federal law.

As the main principles of the legal regulation of labor relations and other relations directly associated with them art. 2 Labor Code of the Russian Federation (hereafter referred to as the LC RF) establishes: «ensuring the rights of each worker to fair working conditions, including right to leisure, including restriction of working time, providing daily rest, days-off and holidays, paid annual leave ».

The term «working time» is presented in art.91 LC RF: **Working time** is the time when the worker must fulfill labor duties in compliance with internal labor rules and the terms of the labor contract, as well as other periods of time classed as working time in compliance with the legislation of the Russian Federation .

The standard length of the working time may not be greater than ***40 hours per week***. .

The procedure for calculating of working time for certain calendar periods (month, quarter, year) taking into account the established duration of working hours per week, is determined by the federal executive body responsible for the development of state policy and legal regulation in the sphere of labor (currently it is the Ministry of Labor and Social Protection of the Russian Federation).

The employer must keep records of the working time.

Reduced working hours shall be established for workers:

-for workers aged below 16: up to 24 hours a week ;

- for workers aged from 16 to 18: up to 35 hours a week ;

- for workers who are disabled, Disability Groups I or II: up to 35 hours a week;

- for workers working in working conditions declared harmful and/or hazardous conditions of the 3 or 4 grade according to the special assessment of working conditions, - up to 36 hours a week.

The length of the working time of students of general educational institutions up to eighteen years of age working during the period of study in the time free from study may not be greater than half of the specified norm for persons of the relevant age (p. 4 art. 92 LC RF).

A work week reduced by one work day or by a number of working hours corresponding thereto (given a reduction of the working day (shift) during the week) shall be established for workers studying by state-accredited program of the main general or secondary general education with full-time\part-time studies in accordance with their desire (art. 176 LC RF), a work week reduced by 7 days shall be established for workers studying by state-accredited program of secondary vocational education with full-time\part-time and extramural studies (art. 174 LC RF). During a period of release from work, said workers shall be paid 50 per cent of the average earnings at the primary place of work but not lower than the minimum wage.

Legislation can establish a shorter working time for other categories of workers (for example, pedagogical, medical, etc.).

A reduced workweek of not more than 36 hours shall be established for teaching personnel (art. 333 LC RF). Depending on their position and/or area of specialization, the length of work time or standard hours of teaching work for a pay rate for teaching personnel shall be (order of the Ministry of Education of the Russian Federation № 1601 dd 22.12.2014): 30 hours per week is established for senior preschool teachers; 20 hours per week for teachers-defectologists, teachers -speech therapists, etc..

A reduced workweek of not more than 39 hours per week shall be established for medical workers (art. 350 LC RF).

In addition, the Decree of the Government of the Russian Federation No. 101 dd 14.02.2003 for medical workers established a shorter working time,

depending on the position and (or) area of specialization:

- 36 hours per week - according to the list No. 1 (infectious diseases hospitals, dermatovenerologic dispensaries, laboratory diagnostics of HIV infection, etc.);

- 33 hours per week - according to the list No. 2 (work on medical ultrashort wave frequency generators "VHFW" with a power of over 200 W, dental clinics, etc.);

- 30 hours a week - according to the list № 3 (tubercular hospitals, patho-anatomical departments, etc.).

An incomplete working time (shift) or incomplete working week may be fixed by agreement between the worker and the employer at hiring or later .The employer shall be obliged to set an incomplete working day (shift) or incomplete working week at the request of a pregnant woman, one of the parents (trustee) with a child up to fourteen years of age (invalid child up to eighteen years of age), as well as a person taking care of a sick member of the family as specified in the medical statement .

With a part-time work arrangement, the earnings to the worker are paid in proportion to the working time or depending on the fulfilled volume of work .

Work under part-time arrangement does not incur any restrictions of the length of the main annual paid leave, calculation of the length of service and other labor rights of the worker.

The maximum duration of daily work is established for some categories of workers. According to art. 94 LC RF the length of the permitted working day (shift) may not be greater than:

- for workers fifteen to sixteen years of age - 5 hours, sixteen to eighteen years of age - 7 hours ;

- for students of general educational institutions, institutions of primary and secondary professional education combining work and study during the school year: fourteen to sixteen years of age - 2.5 hours, sixteen to eighteen years of age - 4 hoursfor invalids - according to the medical statement .

For workers engaged in the work with adverse and/or hazardous working conditions and reduced length of working time, the maximum permitted length of the permitted working day (shift) may not be greater than :

- with a 36-hour working week - 8 hours ;

- with a 30-hour working week and less - 6 hours .

The duration of daily working hours (shift) of the creative workers of the mass media, cinematographic organizations, television and video-shooting teams, theatres, theatrical and concert organizations, circuses and other persons taking part in the creation and/or performance (exhibition) of works may be established by a collective agreement, local normative act or labor contract .

The length of the working day or shift directly preceding a public holiday shall be reduced by one hour.

In continuous-process organizations and in individual types of works not permitting the reduction of the length of the work (shift) on the eve of a holiday, the overtime is compensated by additional time of rest granted to the worker or, with his consent, payment according to the norms specified for overtime work .

On the eve of days-off, the length of work with a six-day working week arrangement may not be greater than five hours.

▪ ***Article 2 – The right to just conditions of work .***

▪ *With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:*

…3. to provide for a minimum of four weeks' annual holiday with pay ..

The workers shall be provided with ***annual leave*** of 28 calendar days while preserving the place of work (occupation) and average earnings (art.114 LC).

All categories of workers are entitled to leave without exception, including temporary, seasonal, part-time workers, homeworkers, etc. Every agreement aimed at restricting the right to leave, replacing it with an additional payment, is illegal.

Workers engaged in seasonal work shall be granted paid leave calculated at two working days for each month (art. 295 LC RF).

Separate categories of workers are provided with extended leave of the following duration:

- minor workers under 18 years of age - 31 calendar days at a time convenient for them;

- disabled persons - 30 calendar days;

- pedagogical workers - 42 and 56 calendar days, etc..

Additional annual paid leave shall be provided to the workers engaged in the work with working conditions declared adverse of the 2,3, and 4 degree and/or hazardous according to the results of the special assessment**.** The minimum duration of an additional annual paid leave for these workers is 7 calendar days. The duration of the additional annual paid leave of a particular worker is established by a labor contract on the basis of a sectoral (interindustry) agreement and collective agreement taking into account the results of a special assessment of working conditions (art.117 LC).

Workers with an ***unregulated working day*** (all categories of managers, economists, accountants) shall be provided with ***additional annual paid leave***, with the length being defined in the collective agreement or internal labor rules, that may not be shorter than three calendar days. The procedure and terms of providing the additional annual paid leave to workers in organizations financed from the federal budget shall be specified by the Government of the Russian Federation, in organizations financed from the budget of a subject of the Russian Federation or local budget - by the bodies of power of the subject of the Russian Federation or local self-government bodies .

Persons working in Far Northern regions and in areas equivalent to Far Northern regions are entitled to ***additional annual paid leave***:

- 24 additional calendar days of paid leave shall be granted to persons working in Far Northern regions;

-in areas equivalent to Far Northern regions shall be granted 16 calendar days (art. 321 LC RF).

Taking into account production and financial capabilities, employers can establish additional leave for their workers. The procedure and conditions for the provision of this leave are determined by collective agreements or by local regulatory rules that are adopted taking into account the opinion of the elected body of the primary trade union organization.

The length of the annual leave of workers shall be calculated in calendar

days and does not have the maximum limit. Public holidays occurring during the annual basic or annual additional paid leave shall not be included in the calendar days of the leave and prolong it .

The additional paid leave shall be summed up with the main annual paid leave. .

The paid leave must be provided to the worker on an annual basis. The right for the use of the leave for the first year of work shall arise for the worker upon the expiry of six months of uninterrupted work with the given employer. If there is an agreement between the parties, the worker may take paid leave before the expiry of the six months . Before the expiry of six months of uninterrupted work, paid leave at the worker's application must be provided to :

- women - before maternity leave or directly after it;

- workers up to eighteen years of age ;

- workers having adopted a child (children) up to three months of age ;

- in other cases envisaged in federal laws.

The leave for the second and subsequent years of work may be provided at any time of the working year according to the order for taking annual paid leave adopted by the given employer (art.122).

The order of granting the annual paid leave shall be defined annually in accordance with the leave schedule endorsed by the employer taking into account the opinion of the elective body of the primary trade union organization. The leave schedule shall be obligatory for both the employer and the worker. The worker must be notified against his/her signature of the time of the beginning of the leave no later than two weeks in advance .

Individual categories of workers, in cases envisaged in the Labor Code and other federal laws, can take the annual paid leave at a time convenient for them if they wish. If a husband wishes so, his annual leave may be granted in the period of maternity leave of his wife regardless of the time of his uninterrupted work for the given employer .

The annual paid leave may be extended or shifted to another term determined by the employer with account taken of the worker's wish in cases of :

- temporary disability (i.e. illness) of the worker ;

- execution of state duties by the worker during the annual paid leave if the labor legislation envisages this being done outside work (for example, participation in the work of the jury, etc.), if for this purpose the labor legislation provides for exemption from work;

- in other cases envisaged in the labor legislation, local normative acts.

In exclusive cases when the granting of leave to the worker in the current year may affect the normal flow of operation of the organization or individual entrepreneur, it shall be permitted to transfer leave to the following working year if the worker agrees to it. In this case, the leave must be used no later than within 12 months after the end of the working year it was granted for.

It shall be prohibited to avoid the granting of the annual paid leave for two years in a row, as well as to avoid the granting of the annual paid leave to workers up to eighteen years of age and workers engaged in work with adverse and/or hazardous working conditions .

If there is an agreement between the worker and the employer, the annual paid leave may be divided into parts, with at least one of the parts of this leave being at least 14 calendar days long.

worker recall from the leave shall be permitted only if he agrees to it. The unused part of the leave in this case must be provided at the worker's choice at a time convenient for him during the current working year or added to the leave for the subsequent working year. It shall not be permitted to recall from the leave workers up to eighteen years of age, pregnant women and workers engaged in works with adverse and/or hazardous working conditions.

Part of the annual paid leave, that part exceeding 28 calendar days, may be replaced with monetary compensation at the worker's application in writing .

It is prohibited to use a monetary compensation to replace the annual basic paid leave for pregnant women and workers aged below 18, and also annual additional paid leave for workers engaged in harmful and/or hazardous working conditions for working in the relevant conditions (except for paying out monetary compensation for unused leave when an worker leaves his job .

The Committee *asks the next report to clarify what limits apply to the postponement of the annual leave, that is whether the whole annual leave can be*

postponed to the following year or whether a minimum number of days should be taken during the reference year without exceptions .

Comments.

The Russian Federation ratified Convention No. 132 of the International Labor Organization concerning Annual Holidays with Pay (hereinafter referred to as the Convention) by the Federal Law of the Russian Federation No. 139-FZ dd July 1, 2010. "On the ratification of the Convention (revised in 1970) concerning Annual Holidays with Pay (Convention No. 132)".

According to art. 9 of the Convention the uninterrupted part of the annual holiday with pay referred to in Article 8, paragraph 2, of this Convention shall be granted and taken no later than one year, and the remainder of the annual holiday with pay no later than eighteen months, from the end of the year in respect of which the holiday entitlement has arisen .

Any part of the annual holiday which exceeds a stated minimum may be postponed, with the consent of the employed person concerned, beyond the 18 months. The minimum and the time limit to be postponed shall be determined by the national legislation or through collective bargaining, or in such other manner consistent with national practice as may be appropriate under national conditions .

The terms and procedure to grant annual paid holidays to worker employed under the employment contract in accordance with the Labor Code of the Russian Federation are regulated by Chapter 19 of the LC RF.

The annual paid holiday may be extended or shifted to another term determined by the worker with account taken of the worker's wish in cases of :

- temporary disability of the worker (i. 2 p. 1 art. 124 LC RF);

- execution of state duties by the worker during the annual paid holiday if the labor legislation envisages this being done outside work (i. 3 p. 1 art. 124 LC RF);

-in other cases envisaged in the labor legislation, local normative acts (i. 4 p. 1 art. 124 LC RF).

The third part of art. 124 LC RF says that in exclusive cases when the granting of holiday to the worker in the current year may affect the normal flow of operation of the organization or individual entrepreneur, it shall be permitted to transfer leave to the following working year if the worker agrees to it. In this case, the leave must be used no later than within 12 months after the end of the working year it was granted for .

If payment was not made when due for the benefit of an worker for the period of annual paid holiday or if an worker was notified of the date of commencement of the leave less than two weeks before the beginning thereof the employer on the worker's application in writing shall transfer the annual paid holiday to another term agreed upon with the worker (p. 2 art. 124 LC RF).

It shall be prohibited to avoid the granting of the annual paid holiday for two years in a row, as well as to avoid the granting of the annual paid holiday to workers up to eighteen years of age and workers engaged in work with adverse and/or hazardous working conditions (p. 4 art. 124 LC RF).

According to art. 260 LC RF before maternity leave or immediately thereafter, or after a period of leave taken to care for a child, a woman shall if she wishes be granted annual paid vacation, regardless of her length of employment with a given employer .

If the beginning of the maternity leave falls within the period of annual paid holiday, the annual holiday must be either extended by the number of calendar days of the worker's incapacity for work or transferred to another term.

If annual paid holiday is transferred to another period, the period for granting an annual paid holiday is determined by the employer taking into account the wishes of the worker.

Since it is the duty of the employer to comply with the worker's holiday schedule (part 3, article 123 of the Labor Code of the Russian Federation), the worker's non-use of holiday in the current working year or subsequent working periods does not constitute grounds for the employer's refusal to fulfill the obligation set forth in part one of Article 127 of the Labor Code of the Russian Federation (At termination of employment an worker shall receive monetary compensation for all unused holiday).

Accumulated holiday for past periods can use by the worker within the holiday schedule or within the terms established by agreement of the parties or receive compensation upon dismissal.

Thus, the Russian labor legislation provides workers with broader guarantees than required by the Convention.

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- **Article 2 – The right to just conditions of work**

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- *With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:*

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- ***4. to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations ;***

- On January 1, 2014, the Federal Law No. 426-FZ dd December 28, 2013, "On Special Assessment of Working Conditions" (hereinafter referred to as the Federal Law No. 426-FZ) came into force, according to which the assignment of working conditions in the workplace to the risk category based on the results of a special working conditions assessment (hereinafter referred to as SOUT), it replaced the procedure for attesting workplaces for working conditions.

- Also, in connection with the need to amend the normative legal acts affecting the definition of working conditions and assignment of guarantees and compensation for work in harmful and (or) dangerous working conditions (hereinafter referred to as guarantees and compensations) the Federal Law No. 421 -FZ "On Amendments to Certain Legislative Acts of the Russian Federation in Connection with the Adoption of the Federal Law "On Special Assessment of Working Conditions "(hereinafter referred to as the Federal Law No. 421-FZ) was adopted on December 28, 2013, .

- With their adoption, the procedure for special assessment of working conditions was introduced as the only way to assess working conditions within labor relations.
- According to Parts 1 and 2 of Article 3 of Federal Law No. 426, a special assessment of working conditions is a single complex of sequentially implemented measures to identify harmful and (or) dangerous factors of the working environment and labor process (hereinafter referred to as harmful and (or) hazardous production factors) and level of their affect on worker taking into account the deviation of their actual values from the norms established by the federal executive body authorized by the Government of the Russian Federation (hygienic standards) for working conditions and use of individual and collective protection of workers.
- Classes (subclasses) of working conditions in the workplaces are established based on the results of the special assessment of working conditions,.
- Article 7 of Federal Law No. 426 defines the scope of application of the results of the special assessment of working conditions provided for in Article 3:
- 1) development and implementation of measures aimed at improving the working conditions of workers;
- 2) informing workers about working conditions in the workplace, existing risk of damage to their health, measures to protect them from exposure to harmful and (or) hazardous production factors and about guarantees and compensation to workers engaged in work with harmful and (or) hazardous working conditions;
- 3) providing workers with personal protective equipment as well as equipping the workplace with collective protection equipment;
- 4) monitoring working conditions in the workplace;
- 5) in cases specified by the legislation of the Russian Federation, organization of mandatory preliminary (upon admission) and periodic (during labor activity) medical examinations of workers;
- 6) provision of guarantees and compensations to workers established by the Labor Code of the Russian Federation;

- 7) establishment of an additional tariff for insurance contributions to the Pension Fund of the Russian Federation taking into account the class (subclass) of working conditions in the workplace;
- 8) calculation of discounts (premiums) to the insurance tariff for compulsory social insurance against accidents at work and occupational diseases;
- 9) rationale for financing measures to improve labor conditions and safety, including at the expense of funds for implementation of compulsory social insurance against accidents at work and occupational diseases;
- 10) preparation of statistical reports on working conditions;
- 11) decision regarding the link between workers' diseases and impact on workers of harmful and (or) hazardous production factors, as well as investigation of accidents at work and occupational diseases;
- 12) consideration and settlement of disagreements related to ensuring safe working conditions between workers and employer and/or their representatives;
- 13) in cases established by federal laws and other regulatory legal acts of the Russian Federation, and taking into account state regulatory requirements for the labor protection, determination of the types of sanitary services and medical support for workers, scope and conditions for their provision;
- 14) adoption of a decision to establish restrictions for certain categories of workers provided by the labor legislation;
- 15) assessment of occupational risk levels;
- 16) other purposes stipulated by federal laws and other normative legal acts of the Russian Federation.
- Article 14 of Federal Law No. 426 introduces a classification of working conditions by the degree of harmfulness and (or) danger: four classes are introduced - optimal, admissible, harmful and hazardous working conditions.
- At the same time, the optimal working conditions (1st class) are working conditions without harmful or (and) hazardous production factors or whose exposure levels do not exceed the levels established by the standards (hygienic norms) of working conditions and adopted as safe for humans and there are prerequisites to maintain a high level of efficiency of the worker.

- Admissible working conditions (2nd class) are working conditions with harmful and (or) hazardous production factors and their exposure levels do not exceed the levels established by the standards (hygienic norms) of working conditions, and the changed functional state of the worker's body restores during regulated rest or by the beginning of the next working day (shift).

- Harmful working conditions (3rd class) are working condition when exposure levels of harmful and (or) hazardous production factors exceed the levels established by the standards (hygienic standards) of working conditions, including:

- 1) subclass 3.1 (harmful working conditions of the 1st degree) - working conditions when worker is exposed to harmful and (or) hazardous production factors, the changed functional state of the worker's body restores after, usually over a longer term than before the beginning of the next working day (shift), at the termination of exposure to these factors, and the health damage risk increases;

- 2) subclass 3.2 (harmful working conditions of the 2nd degree) - working conditions when worker is exposed to harmful and (or) hazardous production factors and the exposure levels are capable of causing persistent functional changes in the worker's body leading to emergence and development of the initial forms of occupational diseases or occupational diseases of mild severity (without loss of occupational capacity) arising after prolonged exposure (fifteen or more years);

- 3) subclass 3.3 (harmful working conditions of the 3rd grade) - working conditions when worker is exposed to harmful and (or) hazardous production factors and the exposure levels are capable of causing persistent functional changes in the worker's body leading to emergence and development of occupational diseases of light and medium severity (with loss of occupational capacity) during the period of work;

- 4) subclass 3.4 (harmful working conditions of the 4th grade) - working conditions when worker is exposed to harmful and (or) hazardous production factors and exposure levels can lead to emergence and development of severe occupational diseases (with loss of general occupational capacity) in the period labor activity.

- Hazardous working conditions (4th class) are working conditions when worker is exposed to harmful and (or) hazardous production factors and exposure levels throughout the whole working day (shift) or part thereof can endanger the life of the worker and consequences of these factors cause a high risk of an acute occupational disease development during labor activity.

- The procedure to establish the class (subclass) of working conditions depending on the level of impact of each harmful (hazardous) production factor identified in the workplace is determined by the Methodology for conducting a special assessment of working conditions approved by the Ministry of Labor of Russia, Order No. 33n dd January 24, 2014 .

- In terms of performance of special assessment of working conditions and use of its results these requirements apply to all workers regardless of the title of their profession and position, in labor relationship, except for homeworkers, distance workers and workers entered into labor relations with employers-individuals who are not individual entrepreneurs.

- Federal Law No. 421 amends articles 92, 117, 147 and 219 of the Labor Code of the Russian Federation to ensure the implementation of a differentiated approach when providing workers with guarantees (compensations) for working in harmful (hazardous) working conditions depending on the final class (subclass) of working conditions established by the results of special assessment of working conditions under the principle: "the higher harmfulness means the greater composition and size of the guarantees (compensations) provided, regardless of the title of the profession (position) of the worker".

- However, in accordance with the new edition of Article 219 of the Labor Code of the Russian Federation, if optimal or admissible working conditions are established in the workplaces based on the results of the special assessment of working conditions, no guarantees (compensation) for workers employed in harmful or hazardous working conditions shall be provided .

- According to the new edition of Article 147 of the Labor Code of the Russian Federation, workers employed in harmful and (or) hazardous working conditions are entitled to an increased amount of not less than 4% of the tariff rate (wages) in optimal or admissible working conditions.

- The specific amount of the increase in the remuneration of workers employed in harmful and (or) hazardous working conditions is determined in

accordance with the industry agreement, collective agreement, labor contract and the minimum amount of the increase is not limited.

- In accordance with the new edition of Article 117 of the Labor Code of the Russian Federation, an annual additional paid leave of at least 7 calendar days is granted to workers in working conditions declared to be harmful with the 2nd degree at least or hazardous by the results of special assessment of working conditions.

- The specific duration of the annual additional paid leave for workers in harmful working conditions of the 2nd degree at least or hazardous working conditions is determined in accordance with the industry agreement, collective agreement and labor contract and the minimum duration is not limited.

- According to the new edition of Article 92 of the Labor Code of the Russian Federation, a reduced working week of not more than 36 hours shall be provided to workers in working conditions declared to be harmful of the 3rd degree at least or hazardous by the results of special assessment of working conditions.

- The specific duration of a reduced working week for workers employed in harmful working conditions of the 3rd degree at least or hazardous working conditions is determined in accordance with the industry agreement, collective agreement and labor contract and the maximum duration is not limited.

- So Article 350 of the LC RF establishes factors, regulating working conditions of medical workers. In accordance with its provisions, the number of working hours for medical workers is set to the limit of not more than 39 hours a week even with optimal or acceptable working conditions.

- Also, Federal Law No. 426-FZ provides for the right of the SOUT commission to recognize the implementation of research and measurement of harmful and (or) hazardous production factors in the workplace as impossible if this endangers the lives of workers, experts and (or) other workers of the organization conducting SOUT as well as other persons with the subsequent establishment of hazardous (class 4) working conditions. Thus, the SOUT procedure is optimized and facilitated at apparently dangerous workplaces and the right of employed workers to guaranties and compensations.

- It should be noted that despite the fact that only the minimum amount of guarantees and compensations has been established in the Labor

Code of the Russian Federation, and in the current legislation of the Russian Federation there are not any approved methods for calculating their amount depending on the class (subclass) of working conditions, the employer is not deprived of the right to determine it independently with its financial, organizational and technical capabilities.

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▪ Thus, the adoption of Federal Laws No. 426-FZ dd December 28, 2013 "On special assessment of working conditions" and No. 421-FZ dd December 28, 2013 "On amendments to certain legislative acts of the Russian Federation in connection with the adoption of the federal law "On special assessment of working conditions" legislatively establishes a system for excluding or minimizing the residual risks of workers employed in harmful (hazardous) working conditions in the labor legislation of the Russian Federation.

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▪ ***Article 2 – The right to just conditions of work .***

▪ *With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake :*

…5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognized by tradition or custom in the country or region concerned as a day of rest .

The length of the weekly continuous rest may not be less than 42 hours .

All workers shall be provided with days-off (weekly continuous rest). With a five-day working week arrangement, the workers shall be provided with two days-off per week, with a six-day working week arrangement, one day-off .

Sunday shall be the common day-off . Sunday shall be the common day-off. The second day-off with the five-day working week arrangement shall be specified in the collective agreement or internal labor rules. Both of the days-off shall be provided in succession as a rule.

With employers with which the work cannot be stopped on days-off for technical and organizational reasons, the days-off shall be provided on various

days of the week in turn to each of the worker groups according to the internal labor rules .

Individual categories of workers are entitled to *additional days off*. For example, donors after each day of donating blood (art. 186 LC), parents, guardians or caregivers to take for disabled children (art. 262 LC), etc.

According to art. 112 LC the following days shall be ***public holidays*** in the Russian Federation: :

January1, 2, 3, 4, 5, 6 and 8 - - New Year holidays; ;

January 7 - Christmas Day;

February 23 - Day of the Defender of the Fatherland ;

March 8 - - International Women's Day ;

May 1 - Spring and labor Holiday ;

May 9 - Victory Day ;

May 12 - Day of Russia;

November 4 - National Unity .

Taking into account national traditions and customs, additional public holidays may be introduced by the laws of the subjects of the Russian Federation. For example, in the Republic of Bashkortostan — Day of the Republic, Day of the Constitution, Eid al-Fitr and Eid al-Adha.

When a day-off and a public holiday coincide, the day-off is transferred to the working day following the public holiday. The Decree of the Government of the Russian Federation to transfer day-off to other days is subject to official publication no later than one month before the corresponding calendar year. If the transfer is made within a year, the decree shall be published no later than two months before the calendar date of the day off.

Workers, except for those workers who receive salaries (an official salary), for the public holidays during which they were not engaged in working are entitled to receive additional compensation. The rate of and the procedure for paying said compensation shall be determined by the collective agreement, agreements, a local normative act adopted with account taken of the opinion of the elected body of the primary trade union organization or the labor contract. The amounts of money paid additional compensation for public holidays shall

be posted as expenses towards remuneration for labor in full. (p. 4 art. 112 LC RF).

The presence of public holidays in the calendar month shall not be deemed grounds for cutting the remuneration for labor of workers who receive a salary (official salary) .

Working on days-off and public holidays is prohibited, except for the cases envisaged by the Labor Code .

workers shall be made to work on days-off and public holidays at the employer's instructions in writing .

The committee *asks the next report to clarify if there are circumstances under which an worker may work more than twelve days consecutively before being granted a rest period.*

Comment.

According to art. 111 LC RF all workers shall be provided with days-off (weekly continuous rest period). Article 110 LC RF establishes that the length of the weekly continuous rest may not be less than 42 hours.

The transfer of the day off to the future period is not provided for by law as confirmed by the case law (Cassation ruling of the Yaroslavskiy Regional Court dd 04.07.2011 case No. 33-3549).

According to art. 300 LC RF when using the rota system, a cumulative record of work time shall be established for the month, quarter, or other more lengthy period of time, but not more than one year .

In accordance with paragraph 4.3 of the Basic Provisions on rota system approved by the Decree of the USSR State Committee for Statistics, Secretariat of the All-Union Central Council of Trade Unions, Ministry of Health of the USSR No. 794/33-82 dd December 31, 1987 applied in part that does not contradict the Labor Code of the Russian Federation, the duration of daily (inter-shift) rest period taking into account lunch breaks can be reduced to 12 hours. In this case unused hours of daily (inter-shift) rest period as well as weekly rest

days are summed up and provided in the form of additional days off (days of inter-shift rest) during the accounting period. The number of weekly rest days in the current month should not be less than the number of full weeks of this month. Days of weekly rest can be on any days of the week.

Given the foregoing, the duration of weekly rest with the rota method can be reduced to 24 hours.

For certain categories of workers it is provided by regulatory legal acts that with the combined recording of working hours weekly rest periods may be reduced in separate weeks, with an average of 42 hours of rest per week for a continuous rest period. For example, in accordance with paragraph 9 of the Regulation on working hours and rest period for communication workers with a special nature of work (approved by Order No. 112 of the Ministry of Communications of the Russian Federation dd 08.09.2003), the duration of a weekly continuous rest period can be more than 42 hours and can be reduced to 24 hours for shift workers as well as workers with working day divided into parts . But for the accounting period (month, quarter), the duration of weekly continuous rest period must be at least 42 hours.

According to art. 113 LC RF as a rule working on days-off and public holidays is prohibited .

Workers may be made to work on days-off and public holidays with their *consent in writing* if it is necessary to carry out unforeseen work on the urgent completion of which the further normal operation of the organization as a whole or specific structural units thereof or of the individual entrepreneur depends.

In the following cases workers may be made to work on days-off and public holidays ***without their consent***:

1) for the purpose of preventing a catastrophe, industrial disaster or elimination of the aftermath of a catastrophe, industrial disaster or natural calamity;

2) for the purpose of preventing accidents, the destruction or damage of the employer's property or state or municipal property;

3) for the purpose of carrying out works necessary due to the declaration of a state of emergency or martial law, and also when necessary works are performed in emergency situations, i.e. a disaster or a threat of a disaster (fire,

flood, famine, earthquake, epidemic or epizootic) and in other cases when the lives or normal living conditions of the whole population or of a part thereof are endangered.

Creative workers of the mass media, cinematographic organizations, television and videoshooting teams, theaters, theatrical and concert organizations and circuses, other persons taking part in the creation and/or performance (exhibition) of works of art may be made to work on days-off and public holidays in the procedure established by a collective agreement, local normative act or labor contract .

In other cases working on days-off and public holidays may take place with the worker's consent in writing and with account taken of the opinion of the elected body of the primary trade union organization .

On public holidays one may carry out work which cannot be suspended due to production technical conditions (uninterrupted-cycle organizations) or work needed to provide services to the public or also necessity repair and loading/unloading works as well .

Disabled persons and women having children aged below three may work on days-off and public holidays only if they are not prohibited from doing so due to their state of health. In this case, disabled persons and women having children aged below three shall be familiarised against their signature, about their right to refuse to work on a day-off or public holiday .

In the above mentioned cases, the worker can work more than twelve days in a row without a weekly rest period but with payment of work in an increased amount or by providing additional days of rest for the days off he worked.

- ***Article 2 – The right to just conditions of work .***

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

…6. to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship .

According to art. 57 LC RF a *labor contract shall be drawn up* ***in writing*** in duplicate, with each of the copies signed by the parties. One copy of the labor contract is given to the worker, the other remains with the employer. The receipt by an employer of a copy of a labor contract shall be confirmed by his signature on the copy of the labor contract kept by the employer .

A labor contract that was not drawn up in writing is considered to be concluded if the employer is admitted to work with the knowledge of at the order of the employer or his representative. If the worker is actually admitted to work, the employer shall be obliged to draw up a labor contract with him in writing *no later than within three working days from the day when the worker was actually admitted to work* .

The following conditions are mandatory for inclusion in the labor contract:

- the place of work including an indication of the detached structural unit and the location thereof ;

- labor function (working in a position listed in the staff list, occupation, trade including an indication of qualification; the specific type of work the worker is to perform) ;

- the date of commencement of work, or if a fixed-term contract is concluded, also the effective term thereof and the circumstances (reasons) serving as grounds for concluding a fixed-term labor contract;

- the terms for remuneration for labor (including base wage or salary (official salary) rate of the worker, extra payments, mark-ups and incentives) ;

- *working hours and leisure hours* (if for this worker they are different from the general rules of the employer);

- compensations for demanding work and for handling harmful materials and/or hazardous working conditions including an indication of the working condition characteristics at the workplace ;

- the terms and conditions defining where necessary the nature of work (mobile, travelling, en route, or another kind of work);

- the clause on the mandatory social insurance for the worker ;

- other terms and conditions.

If any information and/or terms have not been included in a labor contract when it was concluded it shall not be deemed grounds for deeming the labor contract non-concluded or for the rescission thereof. The labor contract shall be then supplemented with the missing information and/or conditions. .

A provision may be made in a labor contract for additional terms that do not deteriorate the worker's situation in comparison with those established by the labor legislation and other normative legal acts containing labor law norms, a collective agreement, agreements or local normative acts, in particular as follows :

- indicating the specific place of work (with an indication of the structural unit and its location) and/or workplace ;

- probation;

- the non-disclosure of legally-protected secrets (state, service, commercial and another secrets);

- the worker's obligation after training to work for at least as long as required by the contract if the training was carried out at the expense of the employer ;

-the types of, and the terms for, additional insurance for the worker;

-improvement of the social and everyday conditions of the worker and his family members ;

- defining more specifically the rights and duties of the worker and the employer established by the labor legislation and other normative legal acts containing labor law norms .

Thus, workers are informed of the conditions of their work by both the employment contract and other documents. So, for example, a worker can be informed about the amount of leave allowance both by a pay sheet (part 1, 2 of Article 136 of the Labor Code of the Russian Federation) and by a memo specifying worker's leave entitlement and leave allowance (unified form No. T-60 approved by the Decree of the State Statistics Committee No. 1 dd January 5, 2004 “On approval of unified forms of primary accounting documentation for labor and its payment”).

The committee *asks the next report to clarify whether workers are informed in writing (whether in the employment contract or another document), when starting employment, on the amount of paid leave and the length of the periods of notice in case of termination of the contract or the employment relationship* .

Comment.

According to art. 67 LC RF a labor contract shall be drawn up in writing in duplicate, with each of the copies signed by the parties. One copy of the labor contract is given to the worker, the other remains with the employer. The receipt by an employer of a copy of a labor contract shall be confirmed by his signature on the copy of the labor contract kept by the employer .

According to part 2 art 57 LC RF the inclusion of the following information is obligatory: the date of commencement of work, or if a fixed-term contract is concluded, also the effective term thereof and the circumstances (reasons) serving as grounds for concluding a fixed-term labor contract under the present Code or another federal law; working hours and leisure hours (if for this worker they are different from the general rules of the employer); .

Thus, the workers is informed, in particular, about the terms for remuneration for labor. Leave pay in accordance with the law is performed according worker's average earnings.

In addition, when concluding a labor contract, the worker is introduced to the collective agreement and local acts that apply to the employer.

According to art. 136 LC RF during the payment of a wage, an employer shall be obligated to notify each worker in writing:

1) of the component parts of the wage due to him for the relevant period;

2) other amounts accrued to the worker, including monetary compensation for violation of the prescribed period of wages payment respectively by the employe, leave pay, payment upon dismissal and (or) other payments due to the worker;

3) the amounts of and grounds for withholdings made ;

4) the overall payable monetary sum .

The form of a settlement sheet shall be approved by an employer, taking into account the opinion of the workers' representative body in the procedure established by Article 372 of the Labor Code of the Russian Federation for the adoption of local normative acts.

When concluding labor contract, the employer informs the worker on the terms for remuneration for labor and it must be included in to the labor contract (art. 57 LC RF).

The term of leave pay is not included into the list for obligatory ibcludion into the labor contract however, this list is not closed or exhaustive and the labor contract is an agreement between the employer and worker, and therefore they can add every term by agreement between themselves.

An worker shall be warned in writing of the termination of his labor contract due to the expiry of the effective term thereof at least three calendar days before his dismissal, except for the case of expiry of the effective term of a fixed-term labor contract concluded for the period of execution of duties of an worker who is not present (art. 79 LC RF).

workers shall be warned by an employer personally and against their signature of an impending discharge in connection with the liquidation of an organization and a reduction of the staff of an organization at least two months before discharge (p. 2 art. 180 LC RF).

The terms of notice upon termination shall be determined in the labor contract if working for the employer - the physical person (art. 307 LC RF).

- ***Article 2 – The right to just conditions of work .***

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

… 7. to ensure that workers performing night work benefit from measures which take account of the special nature of the work .

According to art. 96 LC RF ***night time is the time from*** 22:00 through 6:00 . The length of night-time work (shift) is reduced by one hour without the need to subsequently work this off.

Night-time work (shift) is not reduced for workers enjoying reduced

length of work, as well as for workers hired especially for night-time work if otherwise is not envisaged in the collective agreement.

Night-time work is not permitted for :

- pregnant women;

- workers under eighteen years of age except for those engaged in creation and/or performance of works of art ;

- other categories of workers in compliance with the Labor Code and other federal laws .

Other categories of workers may be engaged in night-time work only with their written consent and under the condition that such work is not prohibited for them according to the health condition :

- Women with children of up to three years of age ;

- invalids;

- workers with invalid children ;

- workers taking care of the sick members of their families ;

- single mothers and fathers bringing up children up to five years of age,

In these cases, the mentioned workers must be notified in writing of their right to refuse the nighttime work .

The procedure for night-time work of creative workers of the mass media, cinematographic organizations, television and video-shooting teams, theatres, theatrical and concert organizations, circuses taking part in the creation and/or performance (exhibition) of works may be established by a collective agreement, local normative acts or labor contract .

When works are carried out in abnormal conditions (including at night-time) an worker shall receive the relevant payments envisaged by the labor legislation and other normative legal acts containing labor law norms, a collective agreement, agreements, local normative acts or a labor contract. The rates of payment established by a collective agreement, agreements, local normative acts or a labor contract shall not be below those established by the labor legislation and other normative legal acts containing labor law norms (art. 149 LC RF).

Each hour of work during the night shall be compensated at a higher

amount in comparison with work during normal conditions, but not lower than the amounts established by the labor legislation and other normative legal acts containing labor law norms. .

According to the resolution of the Government of the Russian Federation No. 554 dd July 22, 2008, the minimum wage increase for night work is 20 percent of the hourly wage rate (salary (official salary) calculated per hour) for each hour of work at night.

The specific amount of increase in wages/salaries for working at night shall be established by a collective agreement, a local normative act adopted with account taken of the opinion of the representative body of workers or a labor contract (art. 154 LC RF).

The committee *asks the next report to clarify:*

1.who is considered to be a night worker;

2.under what circumstances a night worker can be transferred to daytime work.

Comment

According to part one art 96 LC FR night time is the time from 22:00 through 6:00 .

Workers can be employed specifically for night work. Legislation does not provide for the title of such category of workers When employing this type of workers their labor contracts should include the "night mode" of work and it is mandatory according to Article 57 LC RF.

According to part five art. 96 LC RF night-time work is not permitted for: expectant mothers; workers under eighteen years of age except for those engaged in creation and/or performance of works of art and other categories of workers in compliance with the present Code and other federal laws .

The exception is made for athletes who have not reached the age of eighteen years whose work at night is allowed in cases and in the manner prescribed by labor legislation and other normative legal acts containing labor

norms, collective agreements, local regulations, labor contracts (art. 348.8 LC RF).

Women with children of up to three years of age, invalids, workers with invalid children, as well as workers taking care of the sick members of their families as specified in a medical statement issued in the procedure established by federal laws and other normative legal acts of the Russian Federation, mothers and fathers bringing up children up to five years of age without a spouse, as well as trustees of children of the mentioned age may be engaged in night-time work only with their written consent and under the condition that such work is not prohibited for them according to the health condition as specified in the medical statement. In these cases, the mentioned workers must be notified in writing of their right to refuse the nighttime work. .

The restrictions on working at night prescribed above shall be extended to fathers raising children without a mother, and also to guardians (foster parents) of minor children (art. 264 LC RF).

The procedure for night-time work of creative workers of the mass media, cinematographic organizations, television and video-shooting teams, theaters, theatrical and concert organizations, circuses taking part in the creation and/or performance (exhibition) of works, professional sportsmen in accordance with the lists of jobs, occupations, positions of these workers confirmed by the Government of the Russian Federation with account taken of the opinion of the Russian Trilateral Commission for Regulating Social-labor Relations may be established by a collective agreement, local normative acts or labor contract (p. 6 art. 96 LC RF).

The worker can be transferred from night work to daytime work (if night work is specified in his labor contract) in the following cases:

1) by agreement of the parties - the worker and employer can agree on the transfer of the worker to the day shift in this case an additional agreement is concluded to the labor contract;

2) in accordance to medical conclusion (art. 224 LC RF) - transfer workers in need of lighter work for reasons of health to another job pursuant to a medical finding issued in the procedure established by federal laws and other normative legal acts of the Russian Federation, with appropriate compensation ;

3) amendment of labor contract terms by the parties due to reasons relating to a change in organizational or technological working conditions (art. 74 LC RF) - If, due to reasons relating to a change in organizational or technological working conditions (changes in production machinery and technologies, structural re-organization of production facilities and other reasons) the terms of a labor contract defined by parties cannot be preserved they may be modified at the initiative of the employer, except for changing the labor function of the worker .

The employer shall notify the worker in writing of a forthcoming change in the terms of the labor contract defined by the parties, and also of the reasons for such change at least two months in advance, except as otherwise envisaged by the Labor Code .

If the worker does not agree to work in new conditions then the employer shall offer him in writing another job the employer has (either a vacant position or a job that meets the qualification of the worker or a vacant lower position or lower-paid job) for which the employer is fit with due regard to his state of health. In this case, the employer shall offer to the employer all the vacancies which he has in the given locality and which meet the said requirements. The employer has to offer vacant places in other localities if there is a provision to this effect in the collective agreement, agreements or the labor contract.

If there is no such job or if the worker refuses to accept the job offered the labor contract shall be terminated in accordance with Item 7 of Part 1 of Article 77 of the Labor Code .

Article 4 – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake :

…2. to recognize the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases.

Russian legislation distinguishes two forms of legal organization of labor outside the established working time:[1]

- overtime work ;

- the worker works on the terms of irregular working hours .

Overtime means a work performed by an worker at the initiative of an employer outside the duration of working hours established for the worker, i.e. the working day (shift), or outside of the normal number of working hours in recording period if an accumulated time recording system is used .[2]

The labor legislation of Russia establishes an unregulated working day for certain categories of workers as an alternative to overtime.

Unregulated working day is a special working regime when individual workers may be engaged in fulfilling their labor functions from time to time at the order of the employer if necessary in excess of the length of the working time established for them .[3]

According to the legislation the list of positions of workers with unregulated working day shall be fixed in the collective contract, agreements or a local normative acts adopted with account taken of the opinion of the representative body of workers .

The condition of an unregulated working day in accordance with Article 57 of the LC RF is included in the labor contract as a mandatory one since this working time regime differs from the general rules of the given employer. If the worker's labor contract contains such a tern then work outside the established working time shall not be considered as overtime.

workers with an unregulated working day shall be provided with additional annual paid leave, with the length being defined in the collective contract or internal labor rules, that may not be shorter than three calendar days (art. 119 LC RF).

The exception is employers - budget organizations. The procedure and terms of providing the additional annual paid leave to workers with an unregulated working day in organizations financed from the federal budget shall

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1 art. 97 Labor code of the Russian Federation

2 p. 1 art. 99 Labor Code of the Russian Federation

3 art. 101 Labor Code RF.

be specified by the Government of the Russian Federation, in organizations financed from the budget of a subject of the Russian Federation - by the bodies of power of the subject of the Russian Federation, and in organizations financed from a local budget - by the local self-government bodies .4

Article 99 LC RF establishes that an employer may have an worker work overtime with the worker's consent in writing in the following cases :

1) when there is a need to carry out (complete) work started which due to an unforeseen delay relating to production technical conditions could not be carried out (completed) within the working hours established for the worker if the non-performance (noncompletion) of the work can lead to damage or peril of the employer's property (including third persons' property held by the employer if the employer is liable for custody of the property), state or municipal property or can endanger human life and health;

2) when temporary works are carried out in terms of repair and restoration of mechanisms and structures in cases when their inoperability can cause termination of work for a significant number of workers ;

3) for the purpose of continuing work when the worker that was to work the next shift did not report for work when the work cannot tolerate a break. In such cases the employer is to take measures immediately to replace the worker with another one .

An employer may have an worker work overtime without the worker's consent in the following cases :

1) when works are performed as required for preventing a catastrophe, an industrial disaster or elimination of the aftermath of a catastrophe, industrial disaster or natural calamity ;

2) when works are performed for the public benefit to eliminate unforeseen circumstances that disrupt the normal operation of water-supply, gas-supply, heating, lighting, sewerage, transport and communication systems ;

3) when works are performed for which the need is due to the declaration of a state of emergency or martial law, and also when necessary works are performed in emergency situations, i.e. a disaster or a threat of a disaster (fire, flood, famine, earthquake, epidemic or epizootic) and in other cases when the

[4] art. 119 Labor Code of the Russian Federation.

lives or normal living conditions of the whole population or of a part thereof are endangered .

In other cases causing an worker to work overtime is permitted with the worker's consent in writing and with account taken of the opinion of the elected body of the primary trade union organization.

It is prohibited to cause the following to work overtime: pregnant women, workers aged below 18, other categories of workers in accordance with the present Code and other federal laws. Disabled persons, women who have children aged below three may be made to work overtime only if they agree in writing to do so, unless they are prohibited from working overtime due to their state of health according to a medical certificate issued in the procedure established by federal laws and other normative legal acts of the Russian Federation. In this case disabled persons and women having children aged below three shall be familiarized, against their signatures, about their right to refuse to work overtime .

The duration of overtime work shall not exceed four hours for each worker for two days in a row and 120 hours per year .

For the first two hours of work, overtime shall be compensated at no less than one and a half times the usual amount; for subsequent hours, no less than at double the usual amount. Concrete amounts of compensation for overtime work may be determined by a collective contract, local normative act or a labor contract. In accordance with an worker's desire, overtime work in lieu of higher compensation may be compensated by the provision of an additional rest period but not less time than the overtime worked (art. 152 LC RF).

In continuous-process organizations and in individual types of works not permitting the reduction of the length of the work (shift) on the eve of a holiday, the overtime is compensated by additional time of rest granted to the worker or, with his consent, payment according to the norms specified in the Labor Code for overtime work (art. 95 LC RF).

The Committee recalls *that the right of workers to an increased rate of remuneration for overtime work allows for exceptions in certain specific cases. These "special cases" have been defined by the Committee as "senior state*

workers and management executives of the private sector" (Conclusions IX-2 (1986), Ireland).

The Committee asks *whether the legislation provides for such exceptions. .*

Comment

According to the Constitution of the Russian Federation everyone shall have the right for labor remuneration without any discrimination whatsoever and not lower than minimum wages established by the federal law.

The legal regulation of labor relations an consolidation of the mechanism for implementation of this constitutional right is based, inter alia, on universally recognized principles and norms of international law, international treaties that are in force under Part 4 of Art. 15 of the Constitution of the Russian Federation as an integral part of the legal system of the Russian Federation, in particular the provisions of the International Covenant on Economic, Social and Cultural Rights on recognition of the right of everyone to fair wages and equal remuneration for work of equal value without distinction of any kind (Article 7).

The principle of fair wages is ensured by the provisions of the Labor Code of the Russian Federation, it is the duty of the employer to ensure that workers receive equal payment for labor of equal value (Article 22 LC RF), the provisions of the Labor Code establishes the dependence of each worker's wage on his skill, the complexity of the performed work, and the quantity and quality of the expended labor (art. 132 of the LC RF) and basic state guarantees regarding compensation for workers labor (Article 130 of the LC RF), as well as additional payments in cases of work in abnormal condition (Article 149 of the LC RF.

According to the above provisions of the Labor Code the amount of labor and need to ensure higher payment should be taken into account in abnormal conditions of work in determining the remuneration of labor along with other factors (circumstances).

The provisions of Article 152 LC RF together with the above provisions of the LC RF directly show that overtime should be compensated with a larger amount than work performed within the working time (this is indicated in

particular by the use of the term "increased rate" in the Charter and LC RF when establishing a possibility to replace such rate by providing an additional rest period). Otherwise, the goal to compensate the worker for increased labor and reduce the rest time would not be reached, the principle of fairness in determining wages would be violated, and the employer would gain the opportunity to abuse his right to employ workers for overtime. Persons performing work overtime would be in a worse situation than those performing similar work within the established working time, which is contrary to the principle of equal remuneration for work of equal value .

Thus, Article 152 of the LC RF in the system of current legal regulation, including universally recognized principles and norms of international law, international treaties establishes the payment for overtime in the amount exceeding the payment of an equal amount of time when the worker performs the same work within his working hours (normal remuneration of the worker).

According to art. 96 LC RF the employer is entitled to have an worker work outside the working hours established for this worker in accordance with the present Code, other federal laws and other normative legal acts of the Russian Federation, the collective agreement, agreements, local normative acts or the labor contract (hereinafter referred to as "the working hours established for an worker"): for overtime work (Article 99 LC RF); if the worker works on the terms of irregular working hours (Article 101 LC RF) .

Article 4 – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake :

…3. to recognize the right of men and women workers to equal pay for work of equal value .

In the Russian Federation, the right to remuneration for work without any discrimination and not below the minimum wage established by the federal law has the status of a constitutional right.[5] The Russian Federation's constitution

[5] i.3 art. 37 Constitution of the Russian Federation, adopted by a nation-wide vote on December 12, 1993.

also recognizes that men and women have equal rights and freedoms and equal opportunities for their implementation.[6]

The Labor Code of the Russian Federation proclaims the prohibition of discrimination in the sphere of labor and the equality of rights and opportunities of workers as the main principles of the legal regulation of labor relations and other relations directly associated with them (art. 2).

According to art. 3 Labor Code of the Russian Federation everyone shall have equal opportunities to implement their labor rights. Nobody may be subject to restrictions in labor rights and liberties or gain any advantages regardless of sex, race, color of skin, nationality, language, origin, property, family, social status and occupational position, age, place of residence, attitude to religion, political views, affiliation or failure to affiliate with public associations, as well as other circumstances not pertaining to the business properties of the worker.

Not considered as discrimination is the institution of differences, exceptions, preferences, as well as restrictions of the rights of workers determined by the specific requirements for the given type of work specified in federal law, or stipulated by the special care of the state with respect to persons needing greater social and legal protection or established in accordance with the legislation on legal status of foreign nationals in the Russian Federation in order to ensure national security, maintain an optimal balance of labor resources, promote priority employment of citizens of the Russian Federation and to address other tasks of domestic and foreign policy of the state.

The Labor Code of the Russian Federation contains not only a general prohibition of discrimination, but also establishes a special rule with regard to remuneration of labor: any whatsoever discrimination during the establishment and amendment of terms of labor compensation shall be prohibited..[7] The primary duties of the employer include the obligation "ensure that workers receive equal payment for labor of equal value".8

Thus, as to legislative establishment of the right of working men and women to equal pay for labor of equal value, Russian legislation complies with the requirements of the European Social Charter.

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6 i. 3 art. 19 Constitution

7 p.2 art. 132 Labor Code of the Russian Federation

8 i. 6 p. 2 art. 22 Labor Code of the Russian Federation.

The requirement of the European Committee of Social Rights concerning *remedies in the event of alleged wage discrimination* can also be considered implemented in the Russian legislation, since the Labor Code of the Russian Federation gives the right topersons who consider that they were subject to discrimination in the labor sphere to apply to a court to restore the violated rights, reimburse material damage and compensate for the moral damage .[9]

With regard *to easing the burden of proof for the plaintiff in cases of discrimination*, according to Art. 56 of the Civil Procedure Code, each party shall prove those facts to which it refers as to the grounds for its claims and objections, unless otherwise stipulated federal law . The Labor Code and Civil Procedure Code of the Russian Federation do not provide for exceptions to this rule in relation to discrimination. It seems necessary to clarify that not only the worker must prove the fact of his discrimination, but also the employer - the absence of discrimination against this worker.

The Russian legislation does not establish special criteria for determining the amount of compensation for discrimination in the sphere of labor remuneration. There are only general requirements for courts to determine compensation for moral damage based on the specific circumstances of each case taking into account the scope and nature of the moral and physical suffering caused to the worker, extent of the employer's fault, other circumstances worthy of attention and requirements of reasonableness and fairness.[10] According to the European Committee of Social Rights, *an adequate compensation should eliminate the damage caused to a citizen and be a deterrent against the employer. Any compensation, as a minimum, must cover the difference in payment*. It can be possible to recommended to the Supreme Court of the Russian Federation to supplement its legal provisions, set forth in the Resolution of the Plenum No. 2 dd March 17, 2004 with appropriate explanations regarding the determination of the amount of compensation for moral damage caused by violation of the right to equal pay.

It should be noted that the law does not establish special measures of legal responsibility for violating the equality of rights of men and women for equal payment for work of equal value despite the requirement of the European

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[9] i. 3 art. 3 Labor Code of the Russian Federation

[10] i63 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 2 dd March 17, 2004 "On application of the Labor Code of the Russian Federation by the courts of the Russian Federation".

Committee of Social Rights that the *national legislation should establish appropriate sanctions for violation of the principle of equal payment*. The Code of Administrative Offenses of the Russian Federation contains only a general rule that establishes administrative liability for violation of labor legislation and labor protection laws,[11] without identifying such an offense as violation of the principle of equal payment for work of equal value.

As the most important way to ensure the effectiveness of labor cost evaluation system, the European Committee of Social Rights considers methods of classifying and comparing wage levels, in particular, the statistical data review. Official statistics on wages in Russia are published on the website of the Federal State Statistics Service (Rosstat).[12]
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Official statistics for 2016 indicates a difference in payment of men and women. During the sample survey of organizations in October 2016, data were collected on the average wages of men and women by economic activity. The average wage of women (including lump payments) as a whole for the surveyed types of economic activity was 72.6% of the average wage of men. By types of economic activity, this ratio ranged from 73.7% to 93.9%. This is explained by the prevalence of women's employment in low-paid types of economic activity.

The ratio of women's wages to men's wages in the surveyed types of economic activity

(based on the results of sample surveys of organizations for October;
in percentages)

	2005	**2007**	**2009**	**2011**	**2013**	**2015**
Total for the surveyed types of economic activity	**60,7**	**63,1**	**65,3**	**64,1**	**74,2**	**72,6**
Agriculture, hunting and forestry	--	--	--	--	83,5	86,2
Mining	70,2	75,9	76,8	74,6	76,2	73,7
Manufacturing	67,1	67,6	69,4	70,1	74,5	76,7
Production and distribution of electricity, gas and water	80,0	81,2	82,2	82,9	83,2	84,1

[11] art. 5.27 CAO RF.

[12] http://www.gks.ru/wps/wcm/connect/rosstat_main/rosstat/ru/statistics/wages/labor_costs/

Construction	77,0	79,2	86,3	85,8	84,5	90,2
Wholesale and retail trade; repair of motor vehicles, motorcycles, household products and personal items	68,4	68,6	65,1	67,5	79,8	79,1
Hotels and restaurants	75,4	72,9	72,0	76,1	80,6	78,3
Transport and communication	70,5	70,0	70,2	72,0	75,2	75,4
Real estate, renting and provision of services	76,9	79,1	81,4	78,4	80,4	80,1
Research and development	69,3	69,6	73,1	70,8	73,8	77,0
Education	87,1	89,3	86,3	89,0	99,0	93,9
Health and social services	84,6	85,1	83,3	83,3	90,8	86,2

The Russian legislation can be assessed as meeting the requirements of paragraph 3 of Art. 4 of the Charter with regard to the establishment of legal norms that officially recognize the right of working men and women to equal payment for work of equal value. Nevertheless, it should be recognized that there are actual differences in the remuneration of men and women, which is partly due to objective reasons (for example, the fact that men receive compensatory payments for work in harmful, dangerous and hard working conditions where it is forbidden to use female labor,[13] for overtime, work on day off and public holidays when it is forbidden to attract certain categories of women;[14] women with young kids have less professional and territorial mobility, sometimes when they can not work out the full norm of working time, etc.), and in part it can be subjective, conditioned by the Russian mentality.

The Committee asks *what rules apply as regards the guarantees of enforcement of the equal pay principle, burden of proof, sanctions and reprisal dismissal following equal pay litigations*. **It also asks** *for examples of domestic case law* .

Comment

[13] art. 253 Labor Code of the Russian Federation

[14] p. 5 art. 99, p. 7 art. 113 Labor Code of the Russian Federation

Part 3 art. 19 of the Constitution of the Russian Federation establishes that man and woman shall enjoy equal rights and freedoms and have equal possibilities to exercise them .

One of the main principles of the legal regulation of labor relations in the Russian Federation shall be equality of rights and opportunities of workers (art. 2 LC RF).

According to art 3 LC RF everyone shall have equal opportunities to implement their labor rights .

The employer shall ensure that workers receive equal payment for labor of equal value (art. 22 LC RF).

Each worker's wage shall depend on his skill, the complexity of the performed work, and the quantity and quality of the expended labor (art. 132 LC RF).

Any whatsoever discrimination during the establishment and amendment of terms of labor compensation shall be prohibited.

The principle of prohibition of discrimination in the sphere of remuneration is based on the provisions of article 1 of ILO Convention No. 111 concerning discrimination in respect of employment and occupation (1958) (Convention ratified by the Russian Federation on January 31, 1961), which establishes that discrimination is "any distinction, exclusion or preference made on the basis of race, color, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation; . ".

The wages of an worker shall be set by a labor contract in accordance with the systems practiced by the given employer for paying remuneration for labor. Systems of remuneration for labor, including basic rates of wages and salaries (official salaries), extra payments and mark-ups of a compensation nature, in particular, for working in conditions other than normal, systems of extra payments and mark-ups of a stimulation nature, and bonus systems shall be established by collective agreements, agreements, local normative acts in accordance with the labor legislation and other normative legal acts containing norms of labor law .

At the same time, systems of renumeration should ensure the differentiation of labor remuneration for workers performing work of different complexity and the establishment of labor remuneration depending on the quality of the work performed and effectiveness of workers' activities according to specified criteria and indicators.

According to art 46 Constitution of the Russian Federation everyone shall be guaranteed judicial protection of his rights and freedoms .

According to part 1 art. 19 Constitution of the Russian Federation all people shall be equal before the law and court .

According to I.1 art. 56 Civil Procedural Code of the Russian Federation each party shall prove those facts to which it refers. However, the court shall determine what facts are of importance for the case and which party is obliged to prove them, and shall submit these facts for discussion, even if the parties have not referred to some of them (i. 2 art. 56 CPC RF).

In accordance with paragraphs 7 and 11 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 11 dd June 24, 2008 "On preparation of civil cases for trial," the judge must find out what evidence parties can confirm their allegations, difficulties to present evidence; to clarify that at the request of the parties and other persons participating in the case, the court assists in collection and recovery of evidence (Part 1, Article 57 of the Civil Procedural Code of the Russian Federation). The judge assists in demanding evidence, in particular written ones, from organizations (part 1, 2 articles 57, clause 9, part 1, article 150 of the CPC RF).

The Committee asks *what measures are taken to narrow the gap.*

The Committee asks *the next report to provide information on the adjusted pay gap between women and men performing equal work or work of equal value.*

Comment

The gender gap in wages is due to various reasons, one of which is the traditional intra-family division of labor, in which the "functions" of women include the birth of children and care for them, as well as housekeeping. In this

case, women prefer work mode and labor intensity (with the corresponding pay) allowing more time to be devoted to the upbringing of children and family responsibilities.

Also, according to art. 2 LC RF proceeding from the generally accepted principles and norms of international law and pursuant to the Constitution of the Russian Federation, the main principles of the legal regulation of labor relations and other relations directly associated with them shall be ensuring the right of each worker to the timely payment in full of fair earnings providing for a humane existence of the worker himself and his family at no less than the minimum amount of labor remuneration fixed by federal law .

The employer shall ensure that workers receive equal payment for labor of equal value (art. 22 LC RF).

According to art. 132 LC RF each worker's wage shall depend on his skill, the complexity of the performed work, and the quantity and quality of the expended labor, and shall not be limited by a maximum amount .

Any whatsoever discrimination during the establishment and amendment of terms of labor compensation shall be prohibited.

Cases of payment of unfair wages to women (in a smaller amount comparing to men occupying jobs or positions with similar complexity, quantity and quality of labor expended) are a violation of labor legislation.

Thus, the difference wages for men and women is not due to gender, but to complexity and working conditions.

For example, in the sphere of education there is practically no difference in the level of wages for men and women in the same jobs, positions.

Article 4 – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake :

...4) to recognise the right of all workers to a reasonable period of notice for termination of employment .

The Russian legislation provides for the notice for termination of employment, the period of notice depends on the grounds for termination:

- in case of liquidation of an organization and a reduction of the staff of an organization - at least two months before [15];
- in case of labor contracts concluded for a period of up to two months - three calendar days before[16];
- in case of seasonal workers - seven calendar days before[17];
- due to the expiry of the effective term of the fixed-term labor contract at least three calendar days before[18];
- in case of unsatisfactory probation - three days before[19];
- at dismissal of the worker holding a second job in case of employment of a person who will perform this work as his primary - two weeks before[20].
- period of notice for termination of employment of workers employed by individual employers[21] and workers of religious organizations on the grounds provided for in the labor contract[22] are determined by the labor contract.

The employer may terminate the employment without notice by agreement of the parties, at the initiative of the worker, due to circumstances beyond the will of the parties (the worker being drafted for military service, military action, disaster, natural disaster, etc.), in connection with the refusal of the worker to be transfered to another work, necessary to him in accordance with the medical report, due to guilty actions of the worker and for other reasons.

At the same time, it should be noted that in case of termination of the labor contract in cases of violation of labor discipline and guilty actions, the worker is informed of his dismissal directly in connection with the procedures for registering the facts of violation of labor discipline and guilty actions.

In addition, the implementation of the legislation providing for the prevention of termination of worker's employment is ensured by the general rules on protection of labor rights: possibility for a worker to apply to court to

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15 p. 2 art. 180 LC RF
16 p. 2 art. 292 LC RF.
17 p. 2 art. 296 LC RF
18 p. 1 art. 79 LC RF
19 p. 1 art. 71 LC RF
20 art. 288 LC RF
21 p. 2 art. 307 LC RF.
22 p. 2 art. 347 LC RF

be reinstated at work in case of unlawful dismissal[23], through state control over observance of labor legislation through the system of labor inspections [24], general control over compliance with legislation with the help of prosecutors, collective protection of workers with the help of trade unions[25] and other public organizations.

The Committee notes *that under Article 178, paragraph 4 of the Code, more favorable terms of notice and compensation may be provided for in collective agreements. It asks that the next report provide examples of such agreement.*

Comment.

Part 4 art. 175 LC RF establishes that the labor contract or a collective contract may stipulate other instances of the payment of severance allowances and establish higher amounts of severance allowances .

For example, the labor contract may provide that upon the termination of the contract by agreement of the parties, the worker is paid severance allowances (while severance allowances is not paid at termination of the labor contract at the worker initiative), or severance pay in the amount of monthly average earnings shall be payable to an worker upon the annulment of the labor contract in connection with the worker's being drafted to undergo military service (while in accordance with the third part of Article 178 of the LC RF the allowance is provided in the amount of two-week's average earnings), etc.

More favorable terms of notice for termination of employment are not provided by the p. 4 Article 178 of the LC RF.

At the same time, we note that the deadlines to notify the worker about the termination of employment stipulated by the Labor Code of the Russian Federation, are imperative, i. can not be changed at the discretion of the parties to the labor contract.

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[23] Chapter 60 LC RF.

[24] Chapter 57 LC RF, ILO Convention concerning labor Inspection in Industry and Commerce, *1947* (№81).

[25] See Proposals to the National report on art. 5, 6, 21, 28 and 29.

The Committee also asks *for information on the notice and/or compensation that applies to termination of employment under Article 77, paragraph 1 of the Code under the following circumstances: refusal of the worker to continue the employment relationship when there is a change in ownership of the organization (ground provided in Article 75, paragraph 3 of the Code); refusal of the worker to accept significant changes in working conditions as a result of changes in organization or technologies (ground provided in Article 73 of the Code); refusal of the worker to agree to a medical transfer (ground provided in Article 72, paragraph 2 of the Code); reasons beyond the control of the parties (grounds provided in Article 83, paragraph 1 of the Code); and breaches of the rules on the negotiation of collective agreements (ground provided in Article 84 of the Code)* .

Comment

The list of circumstances to terminate the labor contract beyond the will of the parties is established by the art 83 LC RF;

The cases of termination of the labor contract due to violation of the rules for conclusion of the labor contract specified in the Labor Code or another federal law are established in the art. 84 LC RF.

The labor legislation does not define the employer's obligation to notify the worker about the termination of the labor contract based on the requested reasons

According to art. 127 LC RF at termination of employment an worker shall receive monetary compensation for all unused leave. In this case, the reason of termination does not matter.

From the reasons listed above the severance pay in the amount of two-week's average earnings shall be payable to an worker upon the annulment of the labor contract in connection wit:

the worker's refusal to be transferred to another job as might be required in accordance with a medical certificate issued in the procedure established by federal laws and other normative legal acts of the Russian Federation ;

the worker's having refused to continue working in connection with a change in the labor contract terms (p. 3 art. 178 LC RF).

A labor contract or a collective contract may stipulate other instances of the payment of severance allowances and establish higher amounts of severance allowances. (p. 4 art. 178 LC RF).

The termination of a labor contract is admissible if the worker cannot be transferred with his consent in writing to another job the employer has (either a vacant position or job meeting the qualifications of the worker or a lower vacant position or lower-paid job) which the worker can perform with account taken of his state of health. In this case, the employer has to offer to the worker of the vacancies the employer has in the given area meeting the said requirements. The employer shall offer vacancies in other areas if there is a provision to this effect in the collective agreement, agreements or the labor contract (art 83, 84 LC RF)

The Committee asks *for information on the notice and/or compensation applicable in the event of early termination of fixed-term contracts.*

Comment

A fixed-term labor contract may be terminated before the expiry of its term for the same reasons as the labor contract concluded for an indefinite period (Article 77 LC RF):

- agreement of the parties (Article 78 LC RF; ;

- due to the following circumstances beyond the will of the parties (art. 83 LC RF);

- at the worker imitative (art.80 LC RF) etc.

At the same time, the worker is obliged to notify the employer about the termination of the fixed-term contract at the worker imitative (I.3, part 1, article 77 LC RF):

- in case of seasonal work or labor contract for a period of less than two months the worker shall be required to give his employer three calendar days' written notice of termination of his labor contract (art. 292, 296 LC RF);

- if labor contract is concluded for more than two months the worker shall be required to give his employer at least two weeks notice of termination of his labor contract (art. 80 LC RF).

In cases of liquidation of the organization or termination of the activities of an individual entrepreneur, redundancy or staff cuts at the organization, individual entrepreneur the employer is obliged to notify (i. 1, 2 p. 1 art. 81 LC RF):

- to give a seasonal worker seven calendar days' written notice (against a signature) of his forthcoming termination (art. 296 LC RF);

- to give not less than three calendar days' written notice (against a signature) to a worker who has entered into a labor contract for a period of less than two months, of his forthcoming termination (art. 292 LC RF).

Compensations in case of early termination of a fixed-term contract are paid in accordance with Articles 127 and 178 of the LC RF.

The Committee concludes *that the situation in the Russian Federation is not in conformity with Article 4§4 of the Charter on the grounds that:*

1)The notice period is not reasonable in the following cases:

dismissal of workers with more than fifteen years of service following the dissolution of the organization or reduction in staff numbers;

dismissal of workers with more than six months of service for medical incapacity, call-up for military service, judicial or administrative reinstatement of the worker or refusal to be transferred when an employer relocates; dismissal during probationary periods; dismissal of workers in additional employment with more than six months of service upon reinstatement of the principal postholder; early termination of temporary contracts;

2) Notice periods applicable to workers of self-employed persons or religious organizations or to home workers are left to the discretion of the parties to the employment contact.

Comment.

Paragraph 4 article 4 of the Charter establishes that with a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake to recognize the right of all workers to a reasonable period of notice for termination of employment.

At the same time part 7 article 4 of the Charter establishes that the exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions .

The Russian labor legislation establishes that collective agreement, agreements, local acts of the employer may establish other provisions and benefits for workers that are more favorable than established laws, other regulatory legal acts, agreements (art. 8, 41, 178 LC RF).

Article 4 – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake :

…5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards .

Comparative analysis of norms of Art. 4 (5) of the European Social Charter and the Labor Code of the Russian Federation allows us to conclude that the Russian legislator sets a higher level of guarantees to secure the workers wages from withholdings, since it does not provide for the possibility to establish rules to withhold from wages at the level of subordinate regulations or collective agreements. According to the Russian legislation, withholdings from an worker's wage shall be effected only in instances stipulated by the Labor Code and other federal laws .[26]

According to p. 2 art. 137 of the Labor Code withholdings from an worker's wage for the payment of his indebtedness to an employer may be effected :

for reimbursement of an unearned advance issued to an worker against the wage ;

[26] p. 1. art. 137 Labor Code of the Russian Federation .

for the repayment of an unspent and not promptly refunded advance issued in connection with official business travel or a transfer to other work in another locale, as well as in other instances ;

for the refund of sums overpaid to an worker due to accounting errors, as well as sums overpaid to an worker in the event of the recognition by an authority for the review of individual labor disputes of the worker's fault in the non-fulfillment of labor norms or delay;

in the event of the termination of employment of an worker before the end of a work year for which he had already received an annual paid vacation for unearned vacation days. The withholdings for these days shall not be effected if the worker is dismissed on the grounds envisaged by Item 8 of Part 1 of Article 77 or Items 1, 2 or 4 of Part 1 of Article 81, Items 1, 2, 5, 6, and 7 of Article 83 of this Code .

In addition to the Labor Code, there is a number of federal laws provide for the employer's obligation to withhold part of the worker's money from the worker's wages:

1) the employer, as a tax agent, withholds from the worker's wages the calculated amount of the personal income tax;[27]

2) from the wages of the worker-debtor monetary funds are withheld in accordance with the requirements contained in the executive documents;[28]

3) alimony monthly from the wages of the person obliged to pay alimony on the basis of a notarially certified agreement concerning the payment of alimony or on the basis of a writ of execution;[29]

4) from the wages of convicted persons withholdings are made in the amount established by the sentence of the court;[30]

5) from the wages of convicts for forced labor withholdings are made in the amount established by the sentence of the court and also withholding for reimbursement of expenses for their allowance;[31]

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27 art. 226 Tax Code of the Russian Federation (par two).
28 i. 3 art. 98 FZ № 229-FZ dd October 2, 2007 «On enforcement proceedings»
29 art 109 Family Code of the Russian Federation.
30 i. 2 art. 40 Penal Code of the Russian Federation
31 i. 1 art. 60.10 Penal Code of the Russian Federation .

6) withholdings are made from the wages of prisoners sentenced to deprivation of liberty for reimbursement of expenses for their allowance;[32]

7) from the wages of the recipient of the state benefit, excessively paid amounts of state benefits to citizens with children are withheld if the overpayment was due to his fault;[33]

8) in case of written applications of workers who are members of the trade union, the employer monthly transfers to the trade union account the membership trade-union fees from the wages of workers in accordance with the collective agreement, contract.[34]

The Labor Code restricts the right of the employer in his own interests to collect wages from the worker . First, an employer shall be entitled to decide on withholding amounts from an worker's wage no later than one month after the day of the end of the time period established for the refund of an advance and the payment of indebtedness or improperly calculated payments, and provided that the worker does not dispute the grounds for this and amounts withheld . Secondly, such withholding is possible provided that the worker does not dispute the grounds and amounts of withholding.[35] Thirdly, there are restrictions: the overall amount withheld during each payment of a wage may not exceed 20 per cent, .[36]

The basis and amount of withholdings from the worker's wages are indicated in the payroll issued to him.[37] There is one more guarantee established by the p.4 art. 137 of the Code: a wage overpaid to an worker (including during the improper application of the labor legislation and other normative legal acts containing labor law norms) may not be recovered from him, with the exception of instances :

of an accounting error ;

if an authority for the review of individual labor disputes recognizes the worker's fault in the non-fulfillment of labor norms or delay;

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32 i.1 art. 107 Penal Code of the Russian Federation .

33 p. 2 art. 19 Federal law №81-FZ dd May 19, 1995 (ver. July 02, 2013.) «On state benefits to citizens who have children»

34 i. 3 art. 28 FZ dd 12.01.1996 №10-FZ (ver. 02.07.2013 г.) «On trade unions, their rights and guarantees of their activities»

35 In the opinion of Rostrud, in this case, withholding is performed with the written consent of the worker (Letter of Rostrud dd09.08.2007, No. 3044-6-0).

36 p. 1 art. 138 Labor Code of the Russian Federation.

37 p. 1 art. 136 Labor Code of the Russian Federation.

if the wage was overpaid to the worker in connection with his illegal actions established by a court. .

The amounts of deductions from wages are also determined exclusively by federal law. When establishing restrictions on the amount of withholdings from the worker's wages, the Russian legislator used a differentiated approach and established in art. 138 of the Labor Code of the Russian Federation the following rules.

The overall amount withheld during each payment of a wage may not exceed 20 per cent, and in instances stipulated by federal laws, 50 per cent of the wage due to an worker . During withholding from a wage according to several writs of execution[38] the worker must in any case retain 50 per cent of the wage.

The amount of withholdings from wages is calculated from the amount remaining after withholding taxes.[39]

The limitations established by Article 138 shall not extend to withholdings from a wage during the service of corrective work, the collection of alimony for minor children, restitution of an injury caused to the health of another person, restitution of injury to persons who have suffered a loss in connection with the death of a provider, and restitution of a loss caused by a crime. The amount of the withholdings from a wage in these instances may not exceed 70 per cent.[40] It is obvious that an increase in the maximum amount of withholdings to 70 per cent relates to exceptional cases that are exhaustively listed in the law.

Besides, the task of the enforcement proceeding is to protect the violated rights, freedoms and legitimate interests of other citizens.

It is necessary to distinguish withholdings from wages and recovery of the amount of damage caused by the worker. If the worker caused material damage to the employer and the amount of damage does not exceed his average monthly wages, the employer may issue an order to recover the amount of damage caused without the consent of the worker.[41]

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[38] Writs of execution include writ obligatory issued by courts, court orders, resolutions of bodies (officials) authorized to review cases of administrative violations, notarially certified agreements on payment of alimony, decisions of the bailiff-executor).

[39] art. 99 «Law on enforcement proceedings».

[40] ib.

[41] p. 1 art. 248 Labor Code of the Russian Federation.

The Committee *asks for the the next report to state to what extent the deductions applied for the compensation of damage to employers or third parties caused by workers are subject to the limits of 20%, 50% or 70% of salary net of tax deductions .*

The Committee a*sks for information in the next report on any other grounds for deductions from wages provided for by federal laws (such as social contributions, fines, or attachment). It asks in particular for details concerning any deductions in connection with reductions in activity imputable to workers pursuant to Article 157 of the Code or with full liability agreements signed with religious organizations under Article 346 of the Code .*

The Committee *asks that the information provided in the next report be updated in light of the many and recent amendments made to the Code*.

Comment

Part one art. 137 and part 3 art. 138 LC RF define that withholdings from an worker's wage shall be effected only in instances stipulated by this Code and other federal laws.

In some cases, the employer is obliged to withhold amount from the worker's wages due to the requirements of the law, namely, to withhold the following amounts (clause 4 of Article 226 of the Tax Code of the Russian Federation, Article 109 of the Family Code of the Russian Federation, Article 28 of the Federal Law from On January 1, 1996, No. 10-FZ "On Trade Unions, Their Rights and Guarantees", Part 2, Article 40, Part 1, Article 60.10, Article 107 of the Penal Enforcement Code of the Russian Federation, Part 3, Art. 98 of Federal Law No. 229-FZ dd October 2, 2007 "On Executive Proceedings"). This is a personal income tax as a tax agent, maintenance obligations, membership trade union fees from the wages of the trade union members, amounts from the wages of convicts to correctional labor, imprisonment, amounts on the basis of executive documents.

The overall amount withheld during each payment of a wage may not exceed 20 per cent, and in instances stipulated by federal laws, 50 per cent of the wage due to an worker.

During withholding from a wage according to several writs of execution, the worker must in any case retain 50 per cent of the wage .

The amount of the withholdings from a wage may not exceed 70 per cent in such cases as during the service of corrective work, the collection of alimony for minor children, restitution of an injury caused to the health of another person, restitution of injury to persons who have suffered a loss in connection with the death of a provider, and restitution of a loss caused by a crime (art. 138 LC RF).

The Committee asks *for the next report to state whether Article 136, paragraph 5 of the Code in practice allows workers to agree to the assignment of their wages to employers or third parties* .

Comment.

Part 5 art. 136 LC RF (a wage shall be paid directly to an worker, with the exception of instances when another means of payment is stipulated by federal law or a labor contract) represents a guarantee of the implementation of the fixed by the LC RF (articles 2, 21, 22 and 56 and part 3 of article 136 of the Labor Code of the Russian Federation) right of the worker to wages in a timely and full amount; it is aimed at ensuring the coordination of interests of the parties to the labor contract in determining the rules for payment of wages, creating conditions for worker's unhindered receipt in a convenient way and it is in accordance with the provisions of ILO Convention No. 95 dd 1949 "Concerning the Protection of Wages" (ratified by the Decree of the Presidium of the Supreme Council of the USSR, January 3, 1961), and can not be considered as violating the constitutional rights and freedoms of citizens.

The Committee *asks for information on the limits to deductions from wages applicable to workers governed by Federal Law No. 79-FZ of 27 July 2004 on the state public service, the Merchant Shipping Code of 30 April 1999 and Law No. 2395-I of 21 February 1992 on mining resources. .*

Comment

According to Article 73 of the Federal Law No. 79-FZ dd July 27, 2004, "On the state public service of the Russian Federation", federal laws, other normative legal acts of the Russian Federation, laws and other normative legal acts of the subjects of the Russian Federation containing labor standards applying to the relations related to the public service, in the part not regulated by this Federal Law.

Part 1 of Article 57 of the Merchant Shipping Code of the Russian Federation No. 81-FZ dd April 30, 1999, says that the procedure for recruiting ship's crew members, their rights and obligations, terms of work and wages and procedure and grounds for their dismissal are determined by the legislation of the Russian Federation on labor, by this Code, by service manuals on ships and discipline regulations, general and sectoral tariff agreements, collective agreements and labor contracts.

Thus, the terms for withholding as provided for in Articles 137 and 138 of the Labor Code of the Russian Federation, also apply to persons whose labor relations are governed by these laws.

In accordance with Article 51 of the Law of the Russian Federation No. 2395-1 dd February 21, 1992 "On mining resources", persons who caused damage to the mining resources due to violation of the legislation of the Russian Federation on mining resources, compensate it voluntarily or in court.

In addition, it should be noted that Article 137 of the Labor Code provides for cases where deductions from the worker's wage can not be made, for example, a wage overpaid to an worker (including during the improper application of the labor legislation and other normative legal acts containing labor law norms) may not be recovered from him .

Article 5 – The right to organize

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organizations for the protection of their economic and social interests and to join those organizations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the

members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations

Analysis of the current Russian legislation and reforms and plans to modernize existing legislation.

According to the Constitution of the Russian Federation everyone shall have the right to association, including the right to create trade unions for the protection of his or her interests. The freedom of activity of public association shall be guaranteed (part 1 art. 30). No one may be compelled to join any association and remain in it (part 2art. 30).

The creation and activity of trade unions is regulated by the Federal Law "On Trade Unions, Their Rights and Guarantees of Activities" No. 10-FZ dd 12.01.1996 (hereinafter referred to as the Trade Union Act).

The creation and activities of public associations are regulated by Federal Law No. 82-FZ dd 19.05.1995 "On Public Associations" and the provisions of the Federal Law No. 7-FZ dd 12.01.1996 "On Non-Profit Organizations" are also applied to trade unions.

The Trade union act regulates public relations arising in the exercise by citizens of their constitutional right to association, creation, activity, reorganization and/or liquidation of trade unions, their amalgamations (associations), and primary trade union organizations (trade unions) . The Law on Associations of Employers defines the legal status of employers' associations, procedure for their creation, activities, reorganization and liquidation.

The law establishes the right of workers to establish their organizations freely and without prior authorization, and also guarantees independence at all stages of activities, including their organizational structure.

So, the trade union shall be a voluntary public entity of citizens linked by common producer and professional interests, according to the line of their activity, set up for the purposes of representation and protection of their social-and-labor rights and interests[42].

Every person attaining the age of 14 years and engaged in labor (professional) activity shall have the right to set up, at his discretion, trade

[42] p.1 art.2 Trade Union Act.

unions for the protection of his interests,to join these, to engage in trade union activity and to withdraw from trade unions[43]. Article 3 of the Trade Union Act describes the main terms, a trade union member is a a person (worker temporarily not working, pensioner) with membership in a primary trade union organization.

Article 2 of the Trade Union Act guaranties that the Russian Federation citizens resident outside Russian Federation territory may be members of Russian Federation trade unions. (p.3); Foreign citizens and stateless persons resident in Russian Federation territory may be members of Russian Federation trade unions, except in the cases established by Federal laws or international treaties of the Russian Federation.

Trade unions are independent in their activity from the organs of executive power, the organs of local self-government, employers and their amalgamations (unions, associations), political parties and other public entities, and shall not be accountable to them or subject to their control.

Interference by organs of state power, organs of local self-government and their officials in the activity of trade unions which may entail a restriction of trade union rights or hinder the legitimate exercise of their statutory activity shall be prohibited (article 5 Trade Union Act).

Legislation in the field of social partnership is being improved.

The Trade Union Act establishes special rules for ***creation and registration of trade unions*** in comparison with other public associations, as well as in comparison with commercial organizations.

The trade union organization shall be set up at the initiative of their founders consisting of at least three natural persons as every public association (art.18 Federal Law " On Public Associations"). The trade union (as other public associations) shall be deemed to be created after adopting decisions on the creation of a public association, the approval of its charter and on the formation of governing, and control and audit bodies by its founders. From that moment it performs its statutory activity, acquires rights, except for the rights of a legal entity and assumes the duties provided for by the Federal Law "On Public Associations" (p.3 art.18). A public association, which is not a legal entity, shall have the right (p.2 art.27 Federal Law " On Public

[43] p.2 art.2 Trade Union Act.

Associations"): to freely disseminate information about its activity ; to hold get-togethers, meetings and demonstrations, processions and the picketing ; to present and protect its rights, the lawful interests of its members and participants in the state power bodies, in the local self-government bodies and in public associations ; to exercise other powers in the cases, when these powers are directly indicated in the federal laws on the individual kinds of public associations ; to come out with the initiatives on the issues, having a bearing on an implementation of their constituent rights, to submit proposals to the state power bodies and to the local self-government bod .

The trade union, moreover, has the right to represent the interests of workers, to bargain collectively, to exercise other rights and obligations regardless of registration as a legal entity. I.9 p.1 art.8 Trade Union Act says trade unions, their amalgamations (associations), and primary trade union organizations shall have the right not to be registered . In such case, they shall not acquire the rights of legal entity.

If the trade union organization decides to register in order to acquire the rights of a legal entity, tits registration is performed in accordance with Article 8 of the Trade Union Act, Federal Law No. 129-FZ of 08.08.2001 "On State Registration of Legal Entities and Individual Entrepreneurs".

The state registration of a trade union, association (amalgamations) of trade unions, a primary trade union organization as a legal entity is performed with the help of notification procedure.

According to p.9 p.1 art.8 Trade Union Act the federal registration authority and its territorial agencies in the Russian Federation subjects **shall not have the right to control the activity of trade union**s, their amalgamations (associations) or primary trade union organizations, or to **deny them registration.**

According to p.2 art.8 3 Trade Union Act denial of registration or evasion thereof may be appealed against in court of law by trade unions, their amalgamations (associations) and primary trade union organizations .

The amount of the state fee for the registration of a trade union as a legal entity is 4,000 rubles[44].

For state registration of trade unions, their associations (amalgamations), primary trade union organizations submit to the federal executive body authorized in the sphere of state registration of public associations, or its territorial body in the subject of the Russian Federation at the location of the relevant trade union body, the following documents (the list is defined in art. 8 Trade Union Act): certified copies of their rules or statutes of primary trade union organizations, decisions of congresses (conferences, meetings) on the creation of trade unions, their amalgamations (associations), and primary trade union organizations, on confirmation of their rules or statutes of primary trade union organizations, lists of participating trade unions and their amalgamations (associations) .

The authorized body in the sphere of state registration of trade unions is the Ministry of Justice of the Russian Federation. It performs its activities directly and/or through its territorial bodies (Presidential Decree No. 1313 dd 13 October 2004 "Issues of the Ministry of Justice of the Russian Federation")..

Trade unions, their amalgamations (associations), and primary trade union organizations shall submit these document within the period of one month from the day of heir formation.

As it was said before the trade union organization shall be set up at the initiative of their founders consisting of at least three natural persons as every public association (art.18 Federal Law " On Public Associations"). There are no other ***requirements for the minimum number of members*** in the legislation, but there are requirements for trade unions and their associations that are territorial, inter-regional and all-Russian.

The legislation does not contain norms that would restrict the right of trade unions to ***hold elections independently and choose their representatives***, including from the point of view of citizenship of elected representatives, their certain profession, length of service, etc. According to Parts 2, 3 of Article 7 of the Trade Union Act, such matters should be regulated in the trade union statute

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44 Art.333.33 Tax Code of the Russian Federation. Part 2. «Official gazette RF», 07.08.2000, №32, page. 3340.

(in particular: the conditions and rules of formation of the trade union, admission to and withdrawal from its membership, the rights and duties of trade union members ; the organizational structure; the rules of formation and the competence of trade union bodies, the duration of their powers) or the charter of the association (amalgamations) of trade unions (in particular, the procedure of formation of trade union bodies and their competence;the location of the trade union body; the duration of the powers of the trade union body).

The legislation does not limit the use of property of trade unions. On the contrary, Article 24 of the Trade Union Act establishes a number of guarantees of property rights of trade unions:

Trade unions, their amalgamations (associations), and primary trade union organizations shall have possession, use and disposal of the property belonging to them by right of ownership, including money resources necessary for meeting their statutory objectives and tasks, and shall have possession and use of other property transferred to them in the established manner for their economic management (p.1 art.24);

Guarantees shall be provided for the recognition, immunity and protection of trade union rights of ownership, conditions for the exercise of these rights on a par with other legal persons, irrespective of form of ownership, in conformity with Federal laws, the laws of Russian Federation subjects, and legal enactments of the organs of local self-government. Financial control of trade union funds by the organs of executive power shall not be exercised, except for control of earnings from entrepreneurial activity. Restrictions on independent financial activity by trade unions shall not be permitted. Alienation of trade union property may be made only by decision of court of law (p.2 art.24);

Trade unions shall not be liable for the obligations of organizations, organs of state power or organs of local self-government, which, for their part, shall not be liable for the obligations of trade unions (p.3 art.24);

The sources, procedure of formation of property and use of funds of trade unions shall be determined by their rules and statutes of primary trade union organizations (p.4 art.24);

Trade unions may have in their ownership land parcels, buildings, structures, installations, sanatorium, health-resort, tourist, sports and other health-improvement institutions, cultural-enlightenment, scientific and

educational institutions, housing stock, and organizations, including publishing houses and printing works, and also securities and other property required for ensuring the statutory activity of trade unions (p.5 art.24);

Trade unions shall have the right to institute banks, solidarity funds, insurance and cultural-enlightenment funds, funds of instruction and training of personnel, and also other funds in accordance with the statutory objectives of trade unions (p.6 art.24).

Part 7 art. 24 Trade Union Act can be named among lawful restrictions: trade unions shall have the right to conduct entrepreneurial activity through organizations established by them, in order to attain the objectives specified in the rules and in accord with these objectives.

The legislation of the Russian Federation does not contain norms determining the relationship of trade unions with their members or restricting the grounds trade union has the right to take disciplinary measures against its members. Regulation of such issues is performed in the charters of trade unions and their associations.

According to p.5 art.2 Trade Union Act guarantees the right to set up their own amalgamations (associations) according to the sectoral, territorial or other feature taking professional specifics into account, such as all-Russian amalgamations (associations) of trade unions, interregional amalgamations (associations) of trade unions, and territorial amalgamations (associations) of trade union organizations. Art 3 Trade Union Act presents the definitions of terms "all-Russian amalgamations (associations) of trade unions, interregional amalgamations (associations) of trade unions, and territorial amalgamations (associations) of trade union organizations". The definition of the mentioned types of associations by territorial feature complies with the approach mentioned in art. 14 Federal Law " On Public Associations": All-Russian, interregional, regional and local public associations are set up and function in the Russian Federation .

As to joining the international trade union associations, Article 3 Trade Union Act establishes that trade unions and their amalgamations (associations) shall have the right to cooperate with trade unions of other states, to enter into international trade union and other amalgamations and organizations, and to conclude treaties and agreements with them. Similar rules are established in

Article 46 Federal Law "On Public Associations". These provisions are also observed in practice.

The European Committee of Social Rights notes that the right to form trade unions and employers' associations must also include the right ***to apply to court*** in order to comply with all the authorities listed above.

Article 29 Trade Union Act guarantees the judicial protection of the right of trade unions. The law establishes that cases of breach of trade union rights shall be heard by a court of law on the petition of a procurator or on a statement of claim or bill of complaint filed by the respective body of the trade union or primary trade union organization . Thus, not only the trade union itself whose rights have been violated may apply to court to protect its right, but also the prosecutor - at the request of the trade union or on its own initiative.

According to the Civil Procedure Code of the Russian Federation (arts. 36, 46) and Federal Law " On Public Associations" (art.27) the trade union not registered as a legal entity also has the right to apply to the court both for the protection of its own rights and interests and to protect rights and interests of its members and participants in public authorities, local governments and public associations, regardless of whether it is a legal entity.

Freedom to join or not to join a trade union

The Trade Union Act and other Russian legislation do not impose legal restrictions on the right to decide on membership of workers in trade unions freely .

Part 2 art.30 Constitution of the Russian Federation establishes that no one may be compelled to join any association and remain in it.

The norms relating to withholding and transfer of membership fees and deductions from the wages of workers to trade union accounts are presented in parts 5 and 6 of Article 377 of the LC RF. According to p.5 art 377 LC RF

upon written petitions from workers belonging to the trade union, an employer shall deduct monthly trade union membership contributions from workers' wages to the benefit of the trade union organization. Procedures for transferring these contributions shall be defined by a collective agreement. The employer shall not be entitled to delay the transfer of the indicated resources .

Thus, personal consent is required in the form of a written application to withhold and transfer membership fees.

According to p.3 art. 43 LC RF a collective agreement shall extend to all the workers of the organization (branch, representative office or another detached structural unit of the organization),p .6 art.377 LC RF says that employers that have concluded collective agreements or at which branch (interbranch) agreements are in force, shall, upon receiving a written application from their workers who are not trade union members, effect monthly transfers of funds from the indicated workers' wages to the trade union organization's accounts under the terms and procedures established by collective agreements or industry (inter-industry) agreements. Thus, the transfer of funds in this case is possible only on the basis of an individual written application of a particular worker.

The provision of the right of freedom to join or not to join the trade union is also provided by norms aimed at protecting against discrimination in connection with membership in trade unions or exercise of trade union activities.

According to LC RF the principle to prohibit the discrimination in the sphere of labor is one of the main principles of the legal regulation of labor relations and other relations directly associated with them (art.2 LC RF). Article 3 LC RF prohibit the discrimination due to affiliation with public associations. Article 64 LC RF prohibits the discrimination while concluding labor contract, art. 132 LC RF prohibits the discrimination in the sphere of payment for labor. All these norms prohibit discrimination on any grounds, including in connection with membership in trade unions or exercise of trade union activities. The anti-discrimination general norms also include Article 5.62 Code of Administrative Offenses of the Russian Federation and Article 136 Criminal Code of the Russian Federation, they establish administrative and criminal responsibility for admission of discrimination respectively .

Special rules protecting against discrimination on the basis of affiliation with trade unions or exercise of trade union activities have also been established. According to art. 9 Federal Law "On Trade Unions, Their Rights and Guarantees of Activities" Affiliation or non-affiliation with trade unions shall not entail any restriction of social-and-labor, political or other rights or freedoms of citizens guaranteed by the Russian Federation Constitutions, by Federal laws

and by the laws of Russian Federation subjects[45]. Making a person's admittance to employment, promotion at work, and also dismissal from work conditional on his trade union affiliation or non-affiliation shall be prohibited[46].

As a positive factor in the development of legislation it should be noted that at the end of 2011 the norms of the Code of Administrative Offenses of the Russian Federation were supplemented by an article 5.62[47] establishing responsibility for violation of rights, freedoms and legitimate interests of a person and citizen depending on his sex, race, color, nationality, language, origin, property, family, social and official status, age, place of residence, religion, belief, membership or non-belonging to public associations or to any social groups. Previously, administrative responsibility for discrimination was not envisaged, and art. 136 of the Criminal Code was not applied as envisaging severe sanctions. With the introduction of Article 6.5 of the Code of Administrative Offenses of the Russian Federation, the chances are increasing that liability for discrimination will exist. However, statistics on the application of this standard is not yet available in practice.

Also the adoption of the Federal Law No. 162-FZ dd June 2, 2013 is very important [48], it introduced norms aimed at increasing protection from discrimination in employment . In particular, Article 25 of the Law "On employment in the Russian Federation" is supplemented with Part 6, and it prohibits the dissemination of information on vacant jobs containing discriminatory requirements. A new article 13.11.1 "Dissemination of information on vacancies or vacant positions containing discriminatory restrictions" is included in the Code of Administrative Offenses of the Russian Federation, it provides an administrative fine of up to RUB 15,000 for legal entities, up to RUB 5,000 and up to RUB 1,000 for citizens.

Activity of trade unions

Trade unions ***shall be independent in their activity*** from the organs of executive power, the organs of local self-government, employers and their

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45 p.1 art.9 Trade Union Act

46 p.2 art.9 Trade Union Act

47 Federal Law No. 420-FZ dd 07.12.2011 "On Amending the Criminal Code of the Russian Federation and Certain Legislative Acts of the Russian Federation". "Rossiyskaya Gazeta", No. 278, December 9, 2011.

48 Federal Law No. 162-FZ dd 02.07.2013 "On Amendments to the Law of the Russian Federation "On Employment in the Russian Federation" and Certain Legislative Acts of the Russian Federation." Rossiyskaya Gazeta, No. 145, July 5, 2013

amalgamations (unions, associations), political parties and other public entities, and shall not be accountable to them or subject to their control. Interference by organs of state power, organs of local self-government and their officials in the activity of trade unions which may entail a restriction of trade union rights or hinder the legitimate exercise of their statutory activity shall be prohibited[49].

Trade unions are free and independent in their interaction with other organizations and trade unions both in Russia and in other countries. According to p. 5 art 2 Trade Union Act trade unions shall have the right to set up their own amalgamations (associations) according to the sectoral, territorial or other feature taking professional specifics into account, such as all-Russian amalgamations (associations) of trade unions, interregional amalgamations (associations) of trade unions, and territorial amalgamations (associations) of trade union organizations. Trade unions and their amalgamations (associations) shall have the right to cooperate with trade unions of other states, to enter into international trade union and other amalgamations and organizations, and to conclude treaties and agreements with them .

P.1 art.7 Trade Union Act guarantees that trade unions and their amalgamations (associations) shall independently work out and confirm their rules, the statutes of primary trade union organizations, and their structure; they shall form trade union bodies, organize their activity, convene meetings, conferences and congresses and other events.

Suspension or prohibition of trade union activity by decision of any agencies shall not be permitted. Where the activity of a trade union is contrary to the Russian Federation Constitution, the constitutions (charters) of Russian Federation subjects or Federal laws, it may be suspended for a period of up to six months or prohibited by decision of the Russian Federation Supreme Court or the respective court of an Russian Federation subject, on the motion of the Russian Federation Procurator-General or the procurator of the respective Russian Federation subject 50.

There is a trade union pluralism in Russia; any number of trade unions can be created and operate at any level, the state does not interfere in their decisions regarding this issue by setting any legislative prohibitions or restrictions. Art. 2 of the Trade Union Act says that all trade unions shall enjoy equal rights. Equality of rights has limitations, for example, in the right to collective

49 art.5 Trade Union Act.

50 p.3art.10 Trade Union Act.

bargaining and conclusion of collective agreement, contract. In these and some other cases, trade union organizations that unite the majority of workers, or who are entrusted to represent the interests of workers of the organization at the general assembly (conference) of the organization, have broader rights to represent the interests of workers.

The legislation contains a number of guarantees in the sphere of ***access of trade-union representatives to workplaces of members of trade unions***.

According to p 5. art 11 Trade Union Act trade union representatives shall have the right of unimpeded access to the organizations and workplaces where members of their trade unions work, for the purpose of implementing the statutory tasks and exercising the rights granted to trade unions.

P.3 art.19 Trade Union Act establishes that trade union labor inspectors shall have the right of unimpeded access to the organizations, irrespective of form of ownership or subordination, in which members of the given trade union work, in order to check up on compliance with legislation on labor and legislation on trade unions, and also on fulfillment by employers of the terms and conditions of the collective contract or agreement .

P.2 art.20 Trade Union Act says that trade unions shall exercise trade union control of the state of protection of labor and the natural environment through their bodies, their authorized persons (agents) for labor protection, and also their own labor-protection inspectorates operating on the basis of statutes confirmed by trade unions. For these purposes, they shall have the right of unimpeded access to the organizations, irrespective of form of ownership or subordination, their structural divisions and workplaces manned by members of the given trade union .

The right to hold meetings is guaranteed by articles 7 and 14 Trade Union Act. The procedure for realization of this right in the legislation is not regulated, and in practice it is implemented on terms of agreements reached with the employer.

Representativeness

The legislation of Russia contains requirements according to which trade unions and their associations (amalgamation) are declared as all-Russian, interregional or territorial from the point of view of the territorial sphere of their activity. The criteria are defined in the legislation, in particular Article 3 Trade

Union Act contains definitions of the All-Russian Trade Union, All-Russian Association of Trade Unions, Interregional Trade Union, Interregional Association of the Trade Union Organizations, territorial association of the trade union organizations, the territorial trade union organization.

Presence of the corresponding status gives trade unions and their associations the right to participate in social partnership at the appropriate level and conclude agreements.

Social partnership is implemented on federal, interregional, regional, industry, territorial and local levels[51]. At the appropriate levels, there are general, interregional, regional, industry, territorial agreements and a collective agreement. At the same level, appropriate bodies of social partnership are created, they include representatives of trade unions and associations of employers of the appropriate level.

At the federal level, **there is the Russian tripartite commission[52]**, it includes representatives of all-Russian associations of trade unions, all-Russian associations of employers, the Government of the Russian Federation. They independently determine representation to the Commission. Each all-Russian association of trade unions, an all-Russian association of employers registered in accordance with the established procedure, has the right to send one of its representatives to the relevant party of the Commission, and in agreement with other members of its party, all-Russian associations of employers may increase the number of their representatives to the Commission. All-Russian associations of trade unions have the right, within the established number of representatives of this party, to increase the number of their representatives in the Commission in proportion to the number of union members they unite.

Personal Scope

All provisions relating to the right to association operate equally in the public and private sectors. According to art. 4 Trade Union Act , it defines the sphere of activity of the present act, the effect of the present Federal Act shall apply to all organizations in Russian Federation territory, and also to Russian Federation organizations abroad, and to other organizations in conformity with the international treaties of the Russian Federation .

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51 art.26 LC RF.

52 Federal Law No. 92-FZ dd 01.05.1999 "On the Russian Tripartite Commission for Regulation of Social and Labor Relations". "Official gazette RF", 03.05.1999, No. 18, art. 2218.

The Trade Union Act provides special features in the relevant federal laws regarding trade unions of the following categories:

1) military personnel;

2) workers of the internal affairs bodies of the Russian Federation;

3) workers of the State Fire Service of the Ministry of the Russian Federation for Civil Defense, Emergency Situations and Elimination of Consequences of Natural Disasters;

4) workers of the bodies of the Federal Security Service;

5) workers of customs bodies of the Russian Federation;

6) workers of the bodies for control over the circulation of narcotics and psychotropic substances;

7) workers of the Investigative Committee of the Russian Federation;

8) judges;

9) prosecutors.

However, the special legislation Trade Unions Act refers to, does not establish restrictions on the right to associations regarding the categories of workers listed; they are subject to the Trade Union Act concerning the regulation of creation and implementation of trade union activities. The specific features are established in the part of the legal regulation of the rights and guarantees of the activities of trade unions of certain categories, with respect to most of the categories of workers listed there are specific features regarding the the right to strike.

The right to employers' associations

The creation and operation of employers' associations is regulated by the Federal Law "On Employers' Associations" No.156-FZ[53] dd November 27, 2002 (hereafter referred to as Employers' Associations Act)

According to art. 2 of this law employers shall have the right, without the prior permission of of the bodies of state authority, bodies of local self-governance or other bodies, to form, on a voluntary basis, employers' associations with the objective of representing the legitimate interests and

53 «"Official gazette RF», 02.12.2002, №48, pg. 4741.

protect the rights of its members in the sphere of social and labor relations and in related economic relations with trade unions, and associations of trade unions amalgamations, bodies of state authority, and bodies of self-governance .

The law says that employers' associations may be created on territorial, (regional, inter regional), sectoral, inter sectoral or territorial - sectoral basis. Art. 4 of the Law indicates the types of the associations. It says that the association can be the All-Russian employers' association, all-Russia's sectoral (intersectoral), inter regional (sectoral, intersectoral), regional regional sectoral, territorial and territorial sectoral employers' associations. The basis is the number of subjects of the Russian Federation covered by the activity of the association. As of the all-Russian employers' association there are two alternative types: the All-Russian sectoral (inter sectoral) employers' association of a certain sector (sectors) or of a certain type (types) of activity which activity in its totality covers the territories of more than half the Subjects of the Russian Federation and/or with whom not less than half the workers of a sector (sectors) or type (types) of activity have labor relations.

The activity of an employers' association shall be conducted on the principle of voluntary entry into and exit from the employers' association and/or their amalgamations (art 5. of the Law). The employers' association shall be independent in defining the goals, types and lines of its activity. The interaction between employers' associations, trade unions and their amalgamations, and bodies of state authority, and bodies of self-governance in the sphere of social and labor relationships and related economic relations shall be based on the principles of social partnership .

Employers' associations shall pursue their activity **independently** of bodies of state authority, bodies of self-governance, trade unions and trade union amalgamations of trade unions, political parties and movements and other public organizations (associations). The bodies of state authority, bodies of self-governance and their officials are forbidden to intervene in the activity of employers' associations where such interference may result in the restriction of rights of employers' associations established by international treaties and agreements of the Russian Federation, this Federal law, other federal laws and other statutory legal acts of the Russian Federation .

The employers' association shall be set up on the basis of a decision taken by its founders . Both employers and associations of employers can act as the

founders. The employers' association may be founded by not less than two employers or two employers' associations. In cases where employers' associations participate in the creation, they also establish an association of employers, rather than a union or amalgamation, although this possibility, provided for by the Civil Code of the Russian Federation and the Federal Law on Public Associations, is certainly preserved. The difference lies in the purpose for which an appropriate association is established.

The structure, procedure for formation and powers of the employers' association's governing bodies and decision taking procedure applied by them independently shall be such as prescribed under the employers' association charter. The charter of the employers' association may provide for liability of a member of the employers' association for non compliance with the provisions of the charter and decisions of the employers' association's governing bodies.

The legal capacity of the employers' association as a legal entity shall commence as from the time of its state registration in accordance with the federal law on state registration of legal entities. Unlike the Trade Union Act, the possibility to perform activities by an association of employers without registration as a legal entity is not directly stipulated by law.

Also, unlike the Trade Union Act, which transfers the establishment of rights and duties of trade union members fully to regulation in the charters, the Employers' Associations Act regulates intra-union relations, fixing certain rights, duties and responsibilities of members of the association. On the other hand, the association's responsibility for its members is not established.

The members of the employers' association shall have equal rights. In addition to the rights related to participation in the management and membership of the association (to participate in the formation of the employers' association's governing bodies as is prescribed under the charter of the employers' association ; to submit for consideration of the employers' association's governing bodies proposals concerning the activity of the employers' association, to participate in considering those same proposals, and also in taking relevant decisions ;to freely exit from the employers' association) it is important to mention a number of rights related to participation in conclusion and implementation of agreements concluded by the association within social partnership.

Thus, the rights of a member of the employers' association include: to participate in defining the contents and structure of contracts and agreements to be concluded by the employers' association ; to receive information on the activity of the employers' association, the contracts and agreements concluded by it and also the texts of those contracts and agreements; to receive from the employers' association assistance regarding the application of legislation regulating labor relations and other relations directly related thereto, the preparation of local statutory acts embodying norms of the labor law, the conclusion of collective contracts, agreements, and also settlement of individual and collective labor disputes .

The association members shall be obligated to comply with the requirements of the employers' association charter, to abide by the terms and conditions of the contracts and agreements made by the employers' association, to comply with obligations provided under those contracts and agreements .

The termination by an employer of its membership of an employers' association shall not absolve him from the liability envisaged under relevant agreements for violation of or non-compliance with the obligations provided under the contracts and agreements made while the employer was a member of that association.

An employer who joined the employers' association in the period of validity of contracts and agreements concluded by the employers' association, shall be held responsible for the violation of or non compliance with the obligations provided under such contracts and agreements in the manner established under those agreements .

Statistics

In Russia, there are a lot of trade unions registered and operating. The most numerous is the Federation of Independent Trade Unions of Russia. It unites 46 all-Russian trade unions. In the republics, territories, regions of the Russian Federation there are 80 territorial associations of trade union organizations, which along with trade unions are affiliated organizations of the FNPR. The trade unions united by the FNPR consist of more than 22 million members - about 95 percent of all trade union members in Russia. FNPR is a member organization of the General Confederation of Trade Unions (WKP), which unites the CIS countries. FNPR is the largest affiliate organization of the

International Trade Union Confederation (ITUC), it currently unites 301 national trade union organizations and organizations from 151 countries with more than 176 million trade union members. Chairman of the FNPR Mr. Shmakov M.V. is the Vice-President and member of the Executive Committee of the ITUC[54].

The Committee invites the Government of the Russian Federation to comment on the following statements:

the registrars often deny registration or require the unions to make changes to their statutes. For example, the registrars may view the requirement in the law to specify the geographical scope of the union's activities as an obligation to provide a list of all the territories where affiliates exist, thus making it difficult for affiliates from other territories to join the union.

The registrars can also require that regional unions specify all sectors where an affiliate can be created, although the law provides for no such requirements ;

The law also requires the unions to specify the geographic scope of its activities. The registrars view this as an obligation to provide a list of all territories where the affiliates are active, and accepting affiliates from other regions would call for amendments to the union constitution .

Comment

The Decree of the Constitutional Court of the Russian Federation No. 22-P dd October 24, 2013 on the case on verification of the constitutionality of paragraphs 1-8 of Article 3 of the Federal Law No. 10-FZ dd January 12, 1996 "On Trade Unions, Their Rights and Guarantees of Activities" (hereafter referred to as - the Decree of the Constitutional Court of the Russian Federation, the Trade Union Act), in particular, states that the provisions of Article 3 of the Trade Union Act, within the meaning given to them by law enforcement practice, were considered by registration authorities as establishing a closed (exhaustive) list of types of trade union organizations and their structural units.

[54] The official website of the Federation of Independent Trade Unions of Russia. http://www.fnpr.ru/n/252/4890.html. S of 23/09/2013.

Thus, trade unions were deprived of the practical opportunity to determine their internal (organizational) structure independently , including the creation of trade union organizations and structural units not mentioned in the Trade Union Act.

With the purpose of implementing the Decree of the Constitutional Court of the Russian Federation, Federal Law No. 444-FZ of December 22, 2014 on the amendments to the Federal Law on the trade-unions, their rights and guarantees of activities » (hereafter referred to as the Law 444-FZ).

The law amended article 3 of the Trade Union Act, establishing an open list of structural units within the trade union hierarchy: a new term "other trade union organizations" was introduced when mentioning structural units within the primary trade union organization, the all-Russian and inter-regional trade unions. As a result, there is not any possibility to interpret this article as an exhaustive list of possible structural units in trade union organizations.

The term "type of activity" was introduced in the definitions of the "all-Russian trade union" and "inter-regional trade union" along with the branches of activity,

The adoption of the law gave an opportunity for trade unions to determine their organizational structure at their own discretion.

At the same time, Article 3 of the Trade Union Act, as amended, contains the following types of trade unions and trade union associations based, inter alia, on a territorial feature:

All-Russian trade union - a voluntary association of the trade union members of one or several branches, one or several spheres of activity, linked up by common socio-labor and trade interests and operating on the entire territory of the Russian Federation or on the territory of over a half of the subjects of the Russian Federation, or uniting not less than a half of the total number of the workers of one and the same, or of several spheres of activity.,Along with the primary trade-union organizations, territorial organizations of the trade union and other trade-union organizations may be formed in the structure of the all-Russian trade union in accordance with its charter;

All-Russian association (amalgamation) of the trade unions - a voluntary association of all-Russia trade unions, or of the territorial associations (amalgamations) of the trade union organizations, operating on the entire

territory of the Russian Federation or on the territory of over a half of the subjects of the Russian Federation ;

interregional trade union - a voluntary association of the trade union members - the workers of one or several branches, one or several spheres of activity, operating on the territory of less than a half of the subjects of the Russian Federation . Along with the primary trade-union organizations, territorial organizations of the trade union and other trade-union organizations may be formed in the structure of the inter-regional trade union, in accordance with its charter;

interregional association (amalgamation) of the trade union organizations - a voluntary association of the inter-regional trade unions and (or) of the territorial associations (amalgamations) of the trade union organizations, operating on the territory of less than a half of the subjects of the Russian Federation ;

territorial association (amalgamation) of the trade union organizations - a voluntary association of organizations of all-Russian, interregional trade unions operating in the territory of one subject of the Russian Federation or in the territory of a city or region;

territorial trade union organization is a voluntary association of the members of the primary or other trade union organizations of the trade union in the structure of one all-Russian or interregional trade union, operating on the territory of one subject of the Russian Federation, or on the territory of several subjects of the Russian Federation, or on the territory of a city or of a district.

Article 24 of the Labor Code of the Russian Federation (hereinafter referred to as the Labor Code of the Russian Federation) includes authority of the representatives of the parties in the main principles of social partnership. Participation in social partnership in a certain geographical area without documentary confirmation of the representation of the organization in this territory will be contrary to this principle.

The requirement to amend the statutes in case of a change in the geography of the activities of the trade union is also not superfluous.

After the adoption of the Decree of the Constitutional Court of the Russian Federation and when the Law 444-FZ came into force, the Ministry of labor of the Russian Federation has not received any information regarding the denial to

register the trade union or regarding the obligation to amend constituent document/

The Committee invites the Government of the Russian Federation to comment on the following statements:

"Defending trade union rights and stopping discrimination can be a gruelling experience. Trade unions' appeals to prosecutors' offices may not only go unanswered, but may even result in increased pressure on the unions. Going to court is only possible in cases of specific violations, and the procedure is both complicated and costly. Furthermore, even when a court rules in favour of the union, that does not alleviate the general situation, as trade union rights are constantly violated. Neither the Criminal Code nor the Code of Administrative Offences contains any special provisions on liability for violations of union rights .

Comment

Appeal to the prosecutor's office is made in the manner established by Article 10 of the Federal Law No. 2202-1 dd January 17, 1992 "On the Prosecutor's Office of the Russian Federation":

1. In compliance with their powers it is permitted to file petitions, complaints and other applications containing information on violation of laws with the bodies of the prosecutor's office. The decision of a prosecutor shall not be deemed as preventing a person's resorting to the court for defense. Appeal against a decision on a complaint relating to a court verdict, decision, ruling and judgment may can be taken only to a higher prosecutor .

2. Petitions, complaints and other applications coming to the bodies of the prosecutor's office shall be considered in accordance with the procedure and within terms set by federal legislation .

3. The reply to a petition, complaint and other application shall be substantiated. Should the applicant's petition or complaint be dismissed, an

explanation shall be offered to the applicant as to the procedure for appealing the decision as well as the right to action if provided by the law .

4. The prosecutor shall, in accordance with the procedure established by law, take measures to hold offenders accountable .

5. It is prohibited to send a complaint to the body or official the decisions of which are being appealed.

The procedure and time limits for consideration of citizens' appeals in the prosecutor's office are established by the order of the Prosecutor General's Office of the Russian Federation dated January 30, 2013 "On approval and implementation of the Instruction on procedure for consideration of petitions and reception of citizens in the bodies of the Prosecutor's Office of the Russian Federation".

In accordance with paragraph 3.1 of this instruction, petitions received by the prosecutor's office of the Russian Federation are subject to mandatory review. Based on the results of the preliminary examination, one of the following decisions must be taken:

acceptance;

leaving;

transfer to the lower bodies of the Prosecutor's Office;

referral to other bodies;

termination of the treatment of the petition;

add to the previously received petition;

return of the applicant.

Paragraph 5.1 of this instruction establishes that appeals of citizens, servicemen and members of their families, officials and other persons are resolved within 30 days from the date of their registration in the bodies of the Prosecutor's Office of the Russian Federation, and if they do not require additional examination and verification - within 15 days, unless authorized by federal legislation.

As to appeals to court, it should be noted that such a right is guaranteed to a citizen by the Constitution of the Russian Federation (art. 46):

1. Everyone shall be guaranteed judicial protection of his rights and freedoms .

2. Decisions and actions (or inaction) of bodies of state authority and local self-government, public associations and officials may be appealed against in court .

3. Everyone shall have the right to appeal, according to international treaties of the Russian Federation, to international bodies for the protection of human rights and freedoms, if all the existing internal state means of legal protection have been exhausted .

In accordance with Article 1 of the Civil Procedural Code of the Russian Federation (hereinafter referred to as the Civil Procedural Code of the Russian Federation) the order for the civil court procedure in the federal courts of general jurisdiction is defined in the Constitution of the Russian Federation, in the Federal Constitutional Law on the Judicial System of the Russian Federation, in the Civil Procedural Code and in the other federal laws adopted in conformity with the above acts, and the order for the civil court procedure at a justice of the peace - also in the Federal Law on the Justices of the Peace in the Russian Federation .

The procedure for criminal proceedings in the territory of the Russian Federation is established by the Criminal Procedural Code of the Russian Federation (hereinafter referred to as the Criminal Procedural Code).

The art. 29 of the Trade Union Act says that the judicial protection of the trade unions' rights shall be guaranteed. The cases on violations of the trade unions' rights shall be considered by the court upon an application from the Prosecutor or upon the statement of claim or a complaint from the corresponding trade union body or of the primary trade union organization .

Article 30 of the Trade Union Act establishes the responsibility for violating the trade inions' rights :

1. The official persons of the state power bodies and of the local self-government bodies, the employers and the official persons of their associations (unions, amalgamations) shall bear disciplinary, administrative and criminal responsibility in conformity with the federal laws for violating the legislation on the trade unions .

2. The bodies of the all-Russia trade unions and of the trade union associations (amalgamations) of the primary trade union organizations, shall have the right to demand that the official persons, who violate the legislation on the trade unions or do not fulfil the obligations, envisaged by the collective agreement or by the agreement, be called to the disciplinary responsibility, up to dismissal .

Upon the demand of the said trade union bodies, the employer shall be obliged to cancel the labor agreement (contract) with the official person, if the latter violates the legislation on the trade unions, or if he does not carry out his obligations by the collective agreement or by the agreement. .

Articles 5.27 – 5.34 of the Code of Administrative Offenses establishes responsibility for violations of labor legislation and legislation in the field of social partnership, other regulatory legal acts containing labor standards. In some cases these articles provide an imposition of the administrative fines in amounts up to 200 thousand rubles, as well as the disqualification of officials for up to three years..

Also, article 136 Criminal Code establishes the responsibility for violation of the equality of human and civil rights and freedoms :discrimination, that is, violation of the rights, freedoms and legitimate interests of man and citizen based on gender, race, nationality, language, origin, property or official status, place or residence, attitude to religion, convictions, or affiliation with public associations or any social groups, made by a person through the use of the official position thereof - shall be punishable with a fine in the amount of 100 thousand to 300 thousand roubles, or in the amount of a wage or any other income of the convicted person for a period of one year to two years, or by deprivation of the right to hold specified offices or engage in specified activities for a term of up to five years, or by obligatory labor for a term of up to four hundred and eighty hours, or by corrective labor for a term of up to two years, or by deprivation of liberty for the same term.

It is also necessary to mention art. 286 Criminal Code of the Russian Federation. It establishes responsibility for abuse of official powers:

1. Use by an official of his powers, contrary to the interests of the civil service, if this deed has been committed out of mercenary or any other personal interests and has involved a substantial violation of the rights and lawful

interests of individuals or organizations, or the legally-protected interests of the society or the State, Shall be punishable with a fine in an amount of up to 80 thousand roubles, or in the amount of the wage or salary, or any other income of the convicted person for a period up to six months, or by disqualification from holding specific offices or engaging in specified activities for a term of up to five years, or by compulsory labor for a term of up to four years, or by arrest for a term of four to six months, or by deprivation of liberty for a term of up to four years .

2. The same deed committed by a person who holds a public office of the Russian Federation or a public office of a subject of the Russian Federation, or by the head of a local self-government body, Shall be punishable with fine in an amount of 100 thousand to 300 thousand roubles, or in the amount of the wage or salary, or any other income of the convicted person for a period of one to two years, , or by compulsory labor for a term of up to five years with deprivation of the right to hold specified offices or to engage in specified activities for a term of up to three years or without such, or by deprivation of liberty for a term of up to seven years, with disqualification from holding specified offices or engaging in specified activities for a term of up to three years, or without such disqualification

3. Deeds provided for in the first or second part of this Article if they are commited :

a) with the use of violence or with the threat to use;

b) with the use of weapons or special means;

c) entailing grave consequences -

Shall be punishable by deprivation of liberty for a term of 3-9 years, with disqualification from holding specified offices or engaging in specified activities for a term of up to three years .

The Committee asks *that the next report provide information on any possible complaints concerning the formation of trade unions or employers*

associations, lodged with the competent authorities (labor inspectorate and/or judicial bodies)

Comment

Information on any complaints concerning the formation of employers associations is absent.

The latest information on concerning the formation of trade unions is related to the Decree of the Constitutional Court of the Russian Federation No. 22-P dd October 24, 2013 on the case on verification of the constitutionality of paragraphs 1-8 of Article 3 of the Federal Law of January 12, 1996 No. 10-FZ "On Trade Unions, Their Rights and Guarantees of Activities" regarding the relevant complaints of the All-Russian Trade Union of Oil, Gas Industries and Construction Workers and All-Russian Trade Union of State and public services workers of the Russian Federation ".

The said Decree of the Constitutional Court of the Russian Federation found out that paragraphs 1-8 of Article 3 of the Federal Law On Trade Unions, Their Rights and Guarantees of Activities" did not comply with the Constitution of the Russian Federation to the extent that these provisions - in the sense imparted to them by law enforcement practice, - considered as establishing a closed (exhaustive) list of types of trade union organizations and their structural units and thereby preventing trade unions from determining their internal (organizational) structure independently including the creation of trade union organizations and structural subdivisions of trade union organizations not mentioned in the previous version of the Trade Union Act.

In accordance with this Resolution, a law No. 444-FZ was adopted on December 22, 2014, it amended the Trade Union Act.

Later evidence of violations in the creation of trade unions is lacking.

Freedom to join or not to join a trade union

The Committee invites the Government of the Russian Federation to comment on the following statements:

Attacks on trade union leaders, government interference and persecution, denial of registration and recognition, anti-union harassment in the workplaces and lack of effort in investigating the violations of trade union rights are not isolated cases, but an everyday reality. This has prompted two national trade union centres, All-Russian Confederation of labor (VKT) and Confederation of labor of Russia (KTR) to prepare a comprehensive complaint to the ILO Committee on Freedom of Association. By the time of writing, the complaint has been submitted and then endorsed by the Federation of Independent Trade Unions of Russia (FNPR), the ITUC and the global union federations IMF, ITF and IUF. Workers who join trade unions or engage in union activities are often mistreated by employers and authorities alike. While union members suffer from anti-union discrimination and pressure to relinquish their trade union membership, the leaders of grass-root organizations are subject to intimidation, harassment and even physical attacks. Since there are no special laws to protect freedom of association and the right to organise, trade unionists must make use of general legal procedures to protect their rights and liberties. Even though there have been some success stories of a conflict being settled or a wrongly dismissed leader reinstated, the existing mechanisms are considered ineffective. National legislation is also being interpreted in a way that all cases of anti-union discrimination have to be reviewed by courts. Therefore, labor inspectorates, who are in principle entrusted with the task of overseeing compliance with the labor law, routinely dismiss complaints against anti-union behaviour, and appeals to the prosecutor's offices have so far not been effective. Trade unions report that the existing system fuels a climate of impunity in the workplaces. Moreover, appeals to the prosecutor's offices often do more harm than good, as prosecutors tend to side with the employers against the unions, and, after the investigation is concluded, anti-union pressure increases .

Comment

In addition to the above mentioned sanctions it is necessary to mention art. 286 Criminal Code of the Russian Federation. It establishes responsibility for abuse of official powers:

1. Use by an official of his powers, contrary to the interests of the civil service, if this deed has been committed out of mercenary or any other personal interests and has involved a substantial violation of the rights and lawful

interests of individuals or organizations, or the legally-protected interests of the society or the State, Shall be punishable with a fine in an amount of up to 80 thousand roubles, or in the amount of the wage or salary, or any other income of the convicted person for a period up to six months, or by disqualification from holding specific offices or engaging in specified activities for a term of up to five years, or by compulsory labor for a term of up to four years, or by arrest for a term of four to six months, or by deprivation of liberty for a term of up to four years .

2. The same deed committed by a person who holds a public office of the Russian Federation or a public office of a subject of the Russian Federation, or by the head of a local self-government body, Shall be punishable with fine in an amount of 100 thousand to 300 thousand roubles, or in the amount of the wage or salary, or any other income of the convicted person for a period of one to two years, , or by compulsory labor for a term of up to five years with deprivation of the right to hold specified offices or to engage in specified activities for a term of up to three years or without such, or by deprivation of liberty for a term of up to seven years, with disqualification from holding specified offices or engaging in specified activities for a term of up to three years, or without such disqualification

3. Deeds provided for in the first or second part of this Article if they are commited :

a) with the use of violence or with the threat to use;

b) with the use of weapons or special means;

c) entailing grave consequences -

Shall be punishable by deprivation of liberty for a term of 3-9 years, with disqualification from holding specified offices or engaging in specified activities for a term of up to three years.

Concerning the exclusion of trade-union leaflets from the list of extremist literature (the recommendation of the Committee on Freedom of Association of the Administrative Council of the International Labor Office, Case No. 2758), it should be noted that in accordance with Article 13 of Federal Law No. 114-FZ dd July 25, 2002, "On Combating Extremist Activity" the distribution of extremist materials as well as their production or storage for the purpose of distribution on the territory of the Russian Federation is forbidden.

Information materials are recognized extremist by the federal court at the place they were found, distributed or at the location of the organization produced such materials, based on prosecutor's application or during the proceedings in the relevant case of an administrative offense, civil or criminal case.

Simultaneously with the decision to recognize information materials extremist by court,the decision is made to confiscate them.

A copy of the court decision entered into legal force to recognize information materials extremist is sent to the federal state registration body.

The federal list of extremist materials is placed in the information and telecommunications network "Internet" on the website of the federal body of state registration and it is the Ministry of Justice of the Russian Federation. At the same time, the materials introduction in the said federal list based on and in fulfillment of the court decision that came into effect without any additional investigation.

Criteria to recognize information materials extremist are established by Article 1 of Federal Law No. 114-FZ dd July 25, 2002 "On Combating Extremist Activity."

Thus, according to the said law, extremist materials are documents intended for publication or information on other media calling for extremist activity to be carried out or substantiating or justifying the necessity of carrying out such activity, including works by leaders of the National Socialist worker party of Germany, the Fascist party of Italy, publications substantiating or justifying ethnic and/or racial superiority or justifying the practice of committing war crimes or other crimes aimed at the full or partial destruction of any ethnic, social, racial, national or religious group ..

According to the prosecutor's office of Zavolzhskiy district of Tver, decisions of the Zavolzhskiy district court of Tver, adopted in August 2009, identified a number of information materials as extremist. At the same time, based on the court's existing decisions, some leaflets had logos allowing to determine their affiliation with the relevant trade unions (for example, Decision No. 2-3080/2009 dd August 28, 2009, it describes a one-page leaflet with a header including the trade union logo “Centrosvarmash "MPRA).

As can be seen from the courts decisions, the cases were examined based on prosecutor's application on the results of the conducted inspections of the facts of the specified materials distribution on the territory of the Centrosvarmash plant.

"Trade Union" Centrosvarmash "MPRA was not attracted to participate in court hearings in the above cases as a case participant.

Article 43 CPC RF establishes that the third persons who do not institute independent claims for the object of the dispute may join the case on the side of either the plaintiff or the defendant before the court of the first instance delivers the judicial decision on the case if this decision may exert an impact on their rights or duties with respect to one of the parties. They may also be drawn into participation in the case at a petition from the persons taking part in the case, or at the initiative of the court .

According to art. 320 CPC RF establishes that persons that have not been invited to participate in a case and for which issues affecting their rights and duties have been settled by a court are also entitled to file an appeal.

Adoption by a court of a decision on the rights and duties of persons who are not attracted to participation in the case is a ground for cancellation of the decision of a court of the first instance in any case (article. 330).

According to art. 322 CPC RF an appeal or presentation shall contain the name of the court which the appeal or appellate presentation is filed with .

To an appeal shall be enclosed the document confirming the payment of the state duty, if the given appeal is subject to payment .

The Plenum of the Supreme Court of the Russian Federation in paragraph 3 of the Resolution No. 13 dd June 19, 2012 "On application of norms of civil procedural legislation governing the proceedings in court of the appellate instance by courts" drew the attention of the courts to the fact that by virtue of part 4 of Article 13 and part 3 Article 320 of the Code of Civil Procedural Code of the Russian Federation, persons who are not involved in the case are entitled to appeal if the decision resolves the issue of their rights and obligations, that is, they are deprived of their rights, limited in their rights, vest with rights and (or) charge with duties. At the same time, such persons do not need to be indicated in the reasoning and/or operative parts of the court decision.

According to art. 376 CPC RF effective judicial decisions may be appealed with a court of the cassation instance by the persons participating in the case and by other persons if their rights and legitimate interests are violated by the judicial decisions .

Judicial decisions may be appealed against with a court of the cassation instance within six months as from the date when they enter into legal force, provided that the persons cited above of this article have exhausted the other ways of appealing against a judicial decision established by CPC RF before the date when it enters into legal force .

A cassation appeal or presentation shall contain indication of the judicial decisions which are appealed against and a cassation appeal shall have attached thereto copies of the judicial decisions adopted in respect of the case attested by an appropriate court. (art. 378).

At the same time, by order of the Judicial Department of the Supreme Court of the Russian Federation No. 36 dd April 29, 2003, "On Approval of the Instruction on Court Records in the District Court," it is established that copies of judicial acts that have entered into force can be issued (sent) to other persons whose interests are directly affected by the judicial act, with the permission of the presiding judge or the chairman of the court (in the absence of the deputy chairman of the court) upon a written application (Form No. 63), it should indicate rights or\and legitimate interests of this person violated by these judicial acts (clauses 12.5, 12.7).

It should also be noted that the Plenum of the Supreme Court of the Russian Federation in paragraph 4 of the Decree No. 29 dd 11 December 2012 "On application of the norms of civil procedural law governing the proceedings in the cassation courts" explained that persons not involved in the case, if the judicial decision affected their rights or obligations, are not deprived of the opportunity to appeal to the cassation court and in the event that the ruling of the first instance court was not appealed and entered into force.

It is necessary to mention that according to art. 112 CPC RF A missed procedural time term may be restored for persons who have missed the procedural time term fixed in the federal law because of reasons the court finds to be valid.

An application for restoration of the missed procedural term shall be filed with the court that has tried the case in the first instance. The cited term may be only reinstated in exceptional cases, if the court recognizes as sound the reasons behind missing it because of circumstances objectively precluding the possibility of filing a cassation or supervisory appeal within the fixed time term (a serious illness of the person filing the appeal, his/her helpless state, etc.), and if these circumstances have taken place within a period of not more than one year from the day of entry into legal force of the appealed court decision .

Along with these opportunities to appeal the CCP RF provides the possibility to re-start the consideration of the cases in the order of supervision and for newly discovered circumstances (chapters 41.1 and 42 CPC).

Also, according to the art. 254 CPC RF a citizen and an organization has the right to dispute in court the decision or the action (inaction) of a state power body, of a local self-government body, of an official person and of a government or a municipal worker, if they believe that their rights and freedoms are infringed upon. A citizen and an organization have the right to apply directly to the court or to a state power body placed higher in the hierarchy of subordination, or to a local self-government body, or to an official person or a government or municipal worker. .

At the same time, the court has the right to suspend the action of the impugned decision before the court decision comes into force.

Article 256 CPC RF establishes terms for applying to the court - within three months as from the day when he became aware of a violation of his rights and freedoms.

Missing the three-month term for applying to the court is not a ground for the court to refuse in the acceptance of the application. The reasons for missing the term shall be found out in the preliminary court session or in the court session and may be seen as a ground for the refusal to satisfy the application .

Thus, the current legislation provides an exhaustive procedure for appeal by persons participating in the case as well as by other persons if their rights and legal interests are violated by judicial orders.

It should be taken into account that in accordance with Article 6 of the Federal Constitutional Law No. 1-FKZ "On the Judicial System of the Russian Federation" dd December 31, 1996, rulings of the federal courts, justices of the

peace and the courts of the constituent members of the Russian Federation as well as lawful orders, demands, prescriptions, subpoena and other addresses shall be binding on each and every body of state power, body of local self-government, public associations, officials and other natural and legal entities with no exception and shall be subject to strict implementation throughout the territory of the Russian Federation.

Failure to comply with a court decision as well as another contempt of court entails responsibility provided for by the Criminal Code of the Russian Federation.

Based on the above mentioner information there are not any reasons to amend the legislation of the Russian Federation in order to resolve the situation in connection with the introduction of a number of materials in the federal list of extremist materials.

The Committee invites the Government of the Russian Federation to comment on the following statements:

"the representatives of the State labor Inspectorate (Rostrud), competent to deal with violations of labor legislation, including alleged cases of discrimination, in general, and anti-union discrimination, in particular, confirmed that it is extremely difficult to prove cases of discrimination in court". These representatives added that "trade unions therefore most often file complaints with Rostrud; however, employers, having sufficient means and resources to appeal the decisions of labor inspectors in court do not hesitate to do so". They confirmed that, "in practice, if a complaint is lodged with the court, the labor inspection cannot intervene". With regard to the application of penalties, Rostrud officials considered that "in general, the fines are very small, to the point that some enterprises preferred to pay fines than to comply with the labor legislation". The Committee notes the concluding remarks of the above-mentioned Mission, which considered that "further action is needed to strengthen the protection against violations of freedom of association both in law, and in practice, and that better knowledge of available procedures and further clarification of the practices would help both the social partners and the different state bodies to navigate in a context where responsibilities are not

always clear. This applies in particular to the relationship between Rostrud, the Prosecutor's Office and the courts .

The Committee requests *the Government's comments on the information obtained from the above mentioned source and asks that the next report provide detailed information on any complaints relating to anti-union discrimination lodged with the competent authorities (labor inspectorate and/or judicial bodies).*

Comment

Article 353 LC RF establishes that the state monitoring and enforcement of labor law and other legal regulatory acts containing labor law norms shall be carried out by the federal labor inspectorate in the manner established by the Government of the Russian Federation. .

State monitoring of compliance with rules relating to safe work conduct in specific branches and certain sites of industry shall be carried out by the relevant federal executive bodies in accordance with the Legislation of the Russian Federation.

According to art. 354 LC RF the federal labor inspectorate shall be a unified, centralized system composed of the federal executive governmental body charged with state supervision and control of observance of labor law and other legal regulatory acts containing labor law norms and its territorial bodies.

Operational principles and fundamental objectives of the federal labor inspectorate are established by the art. 355 LC RF :

The the federal labor inspectorate and officials thereof shall carry out their activities on the basis of the principles of respect, observance and protection of the rights and freedoms of human beings and citizens, the rule of law, objectivity, independence, and openness. The fundamental objectives of the federal labor inspectorate shall be: - to ensure observance and protection of citizens' labor rights and freedoms, including the right to safe working conditions; - to ensure that employers observe labor law and other legal regulatory acts containing labor law norms; - to provide employers and workers with information on the most effective means and methods of observing the provisions of labor law and other legal regulatory acts containing labor law

norms; - to make the corresponding state agencies aware of any cases of violations, actions (or inaction), or abuses that do not fall under the labor legislation and other normative legal acts containing norms of labor law .

Decisions of state labor inspectors may be appealed to the corresponding superior by rank, the chief state labor inspector of the Russian Federation, and/or in court. Decisions of the chief state labor inspector of the Russian Federation may be appealed in court (art. 361 LC RF).

Thus, appealing against decisions of state labor inspectors is the legitimate right of employers (as well as trade unions) and they can not be charged with it.

As of impossibility of the the federal labor inspectorate to interfere with judicial decisions, it should be noted that the independence of judgments is guaranteed by the Constitution of the Russian Federation (article 120):

Judges shall be independent and submit only to the Constitution and the federal law .

The same standard was established by the Criminal Procedural Code of the Russian Federation (Article 8.1), the Civil Procedural Code of the Russian Federation (Article 8), the Federal Constitutional Law of December 31, 1996 No. 1-FKZ "On the Judicial System of the Russian Federation" (Article 5), the Law of the Russian Federation No. 3132-1 dd June 26, 1992 "On Status of Judges in the Russian Federation" (Article 9).

Petitions regarding discrimination in relation to trade union members are reviewed by the Ministry of Labor of Russia, Rostrud, and its territorial bodies in accordance with the procedure established by law.

With the letter of the Public Council of the Ministry of Labor of Russia No. ET-6/2015 dd April 7, 2015, the Ministry of Labor of Russia received the application of the Confederation of Labor of Russia No. KTR-9/37 dd March 24, 2015 containing information on the detention of 15 activists of the Primary Trade Union Organization of Kaluzhskaya Oblast of the Interregional Trade Union Workers Association (PPO KO MPRA), a member organization of the Russian Confederation of Labor by police officers in Kaluga on March 21, 2015.

The application followed that the trade unionists suffered from moral coercion, they were subjected to compulsory fingerprinting. A few hours later the activists were released.

The Ministry of Labor of the Russian Federation received a letter from the Main Directorate of Internal Security of the Ministry of Internal Affairs of the Russian Federation No. 19 / f-6343 dd May 13, 2015. It followed that on March 21, 2015 the police department of the Russian Ministry of Internal Affairs in Kaluga recorded a notification of citizen Zurov N. I. about the theft of the bag belonging to him by unknown persons who according to his words disappeared in the facility located in Kaluga, 4 Bolotnikova Street. The same day, officers of the said police department visited the indicated address and found out 15 activists of the primary trade union organization of Kaluzhskaya Oblast of the Interregional Trade Union Workers Association in the office. In order to verify the involvement in the crime, these citizens were taken to the police department where they voluntarily agreed to photographing and fingerprinting. After written explanations these persons left the police department on their own. Physical force and special means were not used. As a result of the verification, no evidence of illegal detention and delivery of these citizens by police officers was found.

The prosecutor's office of Kaluga, letter No. 654zh-15 dd May 14, 2015, reported that representatives from the Center for Countering Extremism of the Ministry of Internal Affairs of Russia in Kalizhskaya Oblast came to the police department No. 2 of the Ministry of Internal Affairs of Russia in Kaluga in order to get explanation regarding the material on the fact of organization of an illegal picket by Interregional Trade Union Workers Association (MPRA) members on March 17, 2015 near the motor show "Jenser-Kaluga", address: F. Engels street, Kaluga.

After the necessary verification, people brought to the police department were released.

Due to the fact that officers of the operative-search part of Internal Investigations Division of the Russian Ministry of Internal Affairs in Kaluga checked the lawfulness of the police officers actions according to which the actions of workers of the Ministry of Internal Affairs of Russia in Kaluzhskaya oblast did not contain any facts of violation of the law and there were not any grounds to take measures of prosecutor response.

Representativeness

The Committee asks *that the next report provide a detailed description of the legal framework allowing restrictions of the rights of trade unions based on representativeness criteria, as well as on their implementation, including any relevant judicial decisions taken in the reference period. More particularly, it wishes to be informed on the criteria used to determine the representativeness of trade unions, as well as on the areas of activity reserved to representative unions* .

Comment

Based on the meaning of Article 3 of the Trade Union Act, the main criterion for representation of the trade union at any level of social partnership is the consolidation of more than half of workers. The absence of such a criterion can lead to the fact that people who do not express the interests of the majority of workers will be able to express the interests of workers.

In addition, collective bargaining with different unions regardless of proportion of workers they represent, can put the employer in situation where he will have different obligations to individual groups of workers.

At the same time according to art. 43 LC RF a collective agreement shall extend to all the workers of the organization, the individual entrepreneur, and a collective agreement concluded in a branch, representative office or another detached structural unit of the organization, to all the workers of the relevant unit .

Among the standards of the Labor Code of the Russian Federation governing the representation of workers in the social partnership are articles 30, 31, 37.

According to art. 30 LC RF primary trade union organizations and the bodies thereof represent in social partnership on the local level the interests of the workers of a given employer who are members of the relevant trade unions, and in the cases and the procedure established by the present Code, the interests of all workers of a given employer, with no regard to their trade union membership, in collective bargaining, the conclusion or amendment of a

collective agreement, and also in the consideration and resolution of collective labor disputes of workers and an employer.

workers not being members of a trade union may delegate to a primary trade union organization the right of representing their interests in the relations with the employer concerning individual labor relations and the relations directly related thereto on the terms established by the primary trade union organization .

According to art. 31 LC RF if the workers of a given employer are not united in any primary trade union organizations or if no existing primary trade union organization unites more than a half of the workers of the given employer nor has the power in the procedure established by the present Code to represent the interests of all the workers in social partnership at the local level then another representative (representative body) may be elected by secret ballot from the ranks of the workers at a general meeting (conference) of the workers for the purpose of exercising said powers.

The existence of the other representative shall not be deemed an obstacle to primary trade union organizations exercising their powers

Art. 37 LC RF establishes three cases when trade union organizations (single representative body they formed) represent all workers of a given employer:

1) Two or more primary trade union organizations which unite together more than a half of the workers of a given employer may form a single representative body on the basis of the principle of proportionate representation depending on the number of trade union members (part 2). In this case it shall include a representative from each of the primary trade union organizations that have set up the single representative body ;

2) a primary trade union organization uniting more than a half of the workers of an organization or of an individual entrepreneur (part 3);

3) a general meeting (conference) of the workers may designate by a secret ballot the primary trade union organization which is instructed to start collective negotiations on behalf of all the workers (part 4). If no such primary trade union organization is designated or if the workers of the employer are not united in any primary trade union organizations then a general meeting (conference) of

the workers may elect another representative (representative body) from the ranks of the workers and confer the relevant powers thereon .

The right to hold collective negotiations, sign agreements on behalf of the workers at the level of the Russian Federation, one or several subjects of the Russian Federation, industry sector or territory is vested in the appropriate trade unions (associations of trade unions). If there are several trade unions (associations of trade unions) at the appropriate level, each of them is provided with the right of representation in the framework of the uniform representative body to hold collective negotiations set up taking into account the number of trade union members represented by them. If there is no agreement on the creation of a uniform representative body to hold collective negotiations, the right to conduct them is granted to the trade union (association of trade unions) uniting the majority of the members of the trade union (trade unions) .

Thus, it seems that the stated legislative standards fully comply with the conditions for implementation of Article 5 of the European Social Charter:

a) decisions on representativeness must not present a direct or indirect obstacle to the founding of trade unions ;

b) areas of activity restricted to representative unions should not include key trade union prerogatives ;

c) criteria used to determine representativeness must be reasonable, clear, predetermined, objective, prescribed by law and open to judicial review .

Personal scope

The Committee asks *that the next report provides detailed information on the Federal Law "on Police " and its implementation*.

Comment

Article 31 of the Federal Law No. 3-FZ dd February 7, 2011 "On Police" establishes:

1. For the purpose of representation and protection of their social and labor rights and interests police officers are entitled to get united into or to join trade unions (associations).

2. A procedure for the formation and the competence of trade unions (associations) of a police officer shall be established by the legislation of the Russian Federation. .

According to part 2 art. 4 Trade Union Act the specifics of application of the present Federal Law with respect to the trade unions, uniting the workers of the internal affairs bodies of the Russian Federation shall be defined by the corresponding federal laws. .

We point out that according to art 413 LC RF strikes shall be considered unlawful and shall not be allowed within law-enforcement agencies.

The specified standard is adopted in accordance with Article 55 of the Constitution of the Russian Federation:

1. The listing in the Constitution of the Russian Federation of the fundamental rights and freedoms shall not be interpreted as a rejection or derogation of other universally recognized human rights and freedoms.

2. In the Russian Federation no laws shall be adopted canceling or derogating human rights and freedoms.

3. The rights and freedoms of man and citizen may be limited by the federal law only to such an extent to which it is necessary for the protection of the fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, for ensuring defence of the country and security of the State .

There are not any Information on the violation of the rights of trade unions that unite police officers as well as on forcing police officers to join the trade union

Article 6 – The right to bargain collectively .

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

- ***to promote joint consultation between workers and employers ;***

In Russia, the system of social partnership is established at the legislative level. A number of normative acts are devoted for its regulation, including part two of the Labor Code of the Russian Federation including the only section II "Social partnership in the labor sphere", which, in turn, includes nine chapters regulating certain issues of social partnership. Social partnership in the area of labor is the system of relations between workers (representatives of workers), employers (representatives of employers), bodies of state power, bodies of local government aimed at ensuring coordination of the interests of workers and employers in the issues of regulation of labor relations and other relations directly associated with them[55].

According to art. 26 LC RF social partnership is implemented on the federal level, inter-regional level, regional level, industry level, territorial and local levels; thus, at present, the law establishes a closed list of levels of social partnership. When determining the levels, two attributes, territorial and industry, are taken into account.

Art. 27 LC RF establishes forms of social partnership. They include:

- collective negotiations to prepare draft collective contracts, agreements and the conclusion of collective contracts and agreements ;
- mutual consultations (negotiations) on issues of regulation of labor relations and other relations directly associated with them, ensuring guarantee of the labor rights of workers and improvement of the labor legislation and other normative legal acts containing labor law norms ;
- participation of workers and their representatives in the management of the organization ;
- participation of the representatives of workers and employers in resolution of labor disputes.

This list is not actually exhaustive, the parties themselves can determine the forms of interaction that are convenient for them. In practice, the following forms are used:

monitoring the fulfillment of social partnership obligations;

[55] art.23 LC RF.

creation of constantly operating advisory and coordination bodies on a parity basis;

participation of social partners in the management of public non-budgetary funds;

consideration and accounting of trade union proposals by employers and public authorities;

participation of the bodies of social partnership in the formation and implementation of state policy in the sphere of work (Article 35.1 of the Labor Code of the Russian Federation), etc..

Mutual consultations (negotiations) on issues of regulation of labor relations and other relations directly associated with them, ensuring guarantee of the labor rights of workers and improvement of the labor legislation and other normative legal acts containing labor law norms. Consultations are conducted within various procedures and forms of interaction, the specific forms come from the standards of the Labor Code of the Russian Federation and other federal laws, collective agreements and agreements.

Tripartite consultations are held within the work of the *commissions for regulation of social and labor relations*. The issues of consultations include the development and (or) discussion of draft legislative and other normative legal acts, programs for social and economic development, other acts of public authorities and local authorities in the sphere of work (Article 35.1 LC RF)[56]. Within the Russian tripartite commission, there are consultations on issues related to drafting of federal laws and other normative legal acts of the Russian Federation in the sphere of social and labor relations, federal programs in the sphere of labor, employment of the population, labor migration, social security..

Consultations are held at regional and other levels. For example, the Law of Moscow "On Social Partnership in Moscow"[57] describes the authorities of the Moscow Tripartite Commission, in particular, the development of measures for socially-oriented economic transformations in Moscow and their implementation, regulation of social and labor and other related relations .

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56 Participation in the formation and implementation of state policy in the sphere of labor can be considered as an independent form of social partnership. See, for example: Brodin, I.I. Forms of social partnership and their place in the system of social partnership / "Labor law", 2007, N 1. S.

57 Law of Moscow on 11.11.2009 N 4 "On social partnership in Moscow." ATP «ConsultantPlus»

Tripartite consultations are held within the framework of the decision on the issue of joining the employers or refusal to extend the industry agreement (art. 48 of the Labor Code of the Russian Federation) and the minimum wage agreement in the constituent entity of the Russian Federation (art.133.1 of the Labor Code of the Russian Federation).

In accordance with Article 21 of the Law "On employment in the Russian Federation"[58] executive bodies, employers conduct mutual consultations on employment issues under the proposal of trade unions and other representative bodies of workers; based on the results of consultations, agreements can be concluded providing activities aimed at promoting employment of the population..

To ensure the regulation of social and labor relations, hold collective negotiations and prepare draft collective agreements, agreements, the conclusion of collective agreements, agreements, and also for the organization of monitoring of the implementation thereof at all levels on an equal basis, commissions are formed from representatives of the parties of the social partnership[59].

Commissions are established on an equal basis by decision of the parties. They can be created at all levels of social partnership, be bilateral or tripartite; act on an ongoing basis or be created for temporary purposes; to be created as bodies of the general competence (multipurpose) or specialized (special-purpose). The commissions are composed of duly authorized representatives of each party.

The commissions are entitled to participate in the formulation and implementation of state policy in the sphere of labor. They have the right to participate in the development and (or) discussion of draft legislative and other normative legal acts, programs for social and economic development, other acts of public authorities and local authorities in the sphere of labor. The purpose of this participation is to coordinate the interests of workers (representatives thereof), employers (representatives thereof) and the state on issues concerning the regulation of social-labor relations and economic relations related thereto.

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58 Law of the Russian Federation N 1032-1 dd 19.04.1991 "On employment in the Russian Federation." "Gazette of the Congress of People's Deputies of the Russian Federation and Supreme Council of the Russian Federation". May 2, 1991, No. 18, art. 566.

59 art.35 LC RF.

The bodies of state power and local self-government that adopt acts in the sphere of labor are obliged (Article 35-1 of the LC RF):

-to send for consideration to the relevant commissions draft legislative acts, normative legal and other acts of executive governmental bodies and local self-government bodies in the area of labor, and also the documents and materials required for the discussion thereof ;

- to examine the decisions of relevant commissions .

Parties of social partnership form commissions:

1) at the federal level - the Russian tripartite commission to regulate social and labor relations;

2) at the regional level - regional tripartite commissions to regulate social and labor relations;

3) at industry (inter industry) level - industry (inter industry) commissions to regulate social and labor relations. They can be created at different levels of social partnership - federal, interregional, regional, territorial;

4) at territorial level - territorial tripartite commissions to regulate social and labor relations;

5) at the local level - commissions to conduct collective bargaining, prepare a draft collective agreement and conclude a collective agreement

In addition, various commissions are being set up to discuss and resolve specific issues in the sphere of social and labor relations: coordinating committees for promoting employment (art. 20 Law "On employment in the Russian Federation"[60]); commission on labor protection (art.218 LC RF); commission on labor disputes (art. 384 LC RF); any other specialized commissions that can be created by agreement of workers and employers (their representatives).

The Russian Tripartite Commission (RTK) was established on the basis of the Federal Law No. 92-FZ dd 01.05.1999 "On the Russian Tripartite Commission for Regulation of Social and Labor Relations"[61]. The commission

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60 Law of the Russian Federation N 1032-1 dd 19.04.1991 "On employment in the Russian Federation." "Gazette of the Congress of People's Deputies of the Russian Federation and Supreme Council of the Russian Federation". May 2, 1991, No. 18, art. 566.

61 Federal Law N 92-FZ dd 01.05.1999 "On the Russian Tripartite Commission for Regulation of Social and Labor Relations". "Rossiyskaya gazeta". May 12, 1999 №90.

consists of representatives of the all-Russian associations of trade unions, the all-Russian associations of employers, the Government of the Russian Federation which define the representatives in the Commission independently. Each all-Russian association of trade unions, all-Russian association of employers registered in accordance with the established procedure, has the right to send one of its representatives to the relevant party of the Commission, and upon agreement with other members of its party, all-Russian employers' associations may increase the number of their representatives in the Commission. All-Russian associations of trade unions have the right, within the established number of representatives of this party, to increase the number of their representatives in the Commission in proportion to the number of union members. The number of members of the Commission from each of the parties can not exceed 30 people. Representatives of the parties are members of the Commission.

The RTK is formed on the basis of the principles of voluntary participation of all-Russian associations of trade unions and all-Russian employers' associations; the powers of the parties; independence of each all-Russian association of trade unions, each all-Russian association of employers, Government of the Russian Federation in determining the personal of its representatives .

The RTK has seven working groups, which include representatives of each of the parties and experts proposed by each of the parties:

- Working Group on Economic Policy;;
- Working group on incomes, wages and living standards of the population;
- Working group on development of the labor market and guarantees of employment;
- Working group on social insurance, social protection, social sectors;
- Working group on protection of labor rights, labor protection, industrial and environmental safety ;
- Working group in the field of social and economic problems of the northern regions of Russia;
- Working group on social partnership and coordination of actions of the parties.

Meetings of working groups and the Commission itself are held every month.

The RTK has the following rights[62]:

1) to consult with federal government bodies in accordance with their procedure on issues related to the development and implementation of social and economic policies;

2) to develop and submit to the federal government bodies, in accordance with their procedure, proposals for the adoption of federal laws and other regulatory legal acts of the Russian Federation in the sphere of social and labor relations;

3) to coordinate interests of all-Russian associations of trade unions, all-Russian employers' associations, federal executive bodies in drafting the general agreement, implementing agreements, decisions of the RTK;

4) to interact with industry (inter industry), regional and other commissions for regulation of social and labor relations within collective bargaining and drafting a general agreement and other agreements regulating social and labor relations, implementation of these agreements;

5) to request from the executive authorities, employers and (or) trade unions information on concluded and concluded agreements regulating social and labor relations and collective agreements in order to develop recommendations of the RTC on the development of collective-contractual regulation of social and labor relations, organization of activities of industry (inter industry), regional and other commissions for regulation of social and labor relation;

6) to monitor the implementation of its decisions;

7) to receive information from the federal executive bodies in accordance with the procedure established by the Government of the Russian Federation on social and economic situation in the Russian Federation and in the subjects of the Russian Federation necessary for collective bargaining and preparation of the draft general agreement, organization of control over the implementation of this agreement, regulatory legal acts of the Russian Federation Federation, as

[62] p. 1 art. 4 Federal law dd 01.05.1999 №92-FZ.

well as draft federal laws and other regulatory legal acts of the Russian Federation in the sphere of social and labor relation;

8) by agreement with the Government of the Russian Federation - to take part in the drafting of federal laws and other regulatory legal acts of the Russian Federation in the sphere of social and labor relations, and, by agreement with the committees and commissions of the chambers of the Federal Assembly of the Russian Federation - in their preliminary consideration of draft laws and preparing them for consideration by the State Duma of the Federal Assembly of the Russian Federation;

9) by agreement with all-Russian associations of trade unions, all-Russian employers' associations and federal public authorities — to take part in meetings held by the said organizations and bodies,which address issues related to the regulation of social and labor relations;

10) to invite representatives of all-Russian associations of trade unions, all-Russian associations of employers and federal government bodies that are not members of the Commission, as well as scientists and specialists, representatives of other organizations to participate in its activities;

11) to form working groups with the involvement of scientists and specialists;

12) to take part in the all-Russian, inter-regional meetings, conferences, congresses, seminars on social and labor relations and social partnership in accordance with the founders of the specified events.

The RTK establishes its own regulations and procedures[63]. There are acts of individual departments that provide for an agreed procedure for the interaction of these agencies with the RTK[64]. The activity pf the RTK is performed by the Government of the Russian Federation. The procedure for ensuring of the RTK activities is regulated by a special Government Decree[65]. Meetings of the RTC are held every month.

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63 p. 2 art. 4 Federal law dd 01.05.1999 №92-FZ.

64 For example: Order No. 336 of the Ministry of Health and Social Development of the Russian Federation dd May 13, 2005 (as amended on 04.12.2008) "On Approval of the Procedure for Organization of Interaction between the Ministry of Health and Social Development of the Russian Federation and the Russian Tripartite Commission for Regulation of Social and Labor Relations".

65 Decree of the Government of the Russian Federation No. 1229 dd 05.11.1999 (as amended on 22.06.2004) "On Procedure for Ensuring the Activity of the Russian Tripartite Commission for Regulation of Social and Labor Relations" // SZ RF, 15.11.1999, No. 46 , art. 5572.

The regional tripartite commissions for regulation of social and labor relations are created according to similar principles based on laws of the subjects of the Russian Federation on social partnership. Territorial commissions operate in municipalities, intustry commissions - in certain spheres of economic activity at various levels. The principles of formation of such commissions are common for commissions of all levels. At the local level, bilateral commissions are created for collective bargaining, drafting a collective agreement and concluding a collective agreement. The order of their creation and functioning is determined by the parties themselves. They have the right to create other specialized commissions for solving more narrow issues. In accordance with the currently developing supranational levels of social partnership, the relevant bodies are being created too.

Consultations with representatives of workers are held regarding issue of joining/ refuse to join the sectoral agreement concluded at the federal level (art. 48 LC RF), as well as to the regional agreement on minimum wage (art.133.1 LC RF). At the conclusion of the industry agreement at the federal level, at the suggestion of parties, the head of the federal executive body exercising the functions of state policy development and regulatory functions in the sphere of labor regulations after the publication of the agreement has the right to invite employers not participating in the conclusion of this agreement to join it.

The procedure for publishing industry agreements concluded at the federal level, as well as proposals for accession to the agreement, is approved by the Order of the Ministry of Labor of Russia No. 860n dd 12.11.2015 "On Approving the Procedure for Publication of Industry Agreements Concluded at the Federal Level and Proposals for Accession to the Agreement.".

In accordance with this Procedure, within 3 calendar days from the date of registration of the agreement (amendments and additions to it) the Federal Service for Labor and Employment shall send the text of the agreement and information on its registration to the Ministry of Labor and Social Protection of the Russian Federation for posting on the official website of the Ministry of Labor and Social Protection of the Russian Federation in the information and telecommunication network "Internet" (www.rosmintrud.ru) within 5 working days from the date of its receipt and for publication in the following journals: "Okhrana i ekonomika truda”(Labor protection and economics),"Buznes Rossii” (Business of Russia) and the newspaper "Solidarnost” (Solidarity). After the

publication in the journal "Okhrana i ekonomika truda" and posting on the official website of the Ministry (www.minzdravsoc.ru), the parties to the agreement are entitled to invite the Minister of Labor and Social Protection of the Russian Federation to apply to employers working in the relevant industry and not participating in the conclusion of the agreement, with a proposal to access. If employers working in the industry do not submit a reasoned written refusal to access the agreement within 30 calendar days from the date of the official publication of the proposal, the agreement is considered as covering them from the date of the official publication of this proposal.

If the employer refuses to access it shall attach a protocol of consultations with the elected body of the primary trade union organization uniting the workers of this employer to the letter of refusal. In this case, the representative of the employer and the representative of the elected body of the relevant primary trade union organization may be invited to the Ministry of Labor for consultations. A similar distribution mechanism is provided for the regional agreement on minimum wage, which may be concluded in the subject of the Russian Federation (Article 133.1 of the LC RF). Consultations at the level of the organization are described in articles 21, 22, 29 of the Charter.

Committee recalls the following principles :

• *Consultation can take place within tripartite bodies provided that the social partners are represented in these bodies on an equal footing (Conclusions V (1977), Statement of Interpretation on Article 6§1) .*

• *if adequate consultation already exists, there is no need for the State to intervene. If no adequate joint consultation is in place, the State must take positive steps to encourage it (cf. Centrale générale des services publics (CGSP) v. Belgium, Complaint No. 25/2004, Decision on the merits of 9 May 2005, §41) .*

• *Consultation should take place in the private and public sector, including in the civil service (Centrale générale des services publics (CGSP) v. Belgium, Complaint No. 25/2004, Decision on the merits of 9 May 2005, §41) .*

• *It is open to States Parties to require trade unions to meet representativeness criteria subject to certain general conditions. With respect to Article 6§1, such a requirement must not excessively limit the possibility of trade unions to participate effectively in consultation. In order to be in conformity*

with Article 6§1, representativeness criteria should be prescribed by law, objective, reasonable and subject to judicial review, which offers appropriate protection against arbitrary refusals (Conclusions 2006, Albania .

The Committee asks *that the next report provide information on the implementation of the above mentioned principles. It recalls that consultation at the enterprise level is dealt with under Article 6§1 and Article 21. For the States which have ratified both provisions, consultation at enterprise level is examined under Article 21 (Conclusions 2004, Ireland) .*

The report does not contain information on the implementation of the legal framework regarding joint consultation. The Committee recalls that the implementation of the Charter requires that States Parties not merely take legal action, but also practical action to give full effect to the rights recognised in the Charter (International Association Autism-Europe v. France, Complaint No. 13/2002, Decision on the merits of 4 November 2003, §53).

The Committee asks *that the next report provide information on the implementation of the legal framework, including possible judicial decisions, as well as on concrete steps taken to encourage joint consultation.*

Comment

According to art. 24 LC RF one of the main principles of social partnership shall be authority of the representatives of the parties. So the main criterion for representation of the trade union at any level of social partnership - from local (enterprise level) to federal - is a documented representation of the interests of more than half of the workers. The absence of such a criterion can lead to the fact that people who do not express the interests of the majority of workers will be able to express the interests of workers. In addition, collective bargaining with different unions regardless of proportion of workers they represent, can put the employer in situation where he will have different obligations to individual groups of workers.

At the same time according to art. 43 LC RF a collective agreement shall extend to all the workers of the organization, the individual entrepreneur, and a collective agreement concluded in a branch, representative office or another detached structural unit of the organization, to all the workers of the relevant unit .

Among the standards of the Labor Code of the Russian Federation governing the representation of workers in the social partnership are articles 30, 31, 37.

According to art. 30 LC RF primary trade union organizations and the bodies thereof represent in social partnership on the local level the interests of the workers of a given employer who are members of the relevant trade unions, and in the cases and the procedure established by the present Code, the interests of all workers of a given employer, with no regard to their trade union membership, in collective bargaining, the conclusion or amendment of a collective agreement, and also in the consideration and resolution of collective labor disputes of workers and an employer.

workers not being members of a trade union may delegate to a primary trade union organization the right of representing their interests in the relations with the employer concerning individual labor relations and the relations directly related thereto on the terms established by the primary trade union organization .

According to art. 31 LC RF if the workers of a given employer are not united in any primary trade union organizations or if no existing primary trade union organization unites more than a half of the workers of the given employer nor has the power in the procedure established by the present Code to represent the interests of all the workers in social partnership at the local level then another representative (representative body) may be elected by secret ballot from the ranks of the workers at a general meeting (conference) of the workers for the purpose of exercising said powers.

The existence of the other representative shall not be deemed an obstacle to primary trade union organizations exercising their powers

Art. 37 LC RF establishes three cases when trade union organizations (single representative body they formed) represent all workers of a given employer:

1) Two or more primary trade union organizations which unite together more than a half of the workers of a given employer may form a single representative body on the basis of the principle of proportionate representation depending on the number of trade union members (part 2). In this case it shall

include a representative from each of the primary trade union organizations that have set up the single representative body ;

2) a primary trade union organization uniting more than a half of the workers of an organization or of an individual entrepreneur (part 3);

3) a general meeting (conference) of the workers may designate by a secret ballot the primary trade union organization which is instructed to start collective negotiations on behalf of all the workers (part 4). If no such primary trade union organization is designated or if the workers of the employer are not united in any primary trade union organizations then a general meeting (conference) of the workers may elect another representative (representative body) from the ranks of the workers and confer the relevant powers thereon .

The right to hold collective negotiations, sign agreements on behalf of the workers at the level of the Russian Federation, one or several subjects of the Russian Federation, industry sector or territory is vested in the appropriate trade unions (associations of trade unions). If there are several trade unions (associations of trade unions) at the appropriate level, each of them is provided with the right of representation in the framework of the uniform representative body to hold collective negotiations set up taking into account the number of trade union members represented by them. If there is no agreement on the creation of a uniform representative body to hold collective negotiations, the right to conduct them is granted to the trade union (association of trade unions) uniting the majority of the members of the trade union (trade unions).

According to art. 24 LC RF one of the main principles of social partnership shall be free will in assumption of obligations by the parties. In this regard, the negotiation between the parties to the social partnership is voluntary.

At the same time, the LC RF contains a number of articles obliging employers to consult with representatives of workers on key issues. For example, In the cases envisaged by the present Code, other federal laws and other normative legal acts of the Russian Federation, a collective agreement and agreements, an employer while adopting local normative acts shall take into account the opinion of the representative body of workers (if any).(part 2 art. 8 LC RF).

This duty is established, in particular, by article 99 of the LC RF (overtime), article 101 LC RF (list of positions of workers with unregulated

working day), article 103 LC RF (shift schedules), article 116 LC RF (additional annual paid leave taking into account their production and financial resources), article 123 LC RF (order of granting the annual paid leave), article 135 LC RF (systems of remuneration for labor), article 190 LC RF (rules of the internal labor regulations) etc.

Procedure for considering the opinion of the elective body of the primary trade union organization when adopting local regulatory acts is established by article 372 LC RF.

The elective body of the primary trade union organization shall, not later than five business days from the day it receives the indicated draft of a local regulatory act, send the employer a reasoned opinion on the draft in writing.

Also, according to art 82, LC RF when adopting a decision on redundancy or staff cuts at an organization or individual entrepreneur and possible discontinuation of the labor contracts with workers under Item 2 of Part 1 of Article 81 of the Labor Code, the employer must inform the elective body of the primary trade union organization of this in writing no later than two moths in advance of the beginning of the appropriate measures, and if the decision on the redundancy or staff cuts may result in large-scale dismissal of workers - no later than three months in advance of the beginning of the appropriate measures .

Also, according to art 48, LC RF if an employer refuses to accede to industry agreements concluded on the federal level (the employer did not take part in its conclusion) he is obliged to hold consultations with .

According to art. 24 LC RF one of the main principles of social partnership shall be assistance of the state in the strengthening and development of the social partnership on a democratic basis.

The Russian Federation is continuously working to develop a regulatory framework aimed at strengthening the authorities of the parties to the social partnership.

In general, in recent years more than 40 articles the Labor Code of the Russian Federation has been amended to strengthen the role of social partnership at all levels.

The federal laws on trade unions and employers' associations have been amended it improved the implementation of social partnership at all levels.

The Federal Law No. 142-FZ dd May 23, 2016 amended the Federal Law "On the Russian Tripartite Commission for the Regulation of Social and Labor Relations." It strengthened the role of the Russian Tripartite Commission for the Regulation of Social and Labor Relations (hereinafter referred to as the "RTK") in developing and adopting normative legal acts in the field of social and labor relations and related economic relations.

In order to implement this law, the Government of the Russian Federation has amended the Government's regulations and the RTK support.

Since 2000, with the participation of the parties to the social partnership, the All-Russian competition "The Russian Organization of High Social Efficiency" (hereinafter referred to as "the Competition") has been held in order to attract public attention to the importance of addressing social issues at the level of organizations. The contest has 12 nominations and two stages - regional and federal. It allows identifying the best social projects of organizations that achieve high social efficiency in solving social problems and contributes to the creation of a positive social image of a lot of Russian organizations.

Since 2009, the Competition has been held in accordance with the Russian Federation Government Decree No. 265-r dd March 4, 2009.

The competition includes organizations related to such types of economic activities as engineering, aviation, metallurgy, oil refining, oil and gas production and transportation, energy, agriculture, science, education, healthcare, social services, communications, trade, utilities and many others.

One of the nominations is "Distribution of social partnership principles, development of new forms of social partnership". It is separated for the organizations of production and non-production spheres. When determining the winner, the degree of development of social partnership in the organization is assessed based on, in particular, the following criteria:

participation (membership) in the employers' association (all-Russian, regional, territorial, sectoral, intersectoral, etc.);

scope of social partnership agreements in the sphere of work - organization and its workers;

participation (membership) of representatives of organizations in commissions and working groups in the forms of social partnership at the federal, interregional, regional, territorial, sectoral (intersectoral) level;

presence of a collective agreement;

fulfillment of collective agreement conditions which improve the situation of workers in comparison with the current legislation;

presence of a permanent commission for regulating social and labor relations in the organization;

spheres of authority of the commission (commissions) for regulating social and labor relations in the organization;

participation of workers in management of the organization;

coordination with the representative body of workers when adopting local regulatory acts;

guarantees of trade union activities in the organization;

content of the collective agreement (agreements) establishing additional social guarantees for workers;

content of the collective agreement (agreements) establishing additional measures for the development of the organization (business).

In the Russian Federation more than 21 million people are trade union members.

Over 200 thousand collective agreements were registered by giving a notice. 54 industry and 2 inter-industry agreements have been concluded at the federal level of social partnership. One interregional industry agreement was also concluded. Their cover to 75% of organizations working in the real sector of the economy.

The 46 all-Russian trade unions and 15 all-Russian employers' associations work at the federal level of social partnership

Article 6 – The right to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

…2) TO PROMOTE, WHERE NECESSARY AND APPROPRIATE, MACHINERY FOR VOLUNTARY NEGOTIATIONS BETWEEN EMPLOYERS OR EMPLOYERS' ORGANIZATIONS AND WORKERS' ORGANIZATIONS, WITH A VIEW TO THE REGULATION OF TERMS AND CONDITIONS OF EMPLOYMENT BY MEANS OF COLLECTIVE AGREEMENTS;

The collective bargaining for conclusion of collective agreements is the most significant form of social partnership in Russia and is a well known custom. The collective bargaining is performed at all levels of social partnership from local to federal. In accordance with the Law on Collective Agreements [66] in Russia there was a right to conclude several collective agreements. When the LC RF has come into force, the legislation provides for the conclusion of a single collective agreement in the organization, branch, representation, separate structural unit and it covers all workers.

In Chapter 6 of the Labor code of the Russian Federation "Collective negotiations the state establishes the legal framework for collective bargaining. Legislation supports the idea of free and voluntary collective bargaining. Thus, Article 24 of the Labor Code establishes the principles of social partnership. These include, in particular:

equality of the parties ;

respect for and taking into account the interests of the parties ;

interest of the parties in participation in contractual relations ;

assistance of the state in the strengthening and development of the social partnership on a democratic basis ;

authority of the representatives of the parties ;

freedom of choice in the discussion of issues in the labor sphere ;

free will in assumption of obligations by the parties ;

tangibility of obligations assumed by the parties ;

obligatory execution of collective contracts, agreements ;

control over execution of the adopted collective contracts, agreements; ;

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[66] Law of the Russian Federation "On Collective Agreements" No. 2490 dd March 11, 1992. has become invalid in connection with the adoption of the Federal Law № 90-FZ dd 30.06.2006 .

responsibility of the parties, their representatives for failure to fulfil collective contracts, agreements through their fault .

Each party (representatives of workers and employers) may show initiative in arranging collective negotiations[67]. An offer to start collective negotiations shall be submitted in writing. In practice, the initiative to start collective negotiations in the vast majority of cases, comes from workers.

The conduct of collective negotiations and conclusion of collective agreements and agreements on behalf of workers by persons who represent the interests of employers, and also by organizations or bodies formed or financed by employers, executive governmental bodies, local self-government bodies or political parties, it is hereby prohibited except for the cases envisaged by the Labor Code of the Russian Federation[68].

The representatives of a party which have received an offer to start collective negotiations shall enter into talks within seven calendar days after the receipt of the offer . Failure to fulfill the obligation to start collective negotiations entails administrative responsibility.

The LC RF regulates the procedures to determine the representative of workers for collective negotiations. After amendments to the Labor Code of the Russian Federation in 2006[69] the pre-emptive right to represent the interests of workers in collective negotiations belongs to the trade union uniting the majority of the workers of this employer. Two or more primary trade union organizations which unite together more than a half of the workers of a given employer may form a single representative body (p.2 art.37 LC RF); or a primary trade union organization uniting more than a half of the workers of an organization or of an individual entrepreneur is entitled by decision of its elected body to send an offer to the employer (his representative) to start collective negotiations on behalf of all workers without the preliminary formation of a single representative body (p.3 art.37 LC RF). In the former case, two or more primary trade union organizations which unite together more than a half of the workers

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67 p.1 art.36 LC RF.

68 p.3 art.36 LC RF

69 Federal Law No. 90-FZ dd June 30, 2006 "On Amendments to the Labor Code of the Russian Federation, Recognition of Certain Normative Legal Acts of the USSR and Some Legislative Acts (Provisions of Legislative Acts) of the Russian Federation invalid in the Russian Federation." "Collection of Legislative Acts of the Russian Federation". July 3, 2006, No. 27, art. 2878.

of a given employer may, under a decision of their elected bodies, form a single representative body for the purpose of conducting collective negotiations and performing other actions connected to development and conclusion of a single collective agreement. The formation of a single representative body shall be carried out on the basis of the principle of proportionate representation depending on the number of trade union members. In this case, it shall include a representative from each of the primary trade union organizations that have set up the single representative body. The single representative body is entitled to send an offer to the employer (his representative) to start collective negotiations in order to prepare, conclude or amend a collective agreement on behalf of all workers.

If none of the primary trade union organizations nor the primary trade union organizations collectively unite more than a half of the workers of a given employer then a general assembly (conference) of the workers may determine its representative (p.4 art.37 LC RF). A general assembly (conference) of the workers may designate by a secret ballot the primary trade union organization which is instructed, given the consent of its elected body, to send to the employer (his representative) an offer to start collective negotiations on behalf of all the workers. If no such primary trade union organization is designated or if the workers of the employer are not united in any primary trade union organizations then a general assembly (conference) of the workers may elect by secret ballot another representative (representative body) from the ranks of the workers and confer the relevant powers thereon.

The representative initiated collective negotiations shall do the following simultaneously with sending an offer to the employer (his representative) for starting the collective negotiations: notify about it all the other primary trade union organizations which unite workers of the given employer, and within the next five working days set up a single representative body on the consent thereof or include their representatives in the existing single representative body. Unless within the said term these primary trade union organizations announce their decision or send their refusal to delegate their representatives into the single representative body, the collective negotiations shall start up without their participation. In this case, the primary trade union organizations which do not take part in the collective negotiations shall retain for one month after the

commencement of the collective negotiations their right to delegate their representatives to sit on the single representative body[70].

The right to hold collective negotiations to conclude agreements at the level above organization (local) is vested in the appropriate trade unions and associations of trade unions (all-Russian, interregional, territorial). If there are several trade unions (associations of trade unions) at the appropriate level, each of them is provided with the right of representation within the uniform representative body set up taking into account the number of trade union members represented by them. However, unlike negotiations at the local level, if there is no agreement on the creation of a uniform representative body the right to conduct them is granted to the trade union (association of trade unions) uniting the majority of the members of the trade union[71]. The Labor Code of the Russian Federation does not provide guarantees for entry of other trade unions into the single representative body.

The procedures for collective negotiations are determined by the parties independently on the basis of mutual agreements. The LC RF defines only the most basic positions. In particular, it is established that the date of commencement of the collective negotiations is the day following the date of receipt of said reply by the initiator of the collective negotiations[72]. The parties independently determine the procedure for holding collective negotiations, composition of representatives of each party in the commission, time period and place of the meetings of the commission, distribution of work responsibilities in the negotiation process, signing procedure of an agreed draft collective agreement. The parties also independently decide on the approval procedure for the collective agreement.

The parties must present to each other no later than within two weeks from the day of receiving the appropriate request the available information necessary for the holding of the collective negotiations [73]. Participants of the collective negotiations and other persons involved in the negotiations must not disclose obtained information if this information comprises a secret protected by the law (state, service, commercial or other secret). Persons having disclosed the

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70 p.5 art.37 LC RF.
71 p.6 art.37 LC RF.
72 p.2 art.36 LC RF.
73 p.7 art.37 LC RF.

mentioned information shall be subject to disciplinary, administrative, civil, criminal responsibility[74] (art.147, 183, 283 CC RF).

The Labor Code of the Russian Federation establishes guarantees and compensation for persons taking part in collective negotiations. Persons taking part in collective negotiations, preparation of the draft collective contract or agreement (on the part of workers and employers) shall be released from the main work while preserving the average earnings within the time period defined by the agreement of the parties, however, no longer than for three months. All expenses pertaining to the participation in collective negotiations shall be compensated for according to the procedure specified in the labor legislation and the other normative acts containing labor law norms, collective contract or agreement. The payment for the services of the experts, specialists and intermediaries shall be arranged by the inviting party, if otherwise is not envisaged in the collective contract or agreement . Representatives of the workers taking part in the collective negotiations are entitled to additional guaranties. Representatives of the workers taking part in the collective negotiations may not be subject to disciplinary action, transferred to another job or dismissed at the initiative of the employer during these negotiations without the preliminary consent of the body having authorized their representation functions, except for cases of discontinuation of the labor contract for committing actions warranting dismissal from work in compliance with the present Code or other federal laws[75].

The day of the end of collective bargaining is the day of signing the collective agreement or protocol of disagreements.

The legislation limits time for collective bargaining. In the case of a failure to achieve accord between the parties on individual issues of the draft collective contract within three months from the day of the beginning of collective negotiations, the parties must sign the collective contract on the agreed terms while simultaneously compiling a protocol of disagreements[76]. The signing of the protocol of disagreements may become the basis for initiating a collective labor dispute or the parties may, by agreement, continue collective negotiations for any period.

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74 p.8 art.37 LC RF.
75 p.3 art.39 LC RF.
76 art.40 LC RF.

At the end of 2012, the limits for the duration of the negotiations was introduced with regard to negotiations[77]. According to the new version of art. 47 Labor Code if agreement is not reached between the parties on certain provisions of the draft agreement within three months from the day of commencement of collective negotiations, and in case of collective negotiations for the preparation of a draft general agreement within six months from the date of their commencement, the parties must sign the agreement on agreed terms and simultaneously draw up a protocol of disagreements.

As an indirect limits of collective bargaining, It is possible to consider a three-month period given to persons taking part in collective negotiations, preparation of the draft collective contract or agreement to be released from the main work while preserving the average earnings within the time period defined by the agreement of the parties[78].

Workers and employers, in the person of their representatives, conclude collective agreements at the local level and agreements at the levels above the local. The collective agreement can include norms regulating the social and labor relations of workers and employer, as well as provisions regulating the relations of the parties to the collective agreement and their mutual obligations. The Labor Code of the Russian Federation contains a list of terms that can be established in the collective agreement, they are given in Article 41 of the LC RF, in particular: forms, systems and rates of remuneration for labor; disbursement of benefits and compensations; mechanism of regulation of remuneration for labor with account taken of price growth, inflation level and of the achievement of the targets set by the collective agreement; employment, re-training and the terms for dismissing workers; working hours and leisure hours, including issues concerning the granting of leave and the duration thereof; improving the conditions and safety of workers, including women and youth; observance of workers' interests in the privatisation of state and municipal property; environmental safety and the protection of workers' health at work; guarantees and privileges for workers who combine their work with studies; health rehabilitation and leisure of workers and their family members; partial or

77 Federal Law No. 234-FZ dd 03.12.2012 "On Amendments to Article 26.3 of the Federal Law "On General Principles for Organization of Legislative (Representative) and Executive Bodies of State Power of Subjects of the Russian Federation" and t Labor Code of the Russian Federation". Rossiyskaya Gazeta, No. 283, December 7, 2012.

78 art.39 LC RF.

full payment for workers' meals; other issues determined by the parties. In addition, some articles of the LC RF contain more than eighty references to the regulation of various issues in local regulations or collective agreements.

The collective contract, taking into account the financial and economic standing of the employer, may specify worker benefits and preferences, working conditions more favorable than those specified in the laws, other normative legal acts or agreements (p.2 art.41 ТК РФ).

The terms regulating mutual relations of the parties of the collective agreement and their mutual obligations, include norms establishing: monitoring of implementation of the collective agreement, the procedure for amending it, parties' liabilities, the ensuring of normal conditions for the activities of workers' representatives, the procedure for informing the workers of the implementation of the collective agreement. The collective agreement can include a **peaceful obligation of workers** - to refrain from industrial action if the relevant terms and conditions of the collective agreement are observed .

The collective contract shall be concluded for a fixed **term** of not more than three years. In practice, collective agreements are concluded for a period of one to three years, the average term of the collective agreement is two years. The parties may prolong the collective contract for not more than three years, the legislation does not establish the number of prolongations. The collective agreement shall remain in effect if the name of the organization is changed, if the organization is re-organized in the form of a transformation, and also if a labor contract with the head of the organization is rescinded. If the form of ownership of the organization is changed the collective agreement shall remain effective for three months after the transfer of the right of ownership. When the organization is re-organized in the form of a merger, accession, division or separation the collective agreement shall remain effective during the whole re-organization period. In cases of a reorganization or a change of the form of ownership of the organization, any of the parties may send to the other party suggestions on the conclusion of a new collective contract or prolongation of the previous one for a term of up to three years. In the case of the liquidation of the organization, the collective contract shall preserve its force throughout the whole of the liquidation period[79].

[79] art.43 LC RF.

Agreements are concluded between empowered representatives of workers and employers at the federal, interregional, regional, industry (inter-industry) and territorial levels of social partnership within the scope of powers thereof (art.45 LC RF). Agreements may be bilateral and trilateral . The Labor Code of the Russian Federation establishes the following forms of agreements: a general (the level of the Russian Federation), inter-regional (two or more subjects of the Russian Federation), regional (subject of the Russian Federation), industry (inter-industry) (federal, inter-regional, regional, territorial), territorial (municipality). It is possible to conclude other agreements not directly provided for in the LC RF.

The contents and structure of an agreement shall be determined by arrangement between the representatives of the parties which are free to choose the circle of issues for discussion and inclusion in the agreement. The agreement shall include the provision on period of validity and procedure for monitoring of its implementation.

The agreement may incorporate mutual obligations of the parties concerning the following issues: remuneration for labor (including minimum wage rates, wages (official salaries), ratio of the wage and its fixed part, as well as definition of wages components included in its fixed part, procedures for ensuring the real level of wages); guarantees, benefits and compensations for workers; working hours and leisure hours; employment and the terms for dismissing workers ; workers retraining including in order to update the production; working conditions and labor protection including workers' participation in the management of the company; additional insurance pension; other issues determined by the parties[80].

According to the Labor Code of the Russian Federation the effective **term** of an agreement is determined by the parties but it shall not exceed three years. The parties are entitled to extend the effective term of the agreement once for a term of up to three years[81]. The agreement extends to all the employers being members of the association of employers that has concluded the agreement. The termination of membership of the association of employers does not relieve an employer from the duty to comply with the agreement concluded when the employer was a member. An employer that joined the association of employers

[80] art.46 LC RF.
[81] art.48 LC RF.

during the effective term of the agreement shall honour the obligations established by the agreement. Also, it extends to employers that are not members of the association of employers that has concluded the agreement but which empowered the said association to take part on their behalf in collective negotiations and to conclude an agreement or which **have acceded to the agreement** after it was concluded. The agreement extends to governmental bodies and local self-government bodies within the scope of obligations they have assumed. In respect of employers being federal state institutions, state institutions of subject of the Russian Federation, municipal institutions and other organizations financed from relevant budgets the agreement is effective also if it has been concluded on their behalf by a relevant governmental body or local selfgovernment body . The agreement extends to all the workers having labor relations with the employers covered by the agreement. Where several agreements simultaneously extend to workers the terms of the agreements most favorable to the workers shall apply .

There is an exception that determines the procedure for extending agreements to employers that are not members of the employers' association and did not authorize the latter to represent their interests. At the proposal of the parties to an industry agreement concluded on the federal level the head of the federal executive governmental body charged with the functions of elaborating state policy and of normative legal regulation in the area of labor is entitled after the publication of the agreement to make a proposal to employers that did not take part in the conclusion of the agreement to accede to it. After the publication in the journal “ Okhrana i ekonomika truda” (Labor protection and economics) and placement at the official web-site of the Ministry (www.rosmintrud.ru) parties to the agreement have a right to offer the Minister of labor and social protection of the Russian Federation to apply to employers working in the industry and that did not take part in the conclusion of the agreement to accede to it.

If within 30 days after the official publication of the proposal for accession to the agreement the employers pursuing their activities in the relevant industry do not file their substantiated refusal in writing to accede to the agreement then the agreement shall be deemed to extend to these employers starting from the date of official publication of the proposal .

If the employer refuses to access it shall attach a protocol of consultations with the elected body of the primary trade union organization uniting the workers of this employer to the letter of refusal. In this case, the representative of the employer and the representative of the elected body of the relevant primary trade union organization may be invited to the Ministry of Labor for consultations[82]. A similar distribution mechanism is provided for the regional agreement on minimum wage, which may be concluded in the subject of the Russian Federation[83].

The collective contract and agreement shall **enter into force** from the day of its signing by the parties or from the day specified in the collective contract (p.1 art.43, p.1 art.48 LC RF). However, a collective contract or agreement, within seven days from the day of signing by the employer, shall be sent by a representative of the employer (employers) for registration according to the notification procedure to the appropriate body in charge of labor issues. While **registering the collective contract**, agreement, the appropriate body in charge of labor issues shall identify the conditions impairing the position of the workers as compared to the labor legislation and other normative legal acts containing labor law norms and inform the representatives of the parties having signed the collective contract or agreement of this, as well as the appropriate state labor inspection. The terms of the collective contract or agreement impairing the position of the workers do not have effect and may not be applied .

Control over the execution of a collective contract or agreement shall be vested in the parties of the social partnership, their representatives and appropriate bodies in charge of the labor issues. Specific forms, mechanisms, implementation periods for monitoring are often established in collective agreements, contracts. Given the lack of regulation of the details of this issue in the legislation, this is useful and justified. In the course of implementation of this control, representatives of the parties must submit to each other and also to relevant bodies charged with labor matters the information necessary for this not later than one month after the receipt of the relevant inquiry (art.51 LC RF).

Statistics

Number of agreements concluded at all levels of social partnership

82 art.48 LC RF.
83 art.133.1 LC RF.

In 2016, 12,06 thousand agreements have been applied in the republics, territories, regions and autonomous regions of the Russian Federation, including 72 regional (tripartite agreements between regional administrations, trade union associations and employers' associations), industry regional - 847, industry territorial - 2145, 1496 territorial and 7508 others.

In addition, as of October 30, 2017, there were 60 industry and 2 inter-industry agreements registered at the federal level, as well as one industry agreement - at the interregional level.

Number of valid collective agreements and collective agreements with registration as simple notification; their performance evaluation

In general, in the Russian Federation in 2016, there were 220,628 collective agreements with registration as simple notification in organizations of all forms of ownership.

Including:

- Central Federal District – 37 601;
- Northwestern Federal District– 11 651;
- Volga Federal District – 53 657;
- Urals Federal District – 12 023;
- Siberian Federal District– 50922;
- North Caucasian Federal District – 12 711;
- Crimean Federal District - 1942
- Southern Federal District – 43 822;
- Far Eastern Federal District – 8 322.

The number of workers covered by collective agreements in 2011 in the average for the Russian Federation was 20.11 million people. (which amounted to 55.7% of the total number of workers):

- Central Federal District – 4 772 797 people (50 %);
- Northwestern Federal District – 1 402 505 people (41 %);
- Volga Federal District – 5 731 896 people (61 %);

- Urals Federal District – 3 188 367 people(69 %);
- Siberian Federal District– 3 437 519 people (50 %);
- North Caucasian Federal District – 965 094 people (57 %);
- Southern Federal District – 2 468 965 people (63 %);
- Far Eastern Federal District – 1 160 601 people (43 %).

The Committee asks *what consequences will the party face who does not accept the proposal to enter into negotiations or does accept the proposal but after the fixed deadline*.

Comment

According to art. 5.28 Code of Administrative Offenses avoidance by an employer, or by a person representing him, of participation in talks concerning the conclusion of, or introduction of amendments and additions to, a collective contract or agreement, or violation of the terms for conducting the talks established by law, as well as failure to ensure the work of a commission for conclusion of a collective contract or agreement within the terms determined by the parties - shall entail the imposition of an administrative fine in the amount of one thousand to three thousand roubles .

The Committee asks *that the next report provide information on cases in which the labor authorities identified conditions which adversely affected the situation of workers in comparison with legal provisions or regulations. It asks whether in this context the decisions of the labor authorities can be appealed by the parties concerned.* .

Comment

Parties to agreements during collective negotiations also hold consultations with authorized bodies regarding the content of the draft agreements in the field of social partnership. In this connection, cases when conditions that worsen the

situation of workers in comparison with the current legislation are revealed at the stage of registration of an agreement or a collective agreement are rare. At the same time, it should be noted that, in particular, the Federal Labor and Employment Service, authorized to register industry agreements concluded at the federal level of social partnership found such conditions, for example, in the following agreements:

Federal Industry Agreement for Aviation Industry of the Russian Federation for 2005-2007 (Rostrud Letter No. 602-TZ dd March 9, 2005);

Federal Industry Agreement for Coal industry of the Russian Federation for 2007-2009 (Letter No. 1802-TZ dd April 17, 2007).

P. 1 art. 3 Civil Procedural Code of the Russian Federation establishes that an interested person has the right to appeal to the court for protection of the violated or disputed rights and freedoms or of lawful interests, in accordance with the order established in the legislation on the civil court procedure, in particular, to make a claim with court for awarding thereto compensation for violation of the right to court proceedings within a reasonable time or the right to execution of a judicial act within a reasonable time .

Article 6 – The right to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

… 3) to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labor disputes ;

Requirements of the National report form: 1) general legal framework, nature, causes and scope of any related reforms 2) Measures taken to implement legal framework (administrative regulations, programs, action plans, projects, etc.)

Mediation and arbitration procedures to resolve labor disputes in Russia apply to *"collective labor disputes"* are described in chapter 61 of the Labor Code of the Russian Federation. According to art. 398 LC RF collective labor disputes are unresolved disagreements between workers (or their representatives) and employers (or their representatives) concerning the establishment and changing of working conditions (including wages), the

making, changing, and fulfillment of collective negotiations agreements and other agreements, and also disagreements concerning an employer's refusal to consider the opinion of an elected workers' representative body in adopting local normative acts . Thus, collective labor disputes include disputes about interests and one of the categories of disputes - disputes about the implementation of collective agreements and contracts. The last category of disputes can also be considered in order established for the resolution of individual labor disputes, i.e. shall be heard by a commission on labor disputes and by the courts[84].

The norms of Chapter 61 of the RF LC relating to conciliation procedures are applied regardless of the form of ownership of the employer (public, private, or mixed). At the same time, state civil servants covered by the Federal Law No. 79-FZ dd July 27, 2004 (as amended on 02.07.2013) "On State Civil Service of the Russian Federation"[85], i,e. persons performing professional service ensuring powers of federal state bodies, state bodies of the subjects of the Russian Federation, persons filling state posts of the Russian Federation, and persons filling state posts of the subjects of the Russian Federation[86] are not entitled to terminate their official duties in order to resolve service disputes

Prior to consideration of the dispute with the help of conciliation procedures, the law provides for the procedure *to make demands by workers and their representatives*. The workers have the right to demand as well as their representatives; trade unions of the appropriate level[87], or, at the level of the organization, other representatives – if this employer's registered primary trade union organization[88]. According to p. 2 art. 31 LC RF the existence of the other representative shall not be deemed an obstacle to primary trade union organizations exercising their powers. At the local level, the requirements of the workers of this employer or of its separate structural subdivision[89] shall be approved at the general assembly (conference)[90]. Since 2011[91] if it is impossible

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84 art. 381 LC RF.

85 CL RF, 02.08.2004, №31, art. 3215.

86 Art. 5 Federal Law «On State Civil Service of the Russian Federation».

87 art. 29 LC RF

88 art. 31 LC RF.

89 The term "separate structural subdivision" is not explained in the labor legislation. In paragraph 16 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 2 dd March 17, 2004 "On application of the Labor Code of the Russian Federation by the courts of the Russian Federation" regarding the transfers of workers it is explained that structural subdivision should be understood as branches, representative offices and divisions , workshops, plots, etc. However, judicial practice is based on the assumption that this definition does not apply to collective labor disputes.

90 p. 2 art. 399 LC RF.

to hold a assembly (conference), the representative body of workers has the right to approve its decision by collecting signatures of more than half of the workers supporting the demands. In particular, it is impossible to hold a general assembly or conference when the workers work in shifts. For such cases, the approval of demands by collecting signatures is more realistic.

The Labor Code of the Russian Federation contains the following requirements[92] regarding assembly (conference) of workers and decisions taken:

- An workers' assembly shall be considered legally authorized if over one half of the workers are present at it .
- A conference shall be considered legally authorized if not less than two thirds of the elected delegates are present .
- The decision to approve the declared demands is made by a majority of the votes of the workers (delegates) present at the assembly (conference).

An employer shall be required to provide the workers or workers' representatives with premises sufficient to hold an assembly (conference) considering demands to be presented, and shall not be entitled to obstruct the conduct thereof[93]. Non-reservation of premises for the conduct of such assembly (conferences) of workers for the purpose of advancing demands, or obstructing the conduct of such an assembly (a conference) - shall entail the imposition of an administrative fine in the amount of one thousand to three thousand rubles [94].

(A copy of the) Demands may be sent to the relevant state body charged with regulation of collective labor disputes, i.e. Federal service for labor and employment (Rostrud), including in a form of electronic document. In this case the state body charged with regulation of collective labor disputes shall check if the other party to the collective labor dispute has received the demands (copies)[95].

Reconciliation procedures include consideration of the dispute by a reconciliation commission, and consideration with the participation of a

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91 Federal Law No. 334-FZ dd 22.11.2011 "On Amendments to the Labor Code of the Russian Federation Regarding the Improvement of Procedure for Considering and Solving Collective Labor Disputes" // SZ RF, 28.11.2011, No.48, Art. 6735.

92 p. 3 art. 399 LC RF

93 p. 4 art. 399 LC RF.

94 art. 5.32 Code of Administrative Offenses of the Russian Federation.

95 p. 6 art. 399 LC RF.

mediator and/or in labor arbitration. As a general rule r[eview of a collective labor dispute by a reconciliation commission is a mandatory step [96]. According to p. 5 art. 401 LC RF, Representatives of parties, reconciliation commissions, mediators, labor arbitration panels, and the state body charged with regulation of collective labor disputes shall be required to use all opportunities afforded them under law to resolve the collective labor dispute .

Neither party to a collective labor dispute shall have the right to evade participation in reconciliation procedures[97]. If one of the parties to a collective labor dispute evades participation in the creation or work of a reconciliation commission the other party to a collective labor dispute may demand mediator's participation no later than the next business day after the day of the the specified demand[98]. If one of the parties to a collective labor dispute evades negotiations regarding mediator or participation in the mediation process, the other party has the right to demand labor arbitration tribunal no later than the next business day after the day of the specified demand[99]. If the employer (employer's representative) evades creation of a temporary labor arbitration tribunal, transfer of a collective labor dispute for consideration to a permanent labor arbitration tribunal or participation in labor arbitration tribunal consideration of the dispute, it is considered that the reconciliation procedures did not lead to the resolution of the collective labor dispute[100]. In this case, workers have the right to start organizing strikes[101]. Avoidance by an employer, or by a person representing him of participation in conciliatory procedures shall entail the imposition of an administrative fine in the amount of one thousand to three thousand roubles [102].

During the consideration and resolution of the collective labor dispute, including the period of organization and conduct of the strike, according to general procedure established by Federal Law No. 54-FZ dd June 19, 2004 «On Meetings, Rallies, Demonstrations, Processions and Picketing»[103], workers have a right to hold mass actions in support of their demands..

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96 p. 2 art. 401 LC RF.
97 p. 4 art. 401 LC RF.
98 p. 1 art. 406 LC RF.
99 p. 2 art. 406 LC RF.
100 p. 3 ст. 406 LC RF.
101 art. 409 LC RF
102 art.5.32 Code of Administrative Offenses of the Russian Federation.
103 CL RF, 21.06.2004, №25, art. 2485.

The first and the only obligatory step of the collective labor dispute consideration is a *reconciliation commission*[104]. A reconciliation commission at the local shall be set up within two working days after the commencement of a labor dispute, other levels of the social partnership - within three working days after the commencement of a labor dispute [105]. A reconciliation commission shall be made up of representatives of the parties to a collective labor dispute on a parity basis [106]. Recommendations on organization of work for consideration of collective labor disputes by a reconciliation commission[107] offer to invite from two to five representatives from each party knowing the problem and possessing skills of negotiating the reconciliatory commission. The reconciliation commission determines its own rules of procedure independently. The employer shall ensure favorable conditions for the operation of the reconciliation commission[108].

At the local level the labor dispute shall be considered by a reconciliation commission within three working days, at the other levels – within five working days after the issuance of the acts whereby the commission was set up[109].

A decision of the reconciliation commission shall be adopted by agreement of the parties to the collective labor dispute and it shall be binding on the parties[110]. If no agreement has been reached in the reconciliation commission the parties to the collective labor dispute shall start talks on the invitation of a mediator and/or on setting up a labor tribunal [111].

Mediator – is an independent person parties to a collective labor dispute may invite to help them negotiate. The parties to the dispute shall negotiate a collective labor dispute with the mediator not later than the next working day after the day the conciliation commission drawn up the protocol of disagreement. If there is no agreement, where is a protocol on refusal to participate in this conciliation procedure, and they proceed to negotiate a collective labor dispute in labor tribunal[112].

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104 art. 402 LC RF .

105 p. 1 art. 402 LC RF.

106 p. 3 art. 401 LC RF.

107 Decree of the Ministry of Labor of the Russian Federation №57 dd 14.08.2002 "On approval of the Recommendations on organization of work for consideration of collective labor disputes by the reconciliation commission" // Bulletin of the Ministry of Labor of the Russian Federation, No. 8, 2002.

108 p. 5 art. 402 LC RF.

109 p. 6 art. 402 LC RF.

110 p. 7 art. 402 LC RF.

111 p. 8 art. 402 LC RF.

112 p. 1 art. 403 LC RF.

The procedures for examining a collective labor dispute with the participation of a mediator shall be defined by agreement of the parties to a collective labor dispute with the participation of a mediator[113]. The mediator can be any person the parties trust. If needed, the parties to a collective labor dispute may turn to the relevant state body for the resolution of collective labor disputes to recommend a candidate for mediator. If the parties to a collective labor dispute have not reached agreement regarding a choice of mediator, they shall move on to the talks on the creation of a labor arbitration tribunal[114]. Collective labor disputes involving mediator are rarely.

The procedures for examining a collective labor dispute with the participation of a mediator shall be defined by agreement of the parties to a collective labor dispute with the participation of a mediator, at the same time they can apply the Recommendations on organization of work for consideration of collective labor disputes with the mediator [115]. A mediator shall be entitled to request and receive from the parties to a collective labor dispute any necessary documents and information concerning the dispute.

The consideration of a collective labor dispute with the participation of a mediator shall be accomplished within three working days at the local level and five – at the other levels of social partnership[116]. It shall be concluded with the parties' acceptance of a coordinated resolution in writing, or the drafting of a report of disagreement. The decision taken by the parties in the consideration of the dispute with the mediator is binding on the parties.

The third procedure, which can be used by the parties to a collective labor dispute, is *labor arbitration tribunal*. Until 2011, according to the legislation, labor arbitration tribunal could be created in Russia solely as a temporary acting body. Federal Law No. 334-FZ dd 22.11.2011[117] provides for the tripartite commissions for regulating social and labor relations to create permanent labor arbitration tribunals to resolve collective labor disputes. There are several permanent labor arbitration tribunals created before 2011, in particular, the Moscow Labor Arbitration Court. Among other things, it functions as an

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113 p. 2 art. 403 LC RF.

114 Ibid.

115 Decree of the Ministry of Labor of the Russian Federation №58 dd 14.08.2002 "On approval of the Recommendations on organization of work for consideration of collective labor disputes with the mediator //Bulletin of the Ministry of Labor of the Russian Federation, No. 8, 2002.

116 p. 5 art. 403 LC RF.

117 Federal Law №334-FZ dd 22.11.2011

advisory body on labor matters[118]. As a general rule, labor arbitration tribunal is a voluntary procedure that can only be applies if the parties to the dispute have signed an agreement on the obligation to execute a decision of labor arbitration . However, in cases where workers do not have the right to strike[119], labor arbitration tribunal may be mandatory[120].

Within one working day, the parties are obliged to discuss the issue of establishing labor arbitration tribunal. A labor arbitration tribunal shall be created by the parties to a collective labor dispute or the relevant state body for the resolution of collective labor disputes not later than two or four working days (depending on the level of the social partnership)[121]. Decree of the Ministry of Labor of the Russian Federation №59 dd 14.08.2002 approved the Recommendations on organization of work for consideration of collective labor disputes with labor arbitration tribunals[122].

A labor arbitration tribunal's composition, rules, and powers shall be formalized in a corresponding decision of the employer, workers' representative, and the state body charged with regulation of collective labor disputes 123.

In cases of a mandatory labor arbitration tribunal, its composition and rules as well as the decision to refer the dispute to a permanent labor arbitration tribunal, is adopted by the relevant state body for settlement of collective labor disputes[124], i.e. Rostrud

The collective labor dispute shall be examined by the labor arbitration tribunal, with the participation of representatives of the parties to that dispute, within three workung days – local level and withing five working days – other levels[125].

The decision of labor arbitration tribunal is obligatory for both parties. Failure to follow the decision of the labor arbitration tribunal shall entail the imposition of an administrative fine in the amount of two thousand to four thousand roubles 126.

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118 See, for example: "Practical work on collective labor disputes." The official website of the "Labor Arbitration Court for collective labor disputes" http://www.trudsud.ru/ru/institution/our_activity/practical_work

119 See the comment to 6.4 of the Charter.

120 p. 8 art. 404 LC RF.

121 p. 1, 2 art. 404 LC RF.

122 Decree of the Ministry of Labor of the Russian Federation №59 dd 14.08.2002 "On approval of the Recommendations on organization of work for consideration of collective labor disputes with the labor arbitration tribunal" // Bulletin of the Ministry of Labor of the Russian Federation, No. 8, 2002.

123 p. 4 art. 404 LC RF.

124 p. 8 art. 404 LC RF.

125 p. 5 art. 404 TLC RF.

126 art. 5.33 Code of Administrative Offenses of the Russian Federation.

The quality of reconciliatory procedures directly affects the ability of workers and employers to held collective actions, strikes primarily. The procedure to declare workers' demands and duration of reconciliation procedures provided for in the Russian labor legislation make it difficult for workers to take collective action, as a result only a small number of collective labor disputes are officially registered[127]. Due to this problem, for a number of years negotiations were held between the Russian trade unions, non-profit organizations and expert community on liberalization of procedure for resolving collective labor disputes, it led to some simplification of reconciliatory procedures in the form of amendments to the Labor Code of the Russian Federation introduced in November 2011.[128].

According to the Federal Service for Labor and Employment 116 protest actions were in 2016 registered including:

suspension of work– 33;

rallies – 27;

pickets – 21;

hunger strikes – 17;

strikes – 13;

self-mutilation – 3;

closing the federal highway – 1;

dismissal in protest – 1.

Trade unions indicate somewhat different figures. According to the results of the FNPR monitoring of conflicts in the sphere of social and labor relations, 167 social and labor conflicts (SLC) receiving public resonance (13% more than in 2015) were registered in 2016.

The main reasons of their occurrence: complete non-payment of wages - 41% o cases, reduction (dismissal) of workers - 13%, reduction in the level of labor remuneration - 11%, liquidation of enterprises (manufactures) - 8%.

127 See. section below.

128 Based on Federal law №334-FZ dd 22.11.2011

In comparison with 2015, the role and activity of participation in the resolution of social and labor conflicts (hereinafter - SLC) of state and regional government bodies has increased.

One of the trends in 2016 was a decrease in the average duration of the SLC compared to the previous year. Including conflicts arisen because of non-payment of wages and it is directly related to the active intervention of government bodies, local governments and supervisory bodies in the settlement of the SLC

In general, in 2016, most of the SLC (94%) resulted in full or partial satisfaction of the workers' demands.

The Committee asks *that the next report provide detailed information on the rules that impose compulsory arbitration and their concrete implementation* .

the Committee asks *the Government to state in which cases and to what extent voluntary recourse to labor arbitration would undermine the respect for the rights and freedoms of others or threaten the public interest, national security, public health, or morals.*

The committee also wishes to know *if the imposition of a compulsory recourse to labor arbitration is, in all the above-mentioned cases, proportionate to the protection of the interests mentioned by Article G of the Charter* .

Comment

Article 404 LC RF establishes that in cases when no industrial action can be conducted for the purpose of resolving a collective labor dispute a labor arbitration shall be established in an obligatory procedure and its decision shall be binding on the parties. In this case, if the parties do not reach an agreement on setting up a labor arbitration, its composition, rules and powers then a decision on these issues shall be taken by the relevant state body (Rostrud) charged with regulation of collective labor disputes .

According to art 413 LC RF strikes shall be considered unlawful and shall not be allowed:

a) during periods when martial law, a state of emergency, or special measures are declared in accordance with legislation on emergency situations; within the organizations and bodies of the Armed Forces of the Russian Federation, other military, militarized, and other formations, organizations (branches, representative offices or other detached structural units) directly charged with issues of national defense, national security, emergency lifesaving, search-and-rescue, and firefighting operations and the prevention or management of natural disasters and emergencies; in law enforcement agencies; and in organizations (branches, representative offices or other detached structural units) directly involved in servicing especially hazardous types of industrial works or equipment and emergency and urgent medical assistance centres ;

b) in the organizations (branches, representative offices or other detached structural units) directly related to providing vital services to the population (energy supply, heating and heat supply, water supply, gas supply, air, rail, and water transportation, communications, and hospitals), including cases where strikes would create a threat to national defense, state security, and the lives and health of human beings .

The specified standard is adopted in accordance with Article 55 of the Constitution of the Russian Federation:

1. The listing in the Constitution of the Russian Federation of the fundamental rights and freedoms shall not be interpreted as a rejection or derogation of other universally recognized human rights and freedoms.

2. In the Russian Federation no laws shall be adopted canceling or derogating human rights and freedoms.

3. The rights and freedoms of man and citizen may be limited by the federal law only to such an extent to which it is necessary for the protection of the fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, for ensuring defence of the country and security of the State.

Thus, these restrictions are proportional protection of interests mentioned in Article G of the Charter.

Article 6 – The right to bargain collectively .

… and recognize :

4) the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into**.**

Appendix: It is understood that each Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article G.

The right to strike is established in the Constitution of the Russian Federation. According to p. 4 art.37 « Recognition shall be given to the right to individual and collective labor disputes with the use of methods of their adjustment fixed by the federal law, including the right to strike ». Thus, the constitutional right to strike is not considered absolute but depends on the specific mechanism of establishment in the federal legislation. According to the LC RF, a *strike* – is a temporary voluntary refusal of workers to perform job duties (fully or in part) for purposes of resolving a collective labor dispute [129]. Also the Russian legislation establishes self-protection of workers i.e. in the interests of protecting his labor rights, a worker may, refuse to perform work that is not stipulated in his labor contract or presents a direct threat to his life or health[130], and in the event of a delay of the payment of a wage for a time period of more than 15 days [131].

Article 415 LC RF says that in the process of resolving a collective labor dispute, including during strike actions, it shall be forbidden to employ lockout termination of workers' employment at the employer's initiative due to their participation in a collective labor dispute or strike. Thus, despite the fact that the law says about the prohibition of lockout, it is not about lockouts as understood in the vast majority of countries, that is, the suspension of labor relations with workers on the initiative of the employer at the time of resolving the labor dispute, but only to prohibit the dismissal of workers in connection with a strike

[129] p. 4 art. 398 LC RF.
[130] art. 379 ТК РФ.
[131] p. 2 art. 142 LC RF..

and participation in a collective labor dispute[132]. Therefore, in this case, there is no contradiction between the requirements of the Committee with regard to the Charter and the internal labor legislation of Russia.

1. Group authorized to declare a strike.

A decision on declaring a strike shall be taken by a assembly *(conference)* of workers of an organization (branch, representative office or another separate structural unit)[133], individual entrepreneur *of the proposal of the representative body of workers* which has been earlier empowered by the workers to resolve a collective labor dispute.[134] At the level above local a decision on the participation of the workers of a given employer in industrial action that is declared by a trade union (an association of trade unions) shall be taken by a assembly (conference) of the workers of this employer without implementing conciliatory proceedings[135]. The assembly of the workers of this employer is deemed competent if attended by at least half of the total number of the workers . The conference of the workers of this employer is deemed competent if attended by at least two thirds of conference delegates[136]. A decision shall be deemed adopted if at least a half of the workers who attended the meeting (conference) have voted for it. If a meeting (conference) of the workers cannot be held (convened) the representative body of the workers is entitled to confirm its decision by collecting the signatures of over half of the workers in support of a strike[137]. The quorum for the decision to declare a strike was reduced in the Labor Code of the Russian Federation as it was criticized as excessive by the Committee on Freedom of Association of the ILO[138], as well as the UN Committee on Economic, Social and Cultural Rights with respect to the observance of the International Covenant on Economic, Social and Cultural Rights 1966.[139] The employer is to provide premises and create the necessary

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132 See in details: Jacobs A.T.J.M. The Law on Strikes and Lockouts // Comparative labor Law and Industrial Relations in Industrialized Market Economies. R. Blanpain (ed.). X-th ed. Wolters Kluwer, 2010. P. 707-713.

133 The term «separate structural subdivision», see commentary to paragraph 3 of Art. 6 of the Charter.

134 p. 1 art. 410 LC RF.

135 p. 2 art. 410 LC RF.

136 p. 3 art. 410 LC RF.

137 p. 5 art. 410 LC RF.

138 Para 914 (e), Committee on Freedom of Association case No. 2216, Report No. 332. ILO ref. Nos. GB.288/7 (Part II and GB.289/9 Part I). ILO Normlex Database: <http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2907238>.

139 United Na

E/C.12/2003/14. New York and Geneva: United Nations, 2004. Para. 463, P. 67, Para. 491, P. 69.

conditions for holding the assembly (conference) of workers and does not have the right to obstruct the holding thereof[140].

The legislation establishes a positive and negative right to strike. No one can be forced to participate or not participate in a strike[141]. The Code of Administrative Offenses of the Russian Federation establishes that forcing someone to participate in a strike or to preventing them from participating therein by violence or by a threat of violence, or using the dependent position of those forced shall entail the imposition of an administrative fine (on citizens in the amount of five hundred to one thousand roubles and on officials in the amount of one thousand to two thousand roubles)[142]. Membership in the trade union does not matter in terms of possibility of worker's participation in the strike. The strike can be full or partial – the Labor Code of the Russian federation states that the decision to declare a strike, among other things indicates the *estimated* number of workers participating in it[143]. Thus, the body leading the strike is not obliged to inform the employer not only about the personal composition but also about the exact number of strike participants.

2. Admissible objectives of collective actions

Strikes can be carried out only to resolve a collective labor dispute. In turn, collective labor disputes are held «concerning the establishment and changing of working conditions (including wages), the making, changing, and fulfillment of collective negotiations agreements and other agreements, and also disagreements concerning an employer's refusal to consider the opinion of an elected workers' representative body in adopting local normative acts »[144].

3. Special restrictions on the right to strike

The Constitution of the Russian Federation says[145]: «1. The listing in the Constitution of the Russian Federation of the fundamental rights and freedoms shall not be interpreted as a rejection or derogation of other universally recognized human rights and freedoms. 2. In the Russian Federation no laws shall be adopted canceling or derogating human rights and freedoms. 3. The rights and freedoms of man and citizen may be limited by the federal law only to

140 p. 4 art. 410 LC RF.
141 p. 4 art. 409 LC RF.
142 art. 5.40 Code of Administrative Offenses of the Russian Federation.
143 p. 9 art. 410 LC RF.
144 p. 1 art. 398 LC RF.
145 art. 55 Constitution of the Russian Federation .

such an extent to which it is necessary for the protection of the fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, for ensuring defense of the country and security of the State ». These general provisions comply with the requirements of Art. G of the Charter.

i. Limitations associated with vital services / sectors

ii.Limitations on civil servants

P. 1 art. 413 LC RF establishes[146] two prohibition regimes for strikes against vital services and industries: *unconditional*, i.e. not dependent on any external circumstances[147], or established *where strikes would create a threat to national defense, state security, and the lives and health of human beings*[148].

Unconditionally strikes shall be considered unlawful and shall not be allowed during during periods when martial law[149] or a state of emergency [150] or special measures are declared in accordance with legislation on emergency situations; within the organizations and bodies of the Armed Forces of the Russian Federation, other military, militarized, and other formations, organizations (branches, representative offices or other detached structural units) directly charged with issues of national defense, national security, emergency lifesaving, search-and-rescue, and firefighting operations and the prevention or management of natural disasters and emergencies; in law enforcement agencies; and in organizations (branches, representative offices or other detached structural units) directly involved in servicing especially hazardous types of industrial works or equipment and emergency and urgent medical assistance centers.

In the organizations (branches, representative offices or other separate structural subdivisions) directly related to providing vital services to the population (energy supply, heating and heat supply, water supply, gas supply, air, rail, and water transportation, communications, and hospitals), including

146 p. 1 art. 413 ТК РФ.
147 i. «a» p. 1 art. 413.
148 i. «b» p. 1 art. 413.
149 This norm is also reproduced in the Federal Constitutional Law "On the Martial Law" No. 1-FKZ dd January 30, 2002 // SZ RF, February 4, 2002, No. 5, Art. 375.
150 This norm is also reproduced in art. 11 of the Federal Constitutional Law No. 3-FKZ dd May 30, 2001 "On a state of emergency" // SZ RF, June 4, 2001, No. 23, art. 2277.

cases *where strikes would create a threat to national defense, state security, and the lives and health of human beings* .

Servicemen are not allowed to[151] participate in strikes as well as "other termination of military service duties as a settlement of issues related to military service." However, servicemen are allowed to participate peacefully, without weapons, in meetings, rallies, demonstrations, marches and pickets outside the territory of the military unit[152].

The Federal law "On Alternative Civil Service" says that[153] citizens on alternative civil service are not entitled to participate in strikes and other forms of suspension of the activities of organizations.

Strikes are prohibited for workers *of the federal courier service*[154].

It is forbidden to hold strikes by *aviation personnel of the civilian aviation* engaged in air traffic management (control)[155].

The Federal Law "On Railway Transport"[156] establishes that a strike as a means to settle collective labor disputes by *public railway transport workers* whose activities are connected with trains traffic, shunting as well as with services of passengers, consignors and consignees on the public railway transport, the list of professions is determined by federal law, is illegal and not allowed.

Heads of state and municipal unitary enterprises do not have the right to take part in strikes in accordance with the Federal Law "On State and Municipal Unitary Enterprises"[157].

According to the Federal Law «*On the Use of Atomic Energy*»[158] it shall be impermissible to organize and hold meetings, demonstrations, pickets, to block

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151 Art. 7 Federal Law No. 76-FZ dd May 27, 1998 "On the Status of Servicemen" // SZ RF № 22, 01.06.1998, Art. 2331.

152 p. 2 art. 7 Federal Law «"On the Status of Servicemen"

153 i. 2 art 21 Federal Law "On the Alternative Civil Service" No. 113-FZ dd July 25, 2002 // SZ RF, July 29, 2002 № 30 art. 3030.

154 Art. 9 Federal Law No. 67-FZ dd December 17, 1994 "On the courier service" // SZ RF, December 19, 1994, No. 34, art. 3547.

155 i. 1 Art. 52 Aviation Code of the Russian Federation No. 60-FZ dd March 19, 1997 // SZ RF, March 24, 1997, No. 12, art. 1383.

156 i. 2 art. 26 Federal Law No. 17-FZ dd 10.01.2003 "On Railway Transport" // SZ RF, January 13, 2003, No. 2 Art. 169.

157 i. 2 art 21 Federal Law No. 161FZ dd November 14, 2002 "On State and Municipal Unitary Enterprises" // SZ RF, 02.12.2002, No.48, art. 4746.

158 Art. 39 Federal Law № 170-FZ dd November 21, 1995 "On the Use of Atomic Energy" // SZ RF, 27.11.1995, №48, art. 4552.

transport communications and other public undertakings beyond the territory of nuclear installations and storage points, and also strikes, if these actions may result in the breach of the working capacity of a nuclear installation or a storage point, will complicate the discharge of the official duties of the workers of nuclear installations or storage points or will give rise to other threats to the safety of the population, the environment, the health, rights and lawful interests of other persons .

In accordance with the Penal Code of the Russian Federation[159] the organization of strikes by *persons sentenced to deprivation of liberty* is a malicious violation of the established order of serving a sentence.

In accordance with the Federal Law "On State Civil Service in the Russian Federation"[160] all *state civil servants* are barred from "stopping their duties in order to settle a service dispute". A similar ban applies to municipal[161].

Another restriction on strikes is provided in art. 412 of the Labor Code of the Russian Federation and concerns *minimum necessary work (services) performed during the period of the strike*. The minimum necessary work (services) performed during the period of the strike by workers of the organization shall be determined by an agreement of employer (representative of the employer), representative body of workers in conjunction with a local government body[162]. The lists of minimum necessary work (services) are adopted based on industry and regional lists (find below). The list shall be adopted within three days from the day a decision is adopted to declare a strike. The Labor Code of the Russian Federation establishes several requirements[163] in order to avoid a broad interpretation of types of work included in the list:

- The inclusion of a type of work (services) in the minimum necessary work (services) must be supported by the probability of harm being caused to health or a threat to citizens' lives.

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159 i. 1, Art. 116 Penal Code of the Russian Federation // SZ RF, 13.01.1997, No. 2, Art. 198.

160 i. 15 of Art. 17 Federal Law No. 79-FZ dd July 27, 2004 "On State Civil Service in the Russian Federation" // SZ RF, 02.08.2004, No. 31, Art. 3215.

161 art. 11 Federal Law No. 8-FZ dd 8 August 1998 "On Municipal Service Fundamentals in the Russian Federation" // SZ RF, 12.01.1998, No. 2, Art. 224.

162 p. 5 art. 412 LC RF

163 ibid

- The minimum necessary work (services) may not include work (services) not envisaged in the corresponding lists of minimum necessary work (services) .

If an agreement is not reached within 3 days, the minimum necessary work (services) shall be set by an executive agency of the subject of the Russian Federation. A list of the minimum work (services) performed during the period of the industrial action by workers of the organizations the activities of which are associated with the safety of persons, health support, and the vital interests of society, shall be elaborated for each branch (sub-branch) of the economy and approved by the federal executive agency responsible for coordinating and regulating activities in the corresponding branch (sub-branch) of the economy, in coordination with the corresponding all-Russian trade union [164]. Procedures for elaborating and approving the list of minimum necessary work (services) shall be defined by the Government of the Russian Federation[165]. At present[166] there are about 30 approved lists for different industries: shipbuilding[167]; consumer goods [168]; medical and biotechnological[169]; mechanical engineering[170]; chemical and petrochemical industry[171]; forestry[172]; federal

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164 p. 3 art. 412 LC RF.

165 In accordance with the Decree of the Government of the Russian Federation No. 901 dd 17.12.2002 "On the Procedure for Elaboration and Approving the List of Minimum Necessary Works (Services) in the Industry (Sub-Industry) of the Economy Provided During Strikes in Organizations, Branches and Representative Offices" // SZ RF , December 23, 2002, No. 51, art. 5090.

166 As of September 2013

167 Order of the Ministry of Industry and Trade of the Russian Federation № 870 dd 28.06.2011 "On approval of the list of minimum necessary works (services) in shipbuilding performed during the period of strikes by workers of the organizations, branches and representative offices the activities of which are associated with the safety of persons, health support, and the vital interests of society". Registered in the Ministry of Justice of the Russian Federation on August 18, 2011 No. 21664.

168 Order of the Ministry of Industry and Trade of the Russian Federation №531 dd 18.06.2009 «On approval of the list of minimum necessary works (services) in consumer goods industry performed during the period of strikes by workers of the organizations, branches and representative offices the activities of which are associated with the safety of persons, health support, and the vital interests of society". Registered in the Ministry of Justice of the Russian Federation on 23.07.2009 №14390.

169 Order of the Ministry of Industry and Science of the Russian Federation No. 127 dd May 28, 2003 "On approval of the list of minimum necessary works (services) in medical and biotechnological industry performed during strikes in organizations, branches and representative offices"; Order of the Ministry of Industry and Trade of the Russian Federation №492 dd 04.06.2009 «On approval of the list of minimum necessary works (services) in medical and biotechnological industry performed during the period of strikes by workers of the organizations, branches and representative offices the activities of which are associated with the safety of persons, health support, and the vital interests of society. Registered in the Ministry of Justice of the Russian Federation on 06.07.2009, №14201.

170 Order of the Ministry of Industry and Trade of the Russian Federation №449 28.05.2009 «On approval of the list of minimum necessary works (services) in mechanical engineering performed during the period of strikes by workers of the organizations, branches and representative offices the activities of which are associated with the safety of persons, health support, and the vital interests of society". Registered in the Ministry of Justice of the Russian Federation on 09.07.2009, №14299.

state institutions and federal state enterprises under the jurisdiction of the Ministry of Culture of the Russian Federation; organizations under the jurisdiction of the Ministry of Natural Resources of Russia[173]; organizations, branches and representative offices of the rocket and space industry; organizations of the agroindustrial and fisheries complex[174]; organizations, branches and representative offices of the education system[175]; peat industry[176]; gas distribution organizations[177]; electric power[178]; health care organizations[179]; oil, oil refining, gas industries and oil products supply[180]; coal industry[181];

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171 Order of the Ministry of Industry and Science of the Russian Federation №106 dd 24.04.2003 «On approval of the list of minimum necessary works (services) in chemical and petrochemical industry performed during strikes in organizations, branches and representative offices"; Order of the Ministry of Industry and Science of the Russian Federation №423 dd 21.05.2009 «On approval of the list of minimum necessary works (services) in chemical and petrochemical industry performed during the period of strikes by workers of the organizations, branches and representative offices the activities of which are associated with the safety of persons, health support, and the vital interests of society". Registered in the Ministry of Justice of the Russian Federation on 10.07.2009, №14315.

172 Order of the Ministry of Industry and Energy of the Russian Federation №57 dd 27.03.2006 «On approval of the list of minimum necessary works (services) in timber, woodworking, paper and paper board industries performed during strikes in organizations, branches and representative offices". Registered in the Ministry of Justice of the Russian Federation on 04.05.2006, №7779.

173 Order of the Ministry of Natural Resources of the Russian Federation №330 dd 18.04.2003 «On the list of of minimum necessary works (services) performed during strikes in organizations under the jurisdiction of the Ministry of Natural Resources of Russia". Registered in the Ministry of Justice of the Russian Federation on 19.05.2003, №4565.

174 Order of the Ministry of Agriculture of the Russian Federation dd 19.01.2006 «On approval of the list of minimum necessary works (services) performed during strikes in organizations agroindustrial and fisheries complex». Registered in the Ministry of Justice of the Russian Federation on 02.06.2006, №7908.

175 Order of the Ministry of Education and Science of the Russian Federation №285 dd 22.11.2005 «On approval of the list of minimum necessary works (services) performed during strikes in organizations, branches and representative offices of the education system». Registered in the Ministry of Justice of the Russian Federation on 01.02.2006, №7431.

176 Order of the Ministry of Energy of the Russian Federation №365 dd 02.09.2003 ««On approval of the list of minimum necessary works (services) in peat industry performed during the period of strikes by workers of the organizations, branches and representative offices the activities of which are associated with the safety of persons, health support, and the vital interests of society. Registered in the Ministry of Justice of the Russian Federation on 18.09.2003, №5085.

177 Order of the Ministry of Energy of the Russian Federation №351 dd 11.08.2003 «On approval of the list of minimum necessary works (services) in gas distribution organizations performed during the period of strikes by workers of the organizations, branches and representative offices the activities of which are associated with the safety of persons, health support, and the vital interests of society. Registered in the Ministry of Justice of the Russian Federation on 08.09.2003, №5053.

178 Order of the Ministry of Energy of the Russian Federation №350 dd 11.08.2003 «On approval of the list of minimum necessary works (services) in electric power industry performed during the period of strikes by workers of the organizations, branches and representative offices the activities of which are associated with the safety of persons, health support, and the vital interests of society. Registered in the Ministry of Justice of the Russian Federation on 08.09.2003,№5052.

179 Order of the Ministry of Health of the Russian Federation №326 dd 25.07.2003 «On approval of the list of minimum necessary works (services) performed during strikes in health care organizations". Registered in the Ministry of Justice of the Russian Federation on 10.09.2003, №5061.

180 Order of the Ministry of Energy of the Russian Federation №306 dd 09.07.2003 «On approval of the list of minimum necessary works (services) in oil, oil refining, gas industries and oil products supply industry performed during the period of strikes by workers of the organizations, branches and representative offices the activities of which are associated with the safety of persons, health support, and the vital interests of society" Registered in the Ministry of Justice of the Russian Federation on 28.07.2003, №4929.

metallurgy[182]; transport[183]; hydrometeorology[184]. For some industries there are separate regional lists of minimum works (services)[185].

Part 2 art. 412 LC RF says that the list of minimum necessary work (services) shall *be coordinated* with all all-Russian trade unions active in that branch (sub-branch) of the economy

iii. Intervention of the Parliament or Government to finish the strike

According to p. 4 art. 413 LC RF the decision to declare a strike unlawful shall be made by the supreme court of a republic, a territory or region, a court of a city of federal importance, or a court of an autonomous region or district, upon

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181 Order of the Ministry of Energy of the Russian Federation №193 dd 20.05.2003 «On approval of the list of minimum necessary works (services) in coal industry performed during the period of strikes by workers of the organizations, branches and representative offices the activities of which are associated with the safety of persons, health support, and the vital interests of society. Registered in the Ministry of Justice of the Russian Federation on 03.06.2003, №4624.

182 Order of the Ministry of Industry and Science of the Russian Federation №118 dd 15.05.2003 «On approval of the list of minimum necessary works (services) in metallurgy performed during strikes in organizations, branches and representative offices"; Order of the Ministry of Energy of the Russian Federation №341 dd 12.12.2005 «On approval of the list of minimum necessary works (services) in metallurgy performed during strikes in organizations, branches and representative offices. Registered in the Ministry of Justice of the Russian Federation on 08.02.2006 , №7478.

183 Order of the Ministry of Transport of the Russian Federation №197 dd 07.10.2003 (amended 04.06.2012) «On approval of the list of minimum necessary works (services) performed during strikes in organizations, branches and representative offices of transport complex». Registered in the Ministry of Justice of the Russian Federation on 06.01.2004, №5379.

184 Order of the Russian meteorological service №244 dd 05.12.2003 «On the implementation of On approval of the list of minimum necessary works (services) performed during strikes in organizations and institutions of the Russian meteorological service». Registered in the Ministry of Justice of the Russian Federation on 06.01.2004, №5382.

185 Decree of the Government of St. Petersburg No. 392 dd 14.04.2009 "On approval of the regional list of minimum necessary works (services) performed during the strikes by workers of organizations (branches, representative offices, other separate structural subdivisions), individual entrepreneurs in the medical and biotechnological industry»; Decree of the Government of St. Petersburg No. 44 dd 23.01.2007 "On approval of the regional list of minimum necessary works (services) performed during strikes by workers of organizations (branches, representative offices, other separate structural subdivisions), individual entrepreneurs of the transport complex of St. Petersburg, road facilities, urban and suburban passenger transport, intercity passenger road transport, traffic management of St. Petersburg the activities of which are associated with the safety of persons, health support, and the vital interests of society"; Decree of the Government of St. Petersburg №1088 dd 26.08.2008 "On approval of the regional list of minimum necessary works (services) performed during the strikes by workers of organizations (branches, representative offices, other separate structural subdivisions), individual entrepreneurs in gas distribution organizations in the territory St. Petersburg"; Decree of the Government of St. Petersburg No. 391 dd14.04.2009 " On approval of the regional list of minimum necessary works (services) performed during the strikes by workers of organizations (branches, representative offices, other separate structural subdivisions), individual entrepreneurs in the sphere of public health"; Decree of the Government of St. Petersburg No. 1089 dd August 26, 2008 "On approval of the regional list of minimum necessary works (services) performed during the strikes by workers of organizations (branches, representative offices, other separate structural subdivisions), individual entrepreneurs in the sphere of education"; Decree of the Government of St. Petersburg No. 207 dd 24.02.2009 " On approval of the regional list of minimum necessary works (services) performed during the strikes by workers of organizations, branches, representative offices the activities of which are associated with the safety of persons, health support, and the vital interests of society"; Regulation of Mosobltrud No. 26-R dd 06.07.2011 "On approval of the regional list of minimum necessary works (services) performed during the strikes by workers of organizations (branches, representative offices, other separate structural subdivisions) located in the territory of the Moskovskaya oblast", etc.

a petition filed by an employer or prosecutor. Once it goes into effect, a court decision to declare a strike unlawful shall be subject to immediate execution. Workers shall be required to halt the strike and resume work no later than the day after a copy of the indicated court decision is served on the body leading the strike[186]. If there exists a direct threat to persons' lives and health, a court shall be entitled to postpone an imminent strike for a period of up to 15 days, or to suspend one that has begun for that same period. The cases of judicial practice to declare strikes unlawful - see below.

In instances that are of particular importance for ensuring the vital interests of the Russian Federation or individual territories thereof, the Government of the Russian Federation shall be entitled to suspend a strike until the issue is resolved by the appropriate court, but not for longer than ten calendar days[187]. There are not any precedents known of suspension by the Government before the court's decision regarding its lawfulness or suspension by the time of report.

4. Procedural restrictions

a) Peace obligation

The law expressly provides for the possibility of including a "peace obligation" in the text of the collective agreement[188], and such a clause is not prohibited in relation to the social partnership agreement[189].

b) Other procedural restriction

The quorum and other procedural restrictions related to strike are presented in the paragraph 1 above.

5. Consequences of the strike

Once it goes into effect, a court decision to declare a strike unlawful shall be subject to immediate execution. Workers shall be required to halt the strike and resume work no later than the day after a copy of the indicated court decision is served on the body leading the strike[190]. Workers who proceed to hold a strike or fail to halt a strike the working day after the body leading the strike is informed of a legally enforceable court decision to declare a strike unlawful or to postpone or suspend a strike, may be subject to disciplinary

186 p. 6 art. 413 LC RF.
187 p. 8 art. 413 LC RF..
188 p. 2 art. 41 LC RF..
189 p. 2 art. 46 LC RF..
190 p. 6 art. 413 LC RF..

punishment for violating labor discipline[191], i.e. dismissed in cases of absenteeism [192]. A workers' representative body that announces or fails to halt a strike after it has been declared unlawful shall be required to compensate the employer for losses caused by the unlawful strike at its own expense, with amounts to be determined by a court[193].

The Recommendations of the ILO Administrative Body to the Government of the Russian Federation had been prepared as a result of the complaints of the Russian Confederation of Labor to the ILO Committee on Freedom of Association (cases No. 2216, No. 2251 and No. 2758).

The implementation of these recommendations was considered in 2013 at a meeting of the working group on the development of social partnership and coordination of actions of the Parties to the Agreement of the Russian Tripartite Commission for Regulation of Social and Labor Relations (hereinafter referred to as RTK) (Report No. 6 dd July 31, 2013). The decision was taken following the meeting of the working group (paragraphs 2 and 3, section 2 of the Report, respectively):

Invite the Russian Ministry of Labor to create, with the participation of representatives of parties to the Commission representing all-Russian trade union associations and all-Russian employers' associations, a working group to analyze the recommendations of the ILO Administrative Body on complaints (cases N 2758, 2216, 2251) and develop proposals for improving the current regulatory framework and enforcement procedures (hereinafter referred to as - working group).

Invite the party of the Commission, representing all-Russian trade union associations, to send proposals to the Ministry of Labor of Russia on improving the current regulatory framework and enforcement procedures.

The composition of the working group was approved by the order of the Ministry of Labor of Russia No. 676 dd November 18, 2013. The working group consists of representatives of the Ministry of Labor of Russia and Rostrud, associations of trade unions, associations of employers, experts. The head of the working group is the Deputy Minister of Labor and Social Protection of the Russian Federation - Ms. L.Yu. Yeltsova.

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191 p. 1 art. 417 LC RF..

192 ii. «a» i. 6 p. 1 art. 81 LC RF..

193 p. 2 art. 417 LC RF.

As from receipt of the considered recommendations of the ILO Governing Body, over 40 articles of the Labor Code of the Russian Federation have been amended. Amendments have been made to the Trade Union Act, Federal Law No. 156-FZ dd November 27, 2002, "On Associations of Employers", Federal Law No. 92-FZ dd May 1, 1999 "On the Russian Tripartite Commission for Regulation of Social and Labor Relations." The Federal Law No. 281-FZ dd October 4, 2014 ratified the ILO Convention concerning Tripartite Consultations to Promote the Implementation of International labor Standards (Convention No. 144). A significant number of subordinate legal acts aimed at the development of social partnership has been adopted.

All these amendments are aimed at strengthening social partnership, increasing its effectiveness. The drafts of all these acts were examined in the RTK in the established manner.

The issue "On implementation of the recommendations of the ILO Governing Body following the KTR complaint (supported by the FNPR) applied to the ILO Committee on Freedom of Association (case No. 2758) as well as complaints (cases No. 2216 and No. 2251)" was considered at a meeting of the RTK Working Group on social partnership development and coordination of actions of the parties to the agreement on December 19, 2016 No. 17 (paragraph 2), included in the Unified Plan of Priority Actions of the Russian Tripartite Commission for the second half of 2017 to implement the activities of the General Agreement between the All-Russian Trade Union, All-Russian Employer Associations and Government of the Russian Federation for 2014-2017, approved by the Deputy Chairman of the Government of the Russian Federation, coordinator of the RTK Ms. O.Yu.Golodets No. 5647p-P27RTK dd August 7, 2017.

In November 2011, a law amending the Labor Code of the Russian Federation was adopted aimed to facilitate the resolution of collective labor disputes[194]. Amendments introduced into the procedure for collective labor disputes settlement by this law can be summarized in the following way:

Firstly, the new law provides for the possibility of creating not only a temporary labor arbitration tribunal to resolve a collective labor dispute, but also permanent labor arbitration tribunals by decision of the tripartite commissions

194 Federal Law №334-FZ dd 22.11.2011

for regulation of social and labor relations under the jurisdiction of these commissions[195].

Secondly, a provision was made to exclude the obligation to indicate the expected duration of a strike when notifying the employer[196].

Thirdly, it was provided for the possibility to make a decision regarding claims for a collective labor dispute by collecting signatures of more than half of the workers when it is impossible to hold an assembly (conference)[197].

Fourthly, the time frame for conciliation procedures was significantly reduced with their simultaneous differentiation, depending on the level of the collective labor dispute - local or above.

Terms to settle collective labor dispute using conciliation procedures in the new and old version of the LC RF (in working days)[198]

Actions in resolving a collective labor dispute using conciliation procedures	**Local level**	**Other levels**	**Version of the LC RF before 2011.**
Creation of conciliation commission	*2*	*3*	*3*
Settlement of the dispute by the conciliation commission	*3*	*3*	*5*
Decision to invite a mediator	***1***	***1***	3
Determination of the mediator	2	2	
Settlement of the dispute involving the mediator	3	5	7
Decision to consider a dispute in labor arbitration tribunal	***1***	***1***	7
Determination of the labor arbitration tribunal composition	2	4	
Settlement of the dispute in labor arbitration tribunal	3	5	5

These amendments have simplified the procedure to settle collective labor disputes and announcing strikes.

Statistical evidences are given earlier in the comments to article 6.3 of the Charter.

195 p. 1 art. 404 LC RF.
196 p. 9 art. 410 LC RF.
197 p. 3 art. 399 LC RF.
198 Mandatory procedures are italicized.

The Committee asks *that the next report provides detailed information on the legal framework relating to lockouts and the situation in practice* .

Comment

Article 415 LC RF prohibits the lockout: in the process of resolving a collective labor dispute, including during strike actions, it shall be forbidden to employ lockout termination of workers' employment at the employer's initiative due to their participation in a collective labor dispute or strike .

Collective action: definition and permitted objectives

The Committee asks *if workers can lawfully organise a strike outside conciliation procedures.*

Comment

Part 2 art 401 LC RF establishes that the review of a collective labor dispute by a conciliation commission shall be a mandatory step .

At the same time, the time for consideration of a collective labor dispute by a conciliation commission is reasonable and therefore can not be considered as an obstacle for workers to exercise the right to strike:

A conciliation commission shall be set up within two working days after the commencement of a labor dispute at the local level of social partnership and conciliation commission shall be set up within three working days after the commencement of a labor dispute at any other levels of social partnership (part 1 art. 402 LC RF);

A collective labor dispute at the local level of social partnership shall be considered by a conciliation commission within three working days and a collective labor dispute at any other levels of social partnership shall be

considered by a conciliation commission within five working days after the issuance of the acts whereby the commission was set up (part 6 art. 402 LC RF).

Given the mandatory nature of conciliation procedures (Article 401 of the labor Code), **the Committee understands** *that workers may organise a strike if: a) conciliation procedures have failed to end a labor dispute; b) the employer refuses to take part in a conciliation procedure; c) the employer does not fulfil the agreement reached (if any) in the course of the settlement of a collective labor dispute; or d) the employer fails to implement a labor arbitration decision.*

The Committee wishes *to receive confirmation of this framework and asks if workers can lawfully organise a strike outside conciliation procedures* .

Comment

The above provisions “a-d” are confirmed.

According to part two art 410 of the Code a decision on the participation of the workers of a given employer in industrial action that is declared by a trade union (an association of trade unions) shall be taken by a meeting (conference) of the workers of this employer without implementing conciliatory proceedings .

However, if such a decision of the trade union is not available, the primary trade union organization must implement conciliatory proceedings.

From the ITUC Survey of violation of trade unions rights on the Russian Federation **the Committee notes** *that "a strike can be held only to resolve a collective labor dispute. The law does not recognise the right to conduct solidarity strikes or strikes on issues related to state policies."*

The Committee invites *the Government to comment on this statement* .

Comment

According to p. 4 art. 37 of the Constitution of the Russian Federation recognition shall be given to the right to individual and collective labor disputes with the use of methods of their adjustment fixed by the federal law, including the right to strike .

Part one art. 409 of the Code establishes:

In accordance with article 37 of the Constitution of the Russian Federation, the right of workers to strike as a means of resolving collective labor disputes is acknowledged .

Thus, solidarity strikes or strikes on issues related to state policies are not provided for by the legislation of the Russian Federation.

But at the same time art. 31 of the Constitution of the Russian Federation establishes that citizens of the Russian Federation shall have the right to assemble peacefully, without weapons, hold rallies, meetings and demonstrations, marches and pickets .

The implementation of this constitutional right is provided, inter alia, by the Federal Law No. 54-FZ dd June 19, 2004 "On assemblies, meetings, demonstrations, marches and Picketing", article 2, paragraph 1 says:

public event implies an open, peaceful action accessible to everyone that is implemented as an assembly, meeting, demonstration, march or picketing or by using various combinations of those forms that is undertaken at the initiative of citizens of the Russian Federation, political parties, other public or religious associations, including with the use of means of transport. The objective of the public event is to exercise the free expression and shaping of opinions and to put forward demands concerning various issues of political, economic, social and cultural life of the country and also issues of foreign policy or inform voters about their activities at a meeting of a deputy of a legislative (representative) public authority, a deputy of the representative body of a municipal formation with voters.

The Committee recalls *that the requirement concerning the exhaustion of conciliation/mediation procedures before strike is in conformity with Article 6§4 – given Article 6§3 – as long as such machinery is not so slow that the deterrent effect of a strike is affected (Conclusions XVII-1 (2004), Czech Republic)* .

Comment

Conciliation procedures are conducted in accordance with the following articles of the Code:

Article 402. The Consideration of a Collective labor Dispute by a Conciliation Commission

A conciliation commission shall be set up within two working days after the commencement of a labor dispute at the local level of social partnership and conciliation commission shall be set up within three working days after the commencement of a labor dispute at any other levels of social partnership ;

A collective labor dispute at the local level of social partnership shall be considered by a conciliation commission within three working days and a collective labor dispute at any other levels of social partnership shall be considered by a conciliation commission within five working days after the issuance of the acts whereby the commission was set up.

If no agreement has been reached in the conciliation commission the parties to the collective labor dispute shall start talks on the invitation of a mediator and/or on setting up a labor arbitrage.

Article 403. Consideration of a Collective labor Dispute with the Participation of a Mediator

If the parties to a collective labor dispute agree to consider a collective labor dispute with the mediator's participation, an appropriate agreement is concluded and within a maximum of two working days the parties shall agree on a candidate for mediator. If needed, the parties to a collective labor dispute may turn to the relevant state body for the resolution of collective labor disputes to recommend a candidate for mediator . If the parties to a collective labor dispute have not reached agreement within three working days regarding a choice of mediator, they shall move on to the talks on the creation of a labor arbitrage .

The consideration of a collective labor dispute with the participation of a mediator at the local level of social partnership shall be accomplished within a period of up to three working days, other levels of social partnership - within a period of up to five working days from the day he was invited or appointed. It shall be concluded with the parties' acceptance of a coordinated resolution in writing, or the drafting of a report of disagreement. .

Article 404. Consideration of a Collective labor Dispute by a labor Arbitrage

Not later than the next working day after the day of report of disagreement after the consideration of the collective labor dispute with the mediator's participation after the expiration of the period during which the parties to the collective labor dispute must reach an agreement on a candidate for mediator or after the protocol on refusal to consider one of collective labor dispute involving the mediator, the parties to the collective labor dispute shall negotiate on labor arbitrage.

The labor arbitrage shall be created by a relevant agreement of the parties binding them to fulfill its decisions. The parties to the collective labor dispute at the local level of social partnership are required within a period of up to two working days, other levels of social partnership - in a period of up to four working days,, together with the relevant state body shall create a temporary labor arbitrage for consideration of this particular collective labor dispute or refer it to the permanent labor arbitrage created under the respective tripartite commission on regulation of social and labor relations.

Collective labor dispute is considered by labor arbitrage with the participation of representatives of the parties to this dispute when resolving a collective labor dispute at the local level of social partnership within a period of up to three working days and at other levels of social partnership - up to five working days from the date of creation of a temporary labor arbitrage or referral of the collective labor dispute for consideration to the permanent labor arbitration.

We draw attention to the fact that there are no restrictions on the minimum duration of conciliation procedures. In this regard, it seems that the terms of conciliatory procedures are established within reasonable limits and do not affect the deterrent effect of strikes.

Entitlement to call a collective action

The report states that "no one can be compelled to participate or refrain from participating in a strike. The Code of administrative offences establishes criminal liability for coercion to participate in, or to abstain from, the strike through use of violence or threats of violence, or taking advantage of the

dependent status of the coerced, in the form of an administrative fine (500 to 1.000 rubles for citizens; 1.000 to 2.000 rubles for officials)".

The Committee asks *that the next report provides information on possible decisions taken by courts in this respect during the reference period. The report points out that trade union membership is irrelevant from the point of view of the worker's opportunity to participate in a strike .*

Comment

There is no information on decisions made by courts on violations of law, the responsibility for which is provided for by Article 5.50 of the Code of Administrative Offenses of the Russian Federation. Including - according to the Internet resource "Judicial and regulatory acts of the Russian Federation" sudact.ru.

Specific restrictions to the right to strike and procedural requirements

Article 55§3 of the Constitution provides that "human and civil rights and freedoms may be limited by federal law only to the extent necessary for the protection of the basis of the constitutional order, morality, health, rights and lawful interests of other people, and for ensuring the defence of the country and the security of the State .

From the ITUC Survey of violation of trade unions rights on the Russian Federation **the Committee notes** *that "for several years, the ILO has requested the Government to amend Section 412 of the labor Code, so as to ensure that any disagreement concerning minimum services is settled by an independent body having the confidence of all parties to the dispute and not the executive body".*

The Committee invites *the Government to comment on this statement.*

The Committee recalls *that establishing a "minimum service" in essential sectors may be considered to be in conformity with Article 6§4 of the Charter (Conclusions XVII-1 (2004), Czech Republic). However, in order to follow correct procedures, it is essential that, even if the final decision is based on*

objective criteria prescribed by law (such as the nature of the activity, the extent to which people's lives and health are endangered and other circumstances such as the time of year, the tourist season or the academic year), workers, or their representative bodies, are regularly involved in determining, on an equal footing with employers, the nature of the "minimum service". **The Committee considers** *that in the report there is no evidence that the workers concerned are involved in determining, on an equal footing with employers, the nature of "minimum service".*

The Committee asks *that the next report provide the above mentioned evidence. Pending receipt of the requested information, it reserves its position on this point.*

Comment

According to art. 412 of the Labor Code of the Russian Federation a list of the minimum work (services) performed during the period of the industrial action by workers of the organizations (branches, representative offices or other detached structural units) or individual entrepreneurs the activities of which are associated with the safety of persons, health support, and the vital interests of society, shall be elaborated for each branch (sub-branch) of the economy and approved by the federal executive agency responsible for coordinating and regulating activities in the corresponding branch (sub-branch) of the economy, in coordination with the corresponding all-Russian trade union. If there are several all-Russian trade unions active in a branch (sub-branch) of the economy, the list of minimum necessary work (services) shall be coordinated with all all-Russian trade unions active in that branch (sub-branch) of the economy .

As of consideration of disagreements by an independent body, we draw attention to the fact that there are no obstacles to the consideration of this issue within tripartite commissions on regulating social and labor relations in accordance with Article 35.1 of the Labor Code of the Russian Federation:

For the purpose of co-ordinating the interests of workers (representatives thereof), employers (representatives thereof) and the state on issues concerning the regulation of social-labor relations and the economic relations related thereto, federal governmental bodies, governmental bodies of subjects of the Russian Federation and local self-government bodies shall ensure favorable

conditions for the participation of relevant commissions on regulation of social-labor relations (or relevant trade unions (associations of trade unions) and associations of employers) if no such commissions have been set up on the relevant level) in the elaboration and/or discussion of draft legislative and other normative legal acts, socio-economic development programs, other acts of governmental bodies and local self government bodies in the area of labor in the procedure established by the present Code, other federal laws and other normative legal acts of the Russian Federation, laws and other normative legal acts of subjects of the Russian Federation, normative legal acts of local self-government bodies and agreements.

Draft legislative acts, normative legal and other acts of executive governmental bodies and local self-government bodies in the area of labor, and also the documents and materials required for the discussion thereof shall be sent for consideration to the relevant commissions on regulation of social labor relations (to relevant trade unions (associations of trade unions) and associations of employers) by the federal governmental bodies, governmental bodies of subjects of the Russian Federation or local self government bodies which adopt the said acts.

The decisions of relevant commissions on regulation of social-labor relations or the opinions of the parties thereto (statements by relevant trade unions (associations of trade unions) and associations of employers) concerning the draft legislative acts, normative legal and other acts of executive governmental bodies and local self-government bodies sent to them must be examined by the federal governmental bodies, governmental bodies of subjects of the Russian Federation or local self-government bodies which adopt the said acts.

We inform you that at the federal level there is the Russian Commission for Regulation of Social and Labor Relations, 84 of 85 subjects of the Russian Federation have regional commissions on regulating social and labor relations.

In view of the foregoing, the creation of another independent body appears to be inexpedient.

More generally, **the Committee underlines** *that the right to strike is one of the essential means available to workers and their organizations for the promotion and protection of their economic and social interests.* **The Committee notes** *that the restrictions imposed on the right to strike apply to an important number of economic activities in the private and public sectors.The report does not contain any information which enables the* **Committee** *to conclude that the services concerned may all be regarded as "essential services" in the strictest sense of the term, that is to say activities which are necessary in a democratic society in order, in accordance with Article G of the Charter, to protect the rights and freedoms of others or to protect the public interest, national security, public health, or morals.*

Consequently, **the Committee asks** *the Government to state, in relation to every service subject to restrictions with regard to the right to strike, if and to what extent work stoppages may undermine the respect for the rights and freedoms of others or threaten the public interest, national security, public health, or morals.*

In this context, **it also asks** *whether such restrictions are in all cases proportionate to achieve the objective of ensuring, in a democratic society, the respect for the rights and freedoms of others or the public interest, national security, public health, or morals. Pending receipt of the requested information,* **it reserves** *its position on this point* .

Comment

According to p. 4 article 37 of the Constitution of the Russian Federation recognition shall be given to the right to individual and collective labor disputes with the use of methods of their adjustment fixed by the federal law, including the right to strike .

At the same time p. 3 article 17 of the Constitution of the Russian Federation says that the exercise of the rights and freedoms of man and citizen shall not violate the rights and freedoms of other people .

The corresponding standards are established by the LC RF.

In particular, Article 409 of the LC RF says:

In accordance with Article 37 of the Constitution of the Russian Federation, the right of workers to strike as a means of resolving collective labor disputes is acknowledged a.

If the conciliatory proceedings have not lead to resolution of the collective labor dispute (art. 406 LC RF) or if the employer (representatives thereof) or representatives of employers decline to take part in the conciliatory proceedings, fail to observe an agreement reached in the course of settlement of the collective labor dispute (art. 408 LC RF) or default on performing a decision of a labor arbitrator which is binding on the parties then the workers or representatives thereof are entitled to start preparing industrial action, except for cases when according to Parts 1 and 2 of Article 413 no industrial action may be conducted for the purpose of resolving a collective labor disputes .

Article 413 LC RF establishes:

In accordance with Article 55 of the Constitution of the Russian Federation, strikes shall be considered unlawful and shall not be allowed:

a) during periods when martial law, a state of emergency, or special measures are declared in accordance with legislation on emergency situations; within the organizations and bodies of the Armed Forces of the Russian Federation, other military, militarized, and other formations, organizations (branches, representative offices or other detached structural units) directly charged with issues of national defense, national security, emergency lifesaving, search-and-rescue, and firefighting operations and the prevention or management of natural disasters and emergencies; in law enforcement agencies; and in organizations (branches, representative offices or other detached structural units) directly involved in servicing especially hazardous types of industrial works or equipment and emergency and urgent medical assistance centres;

b) in the organizations (branches, representative offices or other detached structural units) directly related to providing vital services to the population (energy supply, heating and heat supply, water supply, gas supply, air, rail, and water transportation, communications, and hospitals), including cases where strikes would create a threat to national defense, state security, and the lives and health of human beings.

The right to strike may be restricted by federal law .

It should be noted that restrictions on the right to strike, established by the legislation of the Russian Federation, are proportional and associated with the need to ensure the life and health of people, state security.

As regards procedural requirements, **the Committee notes** f*rom the ITUC Survey of violation of trade unions rights on the Russian Federation that "the duration of a strike has to be communicated beforehand".* **The Committee invite**s t*he Government to comment on this statement. In this respect, it recalls that the requirement to notify the duration of the strike to the employer prior to the strike is contrary to Article 6§4 of the Charter, even for essential public services (Conclusions 2006, Italy)*

Comment

Subparagraph "d" of paragraph 10 of Federal Law No. 334-FZ dd November 22, 2011 "On Amendments to the Labor Code of the Russian Federation Regarding the Improvement of the Procedure for Considering and Solving Collective Labor Disputes", has canceled the requirement to notify the employer of the alleged duration of the strike.

The report specifies that the decision to declare a strike illegal is taken by domestic courts on the basis of an appeal by the employer or the competent Prosecutor's Office. The court decision to declare the strike illegal, once entered into legal force, is subject to immediate execution. If an imminent threat to the life and health of people occurs, domestic courts have the right to postpone the scheduled strike for up to 15 days, and to suspend the one that had already started for the same period. In cases of particular importance to the protection of fundamental interests of Russia or its territories, the Government has the right to suspend the strike pending the trial, but for no more than ten calendar days. The report points out that by the time of writing the report, there were no cases in which the Government suspended strikes pending court decision on its legality or suspension .

The Committee asks *that the next report provide detailed information on courts' decisions declaring strikes illegal. In this respect,* **the Committee**

recalls *that its task is to verify whether the courts rule in a reasonable manner and in particular whether their intervention does not reduce the substance of the right to strike so as to render it ineffective (Conclusions I (1969), Statement of Interpretation on Article 6§4) .*

Comment

Judicial decisions on the recognition of strikes unlawful are attached (*annex No. 1*).

Consequences of a strike

The report describes that in principle an worker's participation in a (legal) strike does not constitute a violation of the working discipline and does not constitute a reason for dismissal or disciplinary measures. An employer has the right not to pay salaries to workers during their participation in the strike, with the exception of the workers who provide the "mandatory minimum work (services)".

The Committee recalls *that any deductions from strikers' wages should not exceed the proportion of their wage that would be attributable to the duration of their participation in the strike (Conclusions XIII-1 (1993), France and Confédération française de l'Encadrement –(CFE-CGC) v. France, Complaint No. 16/2003, Decision on the merits of 12 October 2004, §63). .*

Pending receipt of the information requested, **the Committee defers** *its conclusion .*

Comment

The basic guarantees to workers in connection with the strike, including the prohibition of their dismissal for participating in the strike, are established by articles 414-415 of the Code:

Article 414. Guarantees and the Legal Position of Workers When a Strike Is Held

A worker's participation in a strike may not be considered a violation of labor discipline or grounds for terminating his labor contract, with the exception of instances of a failure to fulfill the obligation to halt a strike in accordance with Article 413, part six of this Code.

It shall be prohibited to apply disciplinary measures against workers who participate in a strike, with the exception of the cases stipulated in part six of Article 413 of this Code.

Workers participating in a strike shall retain their job position and office during a strike period. The employer shall be entitled not to pay workers wages during the time they are participating in a strike, with the exception of workers engaged in fulfilling the mandatory minimum of work (services).

A collective negotiations agreement or other agreement(s) reached in the course of resolving a collective labor dispute may provide for compensatory payments to workers participating in a strike.

workers who do not participate in a strike but are prevented by it from performing their jobs and submit a written petition explaining that a work stoppage has begun for this reason, shall be paid for idle time not attributable to workers, in the amounts and under the procedures provided in this Code. The employer shall be entitled to transfer the indicated workers to another job under the procedures provided in this Code.

A collective negotiations agreement or other agreement(s) reached in the course of resolving a collective labor dispute may provide for a more preferential system of payments to workers not participating in strikes than that provided in this Code .

Article 415. Prohibition on Lockout

In the process of resolving a collective labor dispute, including during strike actions, it shall be forbidden to employ lockout termination of workers' employment at the employer's initiative due to their participation in a collective labor dispute or strike.

Article 21 – The right to information and consultation

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt

or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

a) to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality;

b) to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

As of the implementation of provisions of Article 21 of the European Social Charter in Russia, the possibilities for conducting bilateral consultations and exercising the right to receive information by workers and their representatives are considered.

Bilateral consultations at the local level can be conducted on every issues the parties considered necessary. Such cases can be determined by collective agreements,contracts, other agreements between the parties.

A bilateral commission can be established in the organization not only for collective bargaining, drafting a collective agreement and its conclusion, as stipulated in Part 6 of Article 35 of the Labor Code of the Russian Federation (see comments on article 6), but a permanent commission for permanent consultations on every issues the parties deemed necessary to consult.

Obligatory bilateral consultations are provided by law in two cases: within decision-making by an employer with consideration given to the opinion of the relevant trade union body (art. 371 LC RF), which is necessary for the adoption of local regulations as well as for the termination of a labor contract on the initiative of the employer with members of the trade union on the grounds mentioned in clauses 2, 3 and 5 of Part 1 of Article 81 of the LC RF.

The procedure **for considering the opinion of the elective body of the primary trade union organization when adopting local regulatory acts** is established by the article 372 LC RF. An employer, prior to taking a decision, shall send a draft local normative act and a substantiation for it to the elected

body of the primary trade union organization representing the interests of all or of the majority of workers .

The elective body of the primary trade union organization shall, not later than five business days from the day it receives the indicated draft of a local regulatory act, send the employer a reasoned opinion on the draft in writing. In the event the elective body of the primary trade union organization's reasoned opinion does not agree with the draft of a local regulatory act or contains proposals for improving it, the employer may agree with it or else shall be required, with three days of receiving the reasoned opinion, to hold additional consultations with the workers' elective body of the primary trade union organization for the purposes of reaching a mutually acceptable decision .

If no agreement has been reached a report shall be drawn up on the disagreements so arising, and thereafter the employer shall be entitled to adopt a local normative act that is subject to appeal by the elected body of the primary trade union organization at the relevant state labor inspectorate or in court. Also the elected body of the primary trade union organization is entitled to commence collective negotiations proceeding.

Upon receipt of a complaint applied by the elected body of the primary trade-union organization the State Labor Inspectorate is obligated within one month from the date of receipt of the complaint to perform an audit and, in the event of a violation, to issue an order to the employer for the abolition of the said local normative act.

The opinion of workers' primary trade union organization shall be taken into account when adopting the following local normative acts:

- The procedure for carrying out an attestation [199];
- list of positions of workers with unregulated working day shall be fixed in the collective contract or by the employers – after the preliminary consultation with the trade union[200];
- working day split into parts due to technological or organizational reasons[201];

199 art. 81 LC RF.
200 art. 101 LC RF.
201 art. 105 LC RF.

- acts on additional payment (in addition to the allowances established in the law) for work performed on weekends and holidays, at night, in harmful or dangerous conditions, on payment of leave and reimbursement of moving expenses (for persons working in the Far North)[202];
- leave schedule[203], list of additional paid leave[204] (art 116);
- acts establishing the system of renumeration and wages and form of settlement sheets[205];
- acts on performance rate[206];
- rules of the internal labor regulations[207];
- forms of the professional training, retraining, and skill enhancement of workers and a list of necessary professions and specialties[208];
- safety instructions[209];
- standards on additional provision of (compared to the legal requirements) special clothes, special footwear and other means of individual protection 210;
- acts on additional payment and working hours for workers working on a rotational basis211 and etc.

The reasoned opinion shall be taken into account at the dismissal of workers - members of corresponding trade union, based on i. 2, 3, 5 part one art. 81 LC RF[212]. It includes redundancy or staff cuts at the organization, individual entrepreneur (i.2); the worker's failure to meet the requirements associated with his position or job due to insufficient qualifications as confirmed by the results of an attestation (i.3); numerous failures by the worker to fulfill labor duties without justifiable reasons if he has been reprimanded; (i.5).

In these case the employer shall send the elected body of the relevant primary trade union organization a draft of the order as well as copies of documents forming the grounds for the indicated decision.

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202 art. 112, 147, 153, 154, 325, 326 LC RF.
203 art. 123 LC RF.
204 art. 116 LC RF.
205 art. 135, 136 LC RF.
206 art. 162 LC RF.
207 art. 190 LC RF.
208 art. 196 LC RF.
209 art. 212 LC RF.
210 art. 221 LC RF.
211 art. 297, 301, 302 LC RF.
212 Article 373 LC RF.

Within seven business days of receiving the draft of the order and documents, the body of the primary trade union organization shall review the issue and send the employer its reasoned opinion in writing. Opinions not submitted within the seven-day period shall not be considered by the employer .

If the elective body of the primary trade union organization expresses disagreement with an employer's proposed decision, it shall hold additional consultations with the employer or its representative, the results of which shall be set forth in a report. If mutual agreement cannot be reached following consultations, the employer shall be entitled, at the end of ten business days from the time it sent the elective body of the primary trade union organization a copy of its draft and supporting documents, to adopt a final decision which may be appealed at the corresponding state labor inspectorate. The state labor inspectorate shall consider the issue of the termination within ten days of receiving the complaint (petition), and if it finds it to be unlawful shall issue the employer a binding injunction to restore the worker to his position and pay him for any forced absence. Compliance with the above procedure shall not deprive a worker or an elective body of the primary trade union organization representing him of the right to appeal a termination directly in court, nor the employer of its right to appeal an injunction of the state labor inspectorate in court .

This procedure can include the same issues concerning the consideration of the opinion of the trade union body when adopting a local normative act: procedure is strictly formal, but gives a little space to influence at the employer's opinion on dismissal.

An employer shall be entitled to terminate a labor contract no later than one month from the day it receives a reasoned opinion from an elective body of the primary trade union organization. Within the said period the following shall not be taken into account: the periods of the worker's temporary disability, vacation and other leaves of absence when the worker retains his job (position).

In addition to the clearly regulated procedures for taking into account the opinions of workers' representatives by the employer when making a decision regarding local normative acts and upon the termination of a labor contract on the employer's initiative with members of the trade union for a number of reasons, the Labor Code of the Russian Federation provides procedures to

inform and consult on a number of other issues as forms of worker participation in the management of the organization.

Workers participation in the management of an organization

Art. 53 LC RF establishes the main forms of workers participation in the management of the organization. The analysis of this list shows that in the legislation (and, accordingly, in practice), the concepts of forms of social partnership and forms of workers participation in the management of the organization are not clearly separated and are mixed[213].

Several forms that relate to the right of workers to receive information and advice provided for in Article 21 of the European Social Charter can be declared as independent forms of workers participation in the management of the organization from the list established in Article 53 of the LC RF.

1. According to art. 53 LC RF workers representatives have a right to receive information from the employer on issues that directly affect the interests of workers.

According to p. 2 art. 53 LC RF workers representatives have a right to obtain from the employer information in issues of :

- reorganization or liquidation of the organization;

- introduction of technological changes resulting in changes of the working conditions of workers;

- professional training, retraining and professional development of workers;

- in other issues envisaged by the present Code, other federal laws, constituent documents of the organization or a collective contract.

According to p. 3 art. 53 LC RF workers representatives have a right to present appropriate proposals on these issues to the managing bodies of the

[213] Let us explain this conclusion. Participation in the management of the organization is itself a form of social partnership. Forms of social partnership are also recognized (Article 27 LC RF) as well as collective bargaining and collective agreements, contracts; mutual consultations, which are also named as the forms of participation of workers in the management of the organization (paragraphs 2 and 6 of the list above). At the same time, taking into account the opinion of the representative body of workers in cases stipulated by the Labor Code of the Russian Federation, the collective agreement, contracts (paragraph 1 of the above list) is essentially one of the types of mutual consultations.

organization and participate in the sessions of the mentioned bodies when they are being considered [214].

The right to receive information on these issues is provided for workers representatives, i.e. information can be obtained both by trade unions being one of the possible representatives of workers, and other representatives specified in Article 31 of the LC RF.

2. According to art. 53 LC RF representatives of workers have the right to conduct, per se, consultations[215]:

- discussing issues with the employer concerning the organization's operation, presenting proposals for improvement of its operation;

- the representative body of the workers discussing the organization's social and economic development plans .

Part 9 LC RF says that persons responsible for the failure to present information necessary for collective negotiations and implementation of control over observation of a collective contract or agreement shall be fined in the amount and according to the procedure specified in federal law[216]. These norms refer to the Code of Administrative Offenses of the Russian Federation (CAO RF)[217].

Federal Law No. 95-FZ dd 07.05.2013 "On Amendments to Article 22 of the Labor Code of the Russian Federation"218 establishes the right of the employer to create a production council, an advisory body formed on a voluntary basis with the workers of the employer, who, as a rule, have achievements in labor, to prepare proposals for improving production activities, individual production processes, introduction of new technologies, increasing labor productivity and skills of workers. The authority, composition, procedures of the production council and its interaction with the employer shall be

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214 We believe that the right to submit proposals to the management bodies of the organization on issues listed in part 2 of Article 53 LC RF and the right to participate in the meetings of these bodies should be considered as one of the forms of workers participation in the management of the organization, although this form is not directly listed in the art.53 o LC RF.

215 Although these forms of discussion are not directly called consultations in the Labor Code of the Russian Federation.

216 p.2 art.54 LC RF.

217 Code of Administrative Offenses of the Russian Federation N 195-FZ dd 30.12.2001.

218 Federal Law No. 95-FZ dd 07.05.2013 "On Amendments to Article 22 of the Labor Code of the Russian Federation." Rossiyskaya Gazeta, No. 99, May 13, 2013..

established by a local normative act. The authority of the production council can not include issues, in accordance with federal laws, subject to the exclusive competence of the management bodies of the organization, as well as issues of representation and protection of social and labor rights and interests of workers, in accordance with this Code and other federal laws, are included in the competence of trade unions, corresponding primary trade-union organizations, other representatives of workers.

On April 7, 2017, the State Duma of the Federal Assembly of the Russian Federation in the first reading adopted a draft federal law No. 1041537-6 "On Amendments to the Labor Code of the Russian Federation in order to ensure the participation of representatives of workers in collegial management bodies of organizations."

Currently, the bill is being finalized for the second reading by a working group consisting of deputies of the State Duma, representatives of the Administration of the President, Government of the Russian Federation, All-Russian trade union associations and all-Russian employers' associations, and other interested organizations.

The Committee asks *whether this legal framework applies to all undertakings, both in the private and public sector.*

Comment

The article applies to both private and public sector undertakings

The Committee wishes *to be informed on the existence of any thresholds, established by national legislation or practice, in order to exclude undertakings which employ less than a certain number of workers.*

Comment

The right of workers to receive information and advice in accordance with the labor legislation of the Russian Federation does not depend on the number of workers in the organization.

Material scope

According to Article 53 of the labor Code workers' representatives have the right to obtain information on the following issues from an employer: a) restructuring or liquidation of an undertaking; b) introduction of technological changes that entail a change of the working conditions of workers; c) vocational training, retraining, and improvement of professional skills of workers; and d) on other issues stipulated by the labor Code, other federal laws, the constituent documents of an undertaking, collective bargaining, and agreements. According to the same provision, workers' representatives have the right to hold consultations on organizational issues and social and economic development plans.

The Committee recalls *that workers and/or their representatives must be informed on all matters relevant to their working environment (Conclusions 2010, Belgium), except where the conduct of the business requires that some confidential information not be disclosed. Furthermore, they must be consulted in good time with respect to proposed decisions that could substantially affect the workers' interests, in particular those which may have an impact on their employment status. .*

More particularly, **the Committee recalls** *that works councils have to be provided with economic and financial information comprising all aspects of the functioning of the undertaking such as, inter alia, the development of sales activities, customers' orders, productivity, costs and employment. Works councils also have the right to be informed and consulted in due course on the employment policy of the enterprise and may submit questions and express opinions on decisions and proposals envisaged by the employer in this respect prior to their implementation. The employer is obliged to provide information on the employment structures of the undertaking and on envisaged changes of these structures such as planned dismissals on economic grounds etc. Consultations further take place with respect to, inter alia, measures that might change the organization of work or the working conditions within the undertaking, as well*

as on measures regarding the training of workers, on collective redundancies, etc. (Conclusions 2010, Belgium) .

The Committee asks *whether these principles are fulfilled.*

Comment

We draw attention to the fact that the right of workers to receive information and conduct consultations in addition to Article 53 of the Code is also regulated by other standards. Including articles 21, 370 and 411 of the Code.

Thus, Article 21 of the Code says that the main rights of the worker include the right to arrange collective negotiations and conclusion of collective contracts and agreements through his representatives, as well as to information on the fulfillment of the collective contract, agreement.

According to Article 370 of the Code, tn monitoring compliance with labor law and other legal regulatory acts containing labor law norms, compliance with the terms of collective agreements and agreements the trade unions shall be entitled to - obtain information from the heads and other officials of organizations, employers being individual entrepreneurs on the state of working conditions and workplace safety, and also on all industrial accidents and work-related illnesses .

Article 411 of the Code ". Body Leading a Strike" establishes: A strike shall be led by a representative body of the workers. The body leading the strike shall be entitled to convene an assembly (conference) of workers, obtain information from the employer on issues affecting the workers' interests, and enlist specialists to prepare findings on contested issues.

Thus, workers are given the right to receive information on the entire range of issues listed by the Committee, including during a strike.

Remedies

The report states that according to article 29§5 of the Code of Administrative Offences, in case of failure to provide the information required with respect to collective negotiation and monitoring compliance with the

collective agreement within the established time-limit, an employer or his representative may be brought to justice and receive a warning or a fine of 1 000 up to 3 000 rubles .

Further to the procedure mentioned in the paragraph above, **the Committee asks** *whether in case of alleged violation of the right to consultation and information within the undertaking workers or their representatives: a) have the general capacity to trigger an administrative action against their employer; b) enjoy a subsequent right of appeal before a court. The* **Committee also asks** *whether there are other kinds of sanctions and whether workers or their representatives are entitled to some kind of compensation in case of a violation .*

Comment

Workers and their representatives have the right to initiate the administrative proceedings against the employer.

According to paragraph 3 of Article 28.1 of the Code of Administrative Offenses, proceedings in a case concerning an administrative offense may be initiated by the official authorized to draw up records of administrative offenses only in the presence of at least one of the provided causes and of sufficient data indicating to the occurrence of the administrative offense.

Such causes, in particular, include:

materials containing data that indicate the presence of an administrative offence, which have been received from social associations;

reports and applications of natural persons and legal entities, as well as reports in mass media containing data which indicate the occurrence of an administrative offense.

The right to appeal is established by paragraph 1 of Article 3 of the Civil Procedural Code of the Russian Federation:

An interested person has the right to appeal to the court for protection of the violated or disputed rights and freedoms or of lawful interests, in accordance with the order established in the legislation on the civil court procedure.

The Labor Code of the Russian Federation contains rules establishing compensation to a worker in case of violation of his labor rights. For example, according to Article 374 of the Labor Code of the Russian Federation, in case of unlawful dismissal of a worker who is a member of elective collegial bodies of trade union organizations and has not been not released from his primary job, the state labor inspectorate issues an obligatory instruction for the employer to restore the worker at work with the compensation for forced absence.

In addition, the worker has the right to apply to court with a claim for the employer's compensation for moral damage in connection with his unlawful actions.

Supervision

The report points out that the legislation does not provide for mechanisms for implementation of the rights to information and consultation. However, they may be regulated by collective contracts or agreements.

The Committee asks *that the next report provide information and examples on the mechanisms of supervision provided by collective contracts and agreements, and of their concrete implementation..*

Conclusion

Pending receipt of the information requested, **the Committee defers** *its conclusion .*

Comment

Over 220 thousand collective agreements were registered by giving a notice. 53 industry and 2 inter-industry agreements have been concluded at the federal level of social partnership. One interregional industry agreement was also concluded.

The content and structure of the collective agreement according to Articles 41 and 46 of the Labor Code of the Russian Federation are determined by the parties.

In this case, the agreement should include the provision of the procedure for its implementation monitoring.

For example, the Industry Agreement for Coal Industry of the Russian Federation for the period from April 1, 2013 to March 31, 2016, prolonged until December 31, 2018, contains paragraph 2.11:

2.11. Constant monitoring of the implementation of the Agreement is performed by the Parties, the Parties undertake to:

- develop, if necessary, and realize organizational measures to implement it;

- provide each other with the necessary information on the list agreed upon in the Organizations;

- review the implementation of the Agreement with the preparation of summary information on the implementation of the Agreement for the relevant period in accordance with Annex No. 2, signed by the Parties.

For reference: the number of indicators in Annex No. 2, with their values being controlled annually -24. They include:

Labor productivity of workers in coal mining, tons/month.

Average monthly wages of 1 worker of all personnel, rubles.

Expenses for labor protection, total, thousand rubles.

Expenses for worker's insurance total, thousand rubles.

Expenditures for professional development and training of workers, total, thousand rubles.

Expenditures for payments to families of workers who died while performing their job or duties related to productive activities (as well as death of a disabled person due to an industrial injury), in total, thousand rubles.

Expenses for implementation of housing policy in the organization, total, thousand rubles.

Expenditures for compensation of travel costs during the leave for worker and his family, total, thousand rubles.

Expenses for performing health, festive, sports and other events, total, thousand rubles.

The Industry Tariff Agreement for Housing and Communal Services of the Russian Federation for 2017 - 2019, has a paragraph 8.2 and it is devoted to

monitoring of the agreement, the Industry Tariff Agreement for Electric Power Industry of the Russian Federation for 2013-2015 (prolonged until December 31, 2018) - item 7.1. 2.

In accordance with the above standard of Article 46 on obligation to include procedure for monitoring of implementation in the agreement provisions, this issue is included into all agreements in the field of social partnership.

Article 22 – The right to take part in the determination and improvement of the working conditions and working environment

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute :

a) to the determination and the improvement of the working conditions, work organisation and working environment;

b) to the protection of health and safety within the undertaking;

2.1.to the organisation of social and socio-cultural services and facilities within the undertaking;

d) to the supervision of the observance of regulations on these matters .

The participation of workers and their representatives in the determination and improvement of the working conditions and working environment is realized at various levels of social partnership and it is reflected in the provisions of Article 35 of the LC RF.

First and foremost, there is the Russian Tripartite Commission on Regulation of Social and Labor Relations. Its permanent activities are performed in accordance with federal law. The members of the Russian Tripartite Commission on Regulation of Social and Labor Relations are representatives of

the all-Russian trade union associations, all-Russian employers' associations, and Government of the Russian Federation.

It is possible to form tripartite commissions to regulate social and labor relations in subjects of the Russian Federation. Their activities are performed in accordance with the laws of subjects of the Russian Federation.

At the territorial level it is possible to form tripartite commissions to regulate social and labor relations. Their activities are performed in accordance with the laws of subjects of the Russian Federation, Regulations regarding these commissions, approved by representative bodies of local self-government.

At the sectoral (inter-sectoral) level, it is possible to form sectoral (inter-sectoral) commissions to regulate social and labor relations. Sectoral (inter-sectoral) commissions can be formed both at the federal and interregional, regional, territorial levels of social partnership.

At the local level it is possible to form a commission for collective bargaining, drafting a collective agreement and concluding this agreement.

The requirements of Article 219 of the Labor Code of the Russian Federation for workers direct participation or through their representatives in addressing issues related to labor protection are provided by participation in the coordination of local regulatory acts of the elected body of the primary trade union organization representing the interests of all or the majority of workers in accordance with the requirements of Article 372 of the LC RF.

Participation of workers (directly or through their representatives) in the investigation of an accident in production is implemented by the provisions of Article 229 of the Labor Code of the Russian Federation, according to its provisions a representative of workers always takes part in the investigation of an accident of any severity.

So, wide participation of trade unions and other representative bodies of workers in ensuring the safe work organization and working environment is realized through the mechanism of collective bargaining provided for by the Labor Code of the Russian Federation, it results in a collective agreement. One sections of the agreement is necessarily devoted to the improvement of labor conditions and safety ensuring the necessary state of occupational health and safety of the employer.

The matters of trade unions and other representative bodies of workers participation in resolving the issues of creating conditions for organization of social and socio-cultural services within the employer, as well as supervision of the observance of regulations on these matters are solved through collective negotiations at different levels. It can lead to an industry agreement at the level of economic activity or a collective agreement at the level of a particular employer. They include social and socio-cultural services and facilities, procedure to supervise their implementation as well as normative legal acts to enforce the declared measures.

In accordance with Article 9 of Federal Law No. 426, in order to conduct special assessment of working conditions, the employer establishes a commission to conduct special assessment of working conditions, it shall necessarily include a representative of the primary trade union organization or other representative body of workers, if the employer has the representative body.

Moreover, Article 15 of the Federal Law No. 426 and Order of the Ministry of Labor of Russia No. 33n dd January 24, 2014 approved the form of a report on the results of special assessment of working conditions of the employer. According to this report the results of each stage of special assessment of working conditions, special assessment maps, plan of measures to improve working conditions and other final results of special assessment of working conditions shall be signed by the members of commission to conduct special assessment of working conditions. Members of the commission objecting the results of the stage or general results of t special evaluation of working conditions have the right to attach a special opinion to the materials of the report on the results of special assessment of working conditions of the employer. The decisions on the results of each stage of special assessment of working conditions are taken collectively by the commission for special assessment of working conditions of the employer.

Thus, trade unions and other representative bodies of workers are given the opportunity to participate in determination and improvement of working conditions in the workplace.

In order to ensure the safe work organization and working environment and participation of trade unions and other representatives of workers in accordance with the requirements of Article 218 of the Labor Code of the Russian

Federation, labor protection committees (commissions) are being established. The standard provision on the committee (commission) on occupational safety and health was approved by the order of the Ministry of Labor of Russia No. 412n of June 24, 2014.

Article 28 – The right of workers' representatives to protection in the undertaking and facilities to be accorded to them

With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:

a) they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;

b) they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

Article 136 Criminal Code of the Russian Federation establishes the responsibility for violation of the equality of human and civil rights and freedoms: discrimination, that is, violation of the rights, freedoms and legitimate interests of man and citizen based on gender, race, nationality, language, origin, property or official status, place or residence, attitude to religion, convictions, or *affiliation with public associations* or any social groups, made by a person through the use of the official position thereof shall be punishable with a fine in the amount of 100 thousand to 300 thousand roubles, or in the amount of a wage or any other income of the convicted person for a period of one year to two years, or by deprivation of the right to hold specified offices or engage in specified activities for a term of up to five years, or by obligatory labor for a term of up to four hundred and eighty hours, or by corrective labor for a term of up to two years, or compulsory labor for a term of up to five years or by deprivation of liberty for the same term .

Also, article 373 LC RF establishes procedure for considering the reasoned opinion of an elective body of the primary trade union organization when terminating a labor contract at the employer's initiative. Guarantees to workers who belong to collective elective bodies of trade union organizations and have not been released from their primary job are established by the article 375 LC RF. In particular, the termination of employment, at the employer's initiative, of the leader (or deputy) of the collective elected bodies of primary trade union organizations, the elected collective bodies of trade union organizations, the structural units of organizations (no lower than shop-level and equivalent subdivisions) who has not been released from his primary job under Items 2 (redundancy or staff cuts at the organization) or 3 (the worker's failure to meet the requirements associated with his position or job due to insufficient qualifications as confirmed by the results of an attestation) of Part one of Article 81 of the Labor Code of the Russian Federation shall be allowed, aside from general termination procedures, only upon the consent of the corresponding superior elective trade union body .

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