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EUROPEAN SOCIAL CHARTER

Addendum to the 7th National Report on the implementation of the European Social Charter

submitted by

THE GOVERNMENT OF THE RUSSIAN FEDERATION

- Article 29 for the period 01/01/2013 - 31/12/2016

    - Complementary information on Article 1§4, 9 and 15§2 (Conclusions 2016)

Report registered by the Secretariat on

12 April 2018

CYCLE 2018

Article 29 - The right to information and consultation in collective redundancy procedures

The employer informs workers' representatives and consults with them in accordance with articles 82, 180 of the LC RF:

if the decision on the redundancy or staff cuts may result in large-scale dismissal of workers the employer must inform the elective body of the primary trade union organization of this in writing no later than three months in advance of the beginning of the appropriate measures;

During a threat of mass discharges, an employer shall, taking into account the opinion of the elected body of the primary trade union organization, take necessary steps stipulated by the Labor Code, other federal laws, a collective contract, and an agreement .

It should be noted that mass discharges are associated with the liquidation of the organization and can also occur due to changes in organizational or technological working conditions, redundancy or staff cuts.

Measures taken:

If, 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) could cause a mass dismissal of workers the employer is entitled for job preservation purposes to establish a regime with an incomplete working day (shift) and/or incomplete working week for a term of up to six months (art. 74 LC RF) with account being taken of the opinion of the elected body of the primary trade union organization and in the procedure established by Article 372 of the present Code for the purpose of adopting local normative acts;

during the annulment of a labor contract in connection with the liquidation of an organization or a reduction of the numbers or staff of an organization, an worker being discharged shall be paid a severance allowance in the amount of the average monthly earnings; also, he shall retain the average monthly earnings for a period of job placement but not more than two months from the day of discharge. In exceptional cases, the average monthly earnings shall, by a decision of a public employment service agency, be retained by an worker for three months from the day of a discharge, provided that the worker applied to

that agency within a two-week period of the discharge and had not been placed in a job by it (art.178 LC RF);

When performing measures to reduce the numbers of workers or jobs of an organization, an employer shall be obligated to offer an worker other available work (a vacant position), in addition, with the consent in writing of an worker an employer is entitled to rescind the labor contract concluded with the worker before the expiry of the term (two months) having paid thereto an additional compensation in the amount of the worker's average earnings calculated pro rata to the time remaining until the expiry of the dismissal notification term (art. 180 LC RF);

An worker who is dismissed from an organization located in an Far Northern area or in an area qualifying as such, in connection with the winding up of an organization or a reduction of the staff of an organization is entitled to receive a severance payment, and also to retain the average monthly earning for the period of looking for a job but not exceeding three months after the dismissal (with the severance pay setting off this amount). In exceptional cases the average monthly payment shall be retained by the said worker during the fourth, fifth and sixth months after the date of dismissal by a decision of a body of the public employment service on the condition that the worker applied to that body and no job was found for him within one month after his dismissal (art. 318 LC RF).

In addition, when making a decision to liquidate an organization or cease operations by an individual entrepreneur, reduce the numbers of workers or jobs of an organization, an individual entrepreneur and possible termination of employment contracts, the employer-organization no later than two months and the employer-individual entrepreneur not later than two weeks before the relevant measures taken shall notify the body of employment services in writing, indicating the position, occupation and the necessary qualification requirements, terms of payment for each individual worker, 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 (pa. 2 Article 25 of the Law No. 1032-1 of 19.04.1991 "On employment in the Russian Federation").

Annex № 1

Examples of court decisions on issues related to recognition of strikes as unlawful

Decision № 3-140/2015 3-140/2015~M-172/2015 M-172/2015 dd August 26, 2015, case № 3-140/2015
Permskiy district court(Permskiy kray) - Civil
Point of dispute: Labor disputes- to declare strike unlawful and compensation of damage caused

Case № 3-140/2015 copy

DECISION

In the name of the Russian Federation

Permskiy district court

consisting of a chief judge Spiridonov E.V.

with the registrar attending to the judge — Dobridneva T.S.

with the participation of the Representative of the petitioner - Chernenko A.V.

defendants Sh., P., K., O., N., O1., A., B., G., L., M., N1., P1., Sh1., S.,

On August 26, 2015 has examined in the open hearing in Perm a civil case under the suit of the Company with limited liability «***» to Sh., P., K., O., N., O1., A., B., G., L., M., N1., P1., Sh1., S. to declare the strike unlawful,

determined:

The Company with limited liability «***» applied to court with the suit to Ш., П., К., О., Н., О1. to Sh., P., K., O., N., O1., A., B., B1., G., L., M., N1., P1., T., Sh1., Sh2., Sh., S. to declare a preventive strike on June 26, 2015 from 08:00 to 09:00 and ongoing strike called on July 6, 2015 unlawful.

The court's decision (judicial report dd June 26, 2915) attracted A., B., V., V1., G., L., M., N1., P1., T., Sh1., Sh2., Sh., S. participated in the preventive strike as a co-

defendants.

In support of the claim the Company with limited liability «***» indicated that on June 05, 2015 workers of the Company with limited liability «***» spare parts manufacturing site sent a request to the employer to increase wages by at least 50% for each. On June 15, 2015, a representative body of the workers consisting of Sh., P., K., O., N., O1 was elected. On June 19, 2015 a decision to declare a preventive strike was received from workers of the site and on June 26, 2015, 18 workers of the site struck from 08-00 to 09-00 o'clock. The said decision also indicates that workers would call an ongoing strike from July 6, 2015.

The Company with limited liability «***» asked to declare the preventive strike called out by the workers of the site on June 26, 2015 as well as the ongoing strike announced by them from July 6, 2015 unlawful. In support of the claim it mentioned that since the named site was not a detached structural unit of the company, the declaration of the strikes by workers contradicted art. 410 of the Labor Code of the Russian Federation establishing that a decision on declaring a strike shall be taken by a meeting (conference) of workers of an organization (branch, representative office or another detached structural unit).

During the proceedings the representative of the petitioner (c.f. 245) clarified the claims and asked to declare the preventive strike June 26, 2015 from 08-00 to 09-00 unlawful only, as workers did not called the strike announced for July 6, 2015.

In the session, the representative of the Company with limited liability «***» Chernenko A.V., acting on the basis of the power of attorney, insisted on the suit to declare the preventive strike unlawful according to the arguments stated in the petition.

The defendants Sh., P., K., O., N., O., A., B., G., L., M., N1., P1., Sh1., S., asked to reject the claim believing that the procedure of the preventive strike was not violated, the workers did not call the strike announced on July 6, 2015, so no damage was caused to the employer.

The defendants V., V1., T., Sh2., Sh., were informed about the time and place of the hearing bu did not appear in court.

Having heard the explanations of the persons participating in the case, the court examined the case materials and found the claims of the Company with limited liability «***» to be satisfied on the following grounds.

Part 4 art. 37 Constitution of the Russian Federation establishes that 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 .

Article 2 of the Labor Code establishes the main principles of the legal regulation of labor relations and other relations directly associated with them as ensuring the right of resolution of collective labor disputes, including the right to a strike according to the procedure specified in the present Code and other federal laws. The right to resolve of collective labor disputes, including the right to strike, according to the procedure specified in the present Code, other federal laws is established in the art, 21 Labor Code of the Russian Federation.

According to art 398 Labor Code of the Russian Federation 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 .

A strike is a temporary voluntary refusal of workers to perform labor duties (fully or in part) for purposes of resolving a collective labor dispute (part 4 art. 398 Labor Code of the Russian Federation).

The right to strike is implemented in the manner established by the chapter 61 Labor Code of the Russian Federation(art. 398-418 Labor Code of the Russian Federation).

According to art. 413 Labor Code of the Russian Federation during a collective labor dispute, a strike shall be unlawful if it was declared in disregard of the time limits, procedures, and requirements stipulated in the present Code .

The case materials showed and the court established that on June 05, 2015, 27 workers of the Company with limited liability «***» spare parts manufacturing site sent a request to the managing director of the company to increase wages by at least 50% for each worker.

The representative body of the workers consisting of Sh., P., K., O., N., O1 was elected on June 15, 2015 at the meeting of the workers of the site of the Company with limited liability «***» attended by 31 workers in order to participate in conciliatory procedures.

On June 19, 2015 the employer received a decision signed by 36 workers declaring the preventive strike on June 26, 2015 at 08-00 to 09-00 and the ongoing strike - on July 6, 2015.

On June 26, 2015 at 08-00 to 09-00 18 workers of the site of the Company with limited liability «***» struck it was confirmed by the act dd June 26, 2015 (c.f. 102), drawn up by representatives of the employer.

Thus, the refusal of workers of the Company with limited liability «***» spare parts manufacturing site to perform their labor duties for one hour on June 26, 2015 related to the demand to increase wages was a strike.

According to art. 410 Labor Code of the Russian Federation a decision on declaring a strike shall be taken by a meeting (conference) of workers of an organization (branch, representative office or another detached structural unit) or 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 .

The norm referred to the right to collective decision of workers to strike is due precisely to the structural detachment of the organization or its relatively independent part. A special indication in Art. 410 of the Labor Code of the Russian Federation says that only workers of detached structural unit of the organization have the right and it this fact is necessary to take a decision to strike in order to protect the rights and legitimate interests of workers of those units of the organization that do not support the demands of part of the labor collective intent to strike or not wishing to take part in strike for other reasons.

In this connection, the term of the detachment of a structural unit can not be interpreted differently from the degree of detachment of this unit that provides its autonomous activity from the main organization and in the event of strike by the workers of such unit would ensure the continuation of the activity of the whole organization.

The spare parts manufacturing site can not be recognized as a detached structural unit of the Company with limited liability «***» since the work of all the main production sites of the company directly depends on its work and by virtue of section 2 of the charter it produces technical means and materials for drilling wells, mining, transportation and processing of oil and other minerals. Thus, it follows from the defendants' explanations in the court session that the site where they work at provides other sites of the organization with spare parts necessary for the production of equipment manufactured by the Company with limited liability «***» .

As follows from the Charter of the Company with limited liability «***» , the company is located in a small town **** of Ocherskir rayon, Permskaya oblast. The company has one branch in the territory of the Volgogradskaya oblast - Kotovskiy branch (Kotovo).

According to Appendix No. 6 to the accounting policy of the company for 2015 (c.f. 128-129), the company along with the Kotovskiy branch, has nine detached structural units among and the spare parts manufacturing site is not included.

The Kotovskiy branch and nine detached structural units of the company are registered with the tax authorities as a branch and detached units of the Company with limited liability «***» and it is confirmed by the records of registration of a legal entity with the tax authority (c.f.. 133-142).

As the staffing chart (c.f. 143-175) showed the approved organizational structure of the Company with limited liability «***» (c.f. 104), the spare parts manufacturing site is not a detached structural unit of the company.

Thus, the spare parts manufacturing site of the Company with limited liability «***» is not really separated from the main production facility, it is located on the territory of the company's location, along with other units and services included in the general production activities.

There is no separate Regulation on the spare parts manufacturing site. The workers of the site, along with other workers of the company, according to the Collective Agreement concluded for 2015-2017, are subject to the Rules of the Internal Labor Regulations of the Company with limited liability «***».

In addition, the case files showed that the workers did not observe the procedure for taking a decision to declare the strike.

According to art. 399 Labor code of the Russian Federation demands presented by workers and/or a representative body of the workers of a given organization (branch, mission, or other separate structural subdivision) or individual entrepreneur shall be approved at a corresponding workers' meeting (conference), shall be set out in writing and sent to the employer. An workers' meeting shall be considered legally authorized if over one half of the workers are present at it .

According to art. 410 Labor Code of the Russian Federation a decision on declaring a strike shall be taken by a meeting of workers of an organization. The meeting of the workers of this employer is deemed competent if attended by at least half of the total number of the workers by at least two thirds of the total number of the workers . A decision shall be deemed adopted if at least a half of the workers who attended the meeting have voted for it .

As follows from the requirement to raise wages signed by 27 workers of the spare parts manufacturing site of the Company with limited liability «***» (c.f. 9), it was not taken by a meeting of workers.

Report No. 1 of the meeting of the labor collective of the spare parts manufacturing site of the Company with limited liability «***» dd June 15, 2015 (c.f. 10) showed that the decision was not taken by a meeting of workers. The meeting, decided to elect a representative body of the workers of the site to participate in conciliatory procedures. There were no other decisions taken by the meeting.

The decision to declare a strike (c.f. 11) was signed by 36 workers of the spare parts manufacturing site of the Company with limited liability «*** however, in violation of Art. 410 of the Labor Code of the Russian Federation, it was not taken by a meeting of workers, it did not contain the date of its adoption, it was transferred, according to the defendant K., to representatives of the administration of the company on June 19,

It should also be noted that 31 persons attended the meeting on June 15, 2015, while according to the staffing chart of the company 1,054 people work for the company as of January 1, 2015.

Thus, the workers did not meet in accordance with Article 399 of the Labor Code of the Russian Federation to declare their demands and sufficient number of workers of the Company with limited liability «***» did not attend the meeting on June 15, 2015, therefore, workers of the whole company did not take the decision to strike.

In addition, workers of the spare parts manufacturing site of the Company with limited liability «***» did not comply with the procedure to settle collective labor dispute.

After three calendar days of deliberations of a reconciliation commission an one-off one-hour preventive strike may be declared, with a notice in writing about it being given to the employer at least two working days in advance (p. 6 art.410 Labor Code of the Russian Federation).

According to art. 401 Labor Code of the Russian Federation the procedure for resolving a collective labor dispute shall consist of the following stages: consideration of the dispute by a reconciliation commission, and consideration with the participation of a mediator and/or in labor arbitration. Review of a collective labor dispute by a reconciliation commission shall be a mandatory step .

Part 2 art 409 Labor Code of the Russian Federation defines that if the conciliatory proceedings have not lead to resolution of the collective labor dispute (art. 406 of the present Code) 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 of the present Code) 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 .

In violation of the requirements of articles 401, 409, 410 of the Labor Code of the Russian Federation, conciliatory proceedings have not been performed between the parties to the collective labor dispute prior to the announcement and call of the preventive strike by workers of the spare parts manufacturing site of the Company with limited liability «***».

The defendants' argument that the conciliatory proceedings could not be performed because of the employer's evasion from participation was without merit.

The day of the collective labor dispute is the day of the employer's decision to reject all or part of the claims of workers (their representatives) or employer's failure to notify in accordance with Article 400 of this Code of the decision, that is within two working days after the receipt of the demands .

Since the requirement of June 5, 2015 to increase of wages was declared by workers of the spare parts manufacturing site of the Company with limited liability «***» in violation of the provisions of Article 399 of the Labor Code, i.e. without meeting of

the company's workers, the employer was put in situation when he actually had not any obligation to inform workers of the rejection or acceptance of their claims declared in violation of the requirements established the labor legislation.

Under such circumstances, the preventive strike of the workers of workers of the spare parts manufacturing site of the Company with limited liability «***» called without observing the procedure for its declaration can not be recognized as lawful.

Based on the foregoing, following articles 194 - 198 of the Civil Procedure Code of the Russian Federation, the court

decided

The claims of the limited liability company "***" shall be satisfied.

Declare the preventive strike on June 26, 2015 from 08 hours 00 minutes to 09 hours 00 minutes, unlawful.

The decision can be appealed to the Supreme Court of the Russian Federation through the Permskiy district court within a month from the date of the motivated decision - August 28, 2015.

Judge-signature- Spiridonov E.V.

The decision has not come into force.

Court:
Permskiy district court(Permskiy kray)

Petitioners:
Company with limited liability "VNIIBT - Drilling Tools"

Defendants:
Aksenov V.I.
Burdin A.V.
Vdovin S.M.
Vshivkov. I.V.
Gajiyev E.M.
Kazymov S.V.
Leshchev A.I.
Mokrushin V.V.
Nikitin A.V.
Nosov R.D.
Osipov A.A.
Osotov A.V.
Pachinu A.V.

Popov E.I.
Svetlakov M.B.
Tronin DN
Shardakov V.N.
Shelgunova A.V.
Shilov A.A.

Other persons:
Koykov O.I.
Malyuganova E.Yu.

Judges of the case:
Spiridonov Evgeniy Vladimirovich (judge)

Decision № 2-112/2015 2-112/2015~M-15/2015 M-15/2015 dd February 12 2015 case № 2-112/2015
Galichskiy regional court (Kostromskaya oblast)- Civil
Point of dispute: Labor disputes- reinstatement in work

Case № 2-112/2015

DECISION

In the name of the Russian Federation

Galich February 12, 2015

Galichskiy regional court, Kostromskaya oblast consisting of:

a chief federal judge Vorontsova E,V,.

with the participation of the prosecutor Baburin D.V.

Lawyer - Vinogradov S.I

with the registrar attending to the judge – Veselova O.V.

In the open hearing has examined a civil petition under the claim of Kudryavtsev A.L. To the Company with limited liability " Energoinvest" on reinstatement in work, to collect average wage for the time of forced absenteeism and compensation for moral harm,

determined:

Kudryavtsev A.L. appealed to the court with a suit against the Company with limited liability " Energoinvest" on reinstatement in work, to collect average wage for the time of forced absenteeism and compensation for moral harm motivating his demands by the fact that he was hired as a boiler engineer (coal heaver) for a heating season 2014 - 2015 based on the order to employ the worker .....

By order ..... from <date> the contract was terminated with the petitioner by the employer according to p.6 art. 81 of the LC RF (a single severe violation by the worker of his labor duties). The basis for his dismissal, as indicated in the order, was allegedly unlawful strike of workers of the Company with limited liability " Energoinvest"

The dismissal is unlawful based on the following grounds.

Prior to the imposition of a disciplinary penalty the employer shall request explanations in writing from the worker. If no such explanations have been submitted within two working days then a relevant report shall be drawn up (art. 193 LC RF).

Clause 6 part 1, art 81 LC RF says that the labor contract may be discontinued by the employer in cases of a single severe violation by the worker of his labor duties
a) absenteeism, i.e. absence from the workplace without a good reason during the whole working day (shift) irrespective of the duration thereof, and also in the event of absence from the workplace without a good reason for more than four consecutive hours during the working day (shift);
b) the appearance of the worker at the workplace (at his workplace or on the territory of the employer's organization or of the facility where the worker has to perform his labor function on the instructions of the employer) in the state of alcoholic, narcotic or another intoxication;
c) disclosure of the secret protected by the law (state, commercial, service and other) that became know to the worker as a result of his execution of labor duties, including the disclosure of the personal information of another worker;
d) committing pilferage at the place of work (including petty pilferage) of others' property, embezzlement, willful destruction or damage to property as determined by a court ruling that has entered into legal force or the decision of a judge, body, official empowered to hear administrative offenses cases;
e) the fact, established by a labor protection commission, of violation by the worker of the labor protection requirements if this resulted in severe consequences (industrial accident, disaster) or is known to have created a real hazard of such consequences; .

In accordance with paragraph 38 of the Plenum of the Supreme Council of the Russian Federation No. 2 dd March 17, 2004, (as amended on September 28, 2010) "On application of the LC RF by the courts of the RF", it should be borne in mind that the list of severe violations of labor duties giving grounds for termination of labor contract with the worker according to under clause 6 part 1 Article 81 of the Code, is exhaustive and does not need extensive interpretation.

All the above-listed articles of the Labor Code of the Russian Federation were violated by the employer, namely:

the employer did not request explanations in writing from the worker prior to the imposition of a disciplinary penalty;

the reason for dismissal declared as "unlawful strike" is not included in the list of severe violations of labor duties leading to the termination of the labor contract with the worker according to clause 6 art.81 LC RF.

Thus, because of the Company with limited liability “ Energoinvest”, A.L. Kudryavtsev was illegally deprived of the opportunity to work.

If a worker with a fixed-term labor contract was unlawfully dismissed from work before the expiration of the contract, the court reinstate the worker in his previous job.

At the request of the worker whose dismissal was found to be illegal, the court collects an average wage during the forced absence for the benefit of the worker.

The average wage for the period of forced absence is determined in the manner provided for in Article 139 LC RF.

According to p. 9 art. 394 of the Code in the event of a dismissal without legal grounds or in breach of the established dismissal procedure the court, at the worker's request, may issue a decision on collecting monetary compensation for the benefit of the worker for moral harm inflicted.

According to art. 21 (clause 14 part 1) and art. 237 LC RF the amount of compensation for moral damage he suffers due to an employer's unlawful actions or inaction shall be determined by a court
According to art 237 LC RF monetary compensation shall be paid to a worker for moral damage, the fact of moral damage and the amount of compensation due him shall be determined by a court, independently of any property damage subject to restitution .

The amount of compensation for moral damage is determined by the court based on the specific circumstances of each case taking into account the scope and nature of moral or physical harm caused to the worker, degree of the employer's fault, other circumstances worth considering and requirements of reasonableness and fairness.

Moral damage in connection with unlawful dismissal of Kudryavtsev AL estimates in ... rubles.

According to the above mentioned information Kudryavtsev A.L. asked to declare his dismissal as unlawful and to reinstate in his job at the Company with limited liability “ Energoinvest” as a boiler engineer (coal heaver) for a heating season 2014 - 2015; for his benefit to collect from the Company with limited liability “ Energoinvest” the average wage for the entire period of unlawful deprivation of his opportunity to work, i.e. for the period from <date> to the day of reinstatement in work; to collect from the Company with limited liability “ Energoinvest” a monetary compensation of moral damage in the amount of ... rubles and ... rubles for the services of lawyers for verbal consultations and preparing a statement of claim for the court.

In the session the petitioner Kudryavtsev A.L. supported his claims, asked the court to collect from the defendant the costs of representative's services in the amount of ... rubles and presented to the court documents confirming his expenses.

In addition, the petitioner Kudryavtsev A.L. told the court that on "date" in the assembly hall of the music school there was a solemn meeting of workers of the Company with limited liability " Energoinvest" dedicated to the Day of Power Engineer. He had a day off on but he was summoned, he was told that he had to be at this meeting. Solemn meeting began at 15.00. Director "B.D." spoke about their successful business, made plans for the future. Then the petitioner was summoned to the stage. The director said the following: "The people I dismiss - I do not pay wages, it is my fundamental point! And now see what happens to troublemakers!" The director handed him a work record book and an order to resign from work. There were no explanations. He felt humiliated, insulted in public, left without a penny, left to the mercy of fate. When he arrived to the facility and told about the incident,people were in shock. They wrote a statement in his defense, and they did not sign a blank sheet of paper. This statement came to "B.D." He summoned everyone who signed the statement one by one and forced them to refuse. With the article of the LC RF mentioned in his work record card he could not be employed. He did not violated labor discipline severely. He was dismissed without proof. He did not take part in any strike. The drivers struck in their organization because of wage arrears. Before the strike, the master called Secretary B. and said: "We are about to strike!". All drivers were summoned to the general director "B.D." and he promised to pay wages. But in the promised term drivers did not receive their wages. They wrote a statement about the strike and asked the petitioner to bring it to the office because he finished his shift and was going home. He took this statement to the office.

The position of the principal in court was supported by his attorney V.

The representative of the defendant - the Company with limited liability " Energoinvest" -legal adviser Z. acting under the power of attorney did not accept the claims explaining that on <date> Kudryavtsev A.L. asked to pay wages and explained that he would not work under the contract agreement: unload coal and cut wood. The statement about the strike was brought to the office by Kudryavtsev A.L., he threw it on the table and left. On <date> the drivers of their organization refused to deliver coal because of non-payment of wages, the agreement on this issue with the management was reached. Kudryavtsev A.L. demanded to pay off the wage arrears, the director decided to dismiss him. Kudryavtsev A.L. was fired for the fact that he called the staff to strike. She agreed with the fact that the article of dismissal is not the same. A.L. Kudryavtsev's explanations were not received as he did not want to talk. On <date> Kudryavtsev A.L. Just received a work record book with a record of dismissal.

Z. considered that the amount of moral damage is overstated a lot and they should pay for the representative's services equally with the petitioner.

The court heard the petitioner Kudryavtsev A.L., his representative lawyer V., the representative of the defendant Z., examined the presented evidence and heard the conclusion of the prosecutor Baburin D.V. who believed that the lawsuits of Kudryavtsev A.L. were subject to satisfaction, the court found the following

According to art. 56 CCP RF each party shall prove those facts to which it refers as to the grounds for its claims and objections, unless otherwise stipulated federal law.

This requirement was explained to the parties.

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

According to provisions of art 3. LC RF 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 the 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.
Persons who consider that they were subject to discrimination in the labor sphere may apply to a court to restore the violated rights, reimburse material damage and compensate for the moral damage .

According to art. 81 p.1 c. LC RF The labor contract may be discontinued by the employer in cases of a single severe violation by the worker of his labor duties:

a) absenteeism, i.e. absence from the workplace without a good reason during the whole working day (shift) irrespective of the duration thereof, and also in the event of absence from the workplace without a good reason for more than four consecutive hours during the working day (shift);
b) the appearance of the worker at the workplace (at his workplace or on the territory of the employer's organization or of the facility where the worker has to perform his labor function on the instructions of the employer) in the state of alcoholic, narcotic or another intoxication;
c) disclosure of the secret protected by the law (state, commercial, service and other) that became know to the worker as a result of his execution of labor duties, including the disclosure of the personal information of another worker;

d) committing pilferage at the place of work (including petty pilferage) of others' property, embezzlement, willful destruction or damage to property as determined by a court ruling that has entered into legal force or the decision of a judge, body, official empowered to hear administrative offenses cases;
e) the fact, established by a labor protection commission, of violation by the worker of the labor protection requirements if this resulted in severe consequences (industrial accident, disaster) or is known to have created a real hazard of such consequences.

According to art. 192 LC RF an employer shall have the right to apply the following disciplinary punishments for the commission of a disciplinary misdeed, that is, the non-performance or improper performance by an worker of the labor duties assigned to him due to his fault:
1) a warning;
2) a reprimand;
3) discharge based on the relevant grounds. Federal laws and by-laws and regulations on discipline (Part 5 of Article 189 of the present Code) may also stipulate other disciplinary punishments for individual categories of workers.
In particular, disciplinary penalties include the dismissal of an worker on the grounds set out in clauses 5, 6, 9 or 10 of Part 1 of Article 81 or clauses 1 of Article 336 or article 348.11 of the present Code, and also clauses 7, 7.1 or 8 of Part 1 of Article 81 of the present Code when culpable actions providing grounds for the loss of confidence or an immorality respectively have been committed by the worker on the job or in connection with his executing his labor duties.
It is prohibited to impose disciplinary penalties for which there is no provision in federal laws, charters and regulations on discipline.
While imposing a disciplinary penalty one shall take into account the degree of gravity of the misdeed and the circumstances in which it took place н.

According to art 193 LC RF prior to the imposition of a disciplinary penalty the employer shall request explanations in writing from the worker. If no such explanations have been submitted within two working days then a relevant report shall be drawn up.
The non-provision of explanations by the worker shall not be an impediment to the application of a disciplinary punishment.
A disciplinary punishment shall be applied no later than one month after the day of the discovery of a misdeed, not counting the period of an worker's illness, his vacation, as well as the time necessary to take into account the opinion of the workers' representative body.
A disciplinary punishment may not be applied later than six months after the day of the commission of a misdeed, and, if based on the results of an inspection and examination of financial and economic activity or an audit, later than two years after the day of its commission. Said time periods shall not include a period of proceedings involving a criminal case.
Only one disciplinary punishment may be applied for each disciplinary misdeed.
An employer's order (instruction) on the application of a disciplinary punishment shall be announced to an worker against his signature within three working days of the day

of its promulgation without account taken of the period of the worker's absence at his workplace. An appropriate report shall be drawn up in the event the worker refuses to read said order (instructions) and sign it.
A disciplinary punishment may be appealed by an worker with the state labor inspectorate and/or authorities for the review of individual labor disputes.

In paragraph 38 of the Plenum of the Supreme Council of the Russian Federation No. 2 dd March 17, 2004, (as amended on September 28, 2010) "On application of the LC RF by the courts of the RF", explained that at the consideration of the case on reinstatement in work of a person dismissed according to c.6.p1 art 81 of the Code, the employer had to provide evidences proving the cases of a single severe violation by the worker of his labor duties mentioned in this clause. In it should be borne in mind that the list of severe violations of labor duties giving grounds for termination of labor contract with the worker according to under clause 6 part 1 Article 81 of the Code, is exhaustive and does not need extensive interpretation
The court found that Kudryavtsev A.L. worked at the Company with limited liability " Energoinvest" since <date> as a boiler engineer.

This circumstance was confirmed by a copy of the order ..... dd <date> about the employment of Kudryavtsev A.L. and labor contract dd <date>, which were announced and investigated in court.

The court found that by the order of the Director General "B.D" of the Company with limited liability " Energoinvest" ..... dd <date> analyzed in court, (the text of the order is quoted verbatim) in connection with the unlawful strike of workers of the Company with limited liability " Energoinvest" and in accordance with Art. 81 and 413 of the Labor Code of the Russian Federation, the labor contract with Kudryavtsev A.L. dd <date> was terminated. The grounds for dismissal, as indicated in the same order, were the following - a single severe violation of Kudryavtsev A.L. his labor duties (Clause 6, Article 81 LC RF).

As the grounds for A.L. Kudryavtsev's dismissal according to the above-mentioned order, were a single severe violation of labor duties and the order did not mention a sub-clause specifying this single severe violation, the court thoroughly investigated the question of A.L. Kudryavtsev's single severe violation of labor duties.

The court found that there were not any severe violations of labor duties the list of which was not subject to broad interpretation, specified in subclause 6, 81 LC RF of the petitioner Kudryavtsev A.L. The defendant's representative did not provide any evidence to the court in support of the order. On the contrary, when considering the case, the representative of the defendant Z. herself stated that the article they dismissed A.L. Kudryavtsev with was "not the same."

In the court session, the representative of the defendant Z. explained that Kudryavtsev A.L. was fired because of participation in the strike.

To be objective in the consideration of this case and in connection with the indication of an unlawful strike of workers of the Company with limited liability “ Energoinvest”, in the order to dismiss Kudryavtsev A.L. the court checked this statement of the defendant's representative.

Based on art. 413 TC LC 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 centers;

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.

During a collective labor dispute, a strike shall be unlawful if it was declared in disregard of the time limits, procedures, and requirements stipulated in the present Code.

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 a petition filed by an employer or prosecutor.

The court decision shall be made known to the workers through the body leading the strike, which shall be required to immediately inform the strike participants of the court's decision.

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 .

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.

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. .

According to art. 414 LC RF 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 .

In the court session, the representative of the defendant Z. did not provide any evidence to support her statement that the petitioner Kudryavtsev A.L. took part in the strike. Moreover, a representative of the company Z did not provide to court any evidences that the strike was declared unlawful therefore, according to the court, the very question of the unlawful strike at the Company with limited liability “ Energoinvest” was highly doubtful.

In addition, the ground for dismissal – the unlawful strike - was not included in the list of severe violations of labor duties to terminate labor contract with the worker according to clause 6, part 1, art. 81 LC RF.

The court found that with the dismissal of Kudryavtsev A.L. the employer violated the procedure for dismissal: no explanation was requested from Kudryavtsev A.L prior the dismissal. The representative of the defendant Z. did not appeal this circumstances in court.

According to art. 394 LC RF If a dismissal is deemed unlawful the body considering the individual labor dispute can take a decision at the worker's application to modify the language of the ground for the dismissal to "voluntary resignation" .

If the language of the grounds and/or reason for the dismissal is deemed improper or inconsistent with a law the court that examines the individual labor dispute shall modify it and indicate in its decision the grounds and reason for the dismissal in compliance with the language of the present Code or another federal law making reference to a relevant Article, Part of Article or Item of Article of the present Code or of another federal law .

If in the cases specified by the present article a court, having declared a dismissal of an worker unlawful, does not issue a decision on reinstatement of the worker but rather issues a decision on modifying the language of the ground for the dismissal then the date of the dismissal shall be changed to the date of the court's decision. If, as of the time of issuance of this decision, the worker, after the disputed dismissal, has entered into labor relations with another employer the date of the dismissal shall be changed to the date preceding the date of hiring by the other employ .

If incorrect language of the ground and/or reason for a dismissal stated in the work-record book hindered the worker's being hired to work at another job the court shall take a decision to pay out to the worker the average earnings for the entire period of his/her involuntary absence at his/her workplace .

In the event of a dismissal without legal grounds or in breach of the established dismissal procedure or of an illegal transfer to another job the court, at the worker's request, may issue a decision on collecting monetary compensation for the benefit of the worker for moral harm inflicted thereupon by said actions. The amount of the compensation shall be set by the court .

The court found that Kudryavtsev A.L. was dismissed without legitimate reason, so he was subject to reinstatement in his previous work.

The court reviewed and investigated the certificate of the Company with limited liability “ Energoinvest” on average wages of the petitioner for the period <date> to<date>, it showed that the average wage of Kudryavtsev A.L. for this period of time: ....

Kudryavtsev A.L. agreed with this amount and asked the court to collect it.

This requirement of Kudryavtsev A.L. was also subject to satisfaction.

According to art. 151 LC RF if the citizen has been inflicted a moral damage (the physical or moral sufferings) by the actions, violating his personal non-property rights or infringing upon the other non- material values in his possession, and also in the other law-stipulated cases, the court may impose upon the culprit the duty to pay out the monetary compensation for the said damage.

When determining the size of compensation for the moral damage, the court shall take into consideration the extent of the culprit's guilt and the other circumstances, worthy of attention. The court shall also take into account the depth of the physical and moral sufferings, connected with the individual features of the person, to whom the damage has been done .

The court found that unlawful dismissal of Kudryavtsev A.L. caused him moral damage expresses not not only by moral sufferings regarding unlawful dismissal but also by "exemplary" dismissal at the solemn meeting of the workers of the Company with limited liability " Energoinvest" dedicated to the Day of the Power Engineer. And the court took into account the circumstance that it was A.L. Kudryavtsev day off, he did not work and he was obliged to attend this meeting, where he was handed the work record book and order of dismissal.

The court estimates the moral damage caused to the petitioner Kudryavtsev A.L., taking into account the requirements of reasonableness and fairness, in the amount of RUB … .

According to p.1 art 1000 CCP RF the court shall adjudge at its written petition to the party in whose favor the court decision was passed the outlays on remuneration of the services of the representative from the other party within reasonable limits .

This article does not limit the types of reimbursable expenses incurred in connection with the participation of the representative in the court session, expenses related to the preparation of procedural documents are also reimbursed.

Kudryavtsev A.L. paid to his representative lawyer V. for rendering legal services , receipts ..... <date> for verbal advice and preparation of a statement of claim RUB ... , receipts ..... <date> RUB... for participation in court sessions.

The representative of the petitioner V. participated in two court sessions (<date> and <date>).

The Court considered that the said amount for services of the representative, given the complexity of the case and value of the right protected, was completely reasonable and fair.

The petitioner has the petition for payment.

Thus, the defendant should pay for the benefit of Kudryavtsev A.L. RUB ... - payment for the services of the representative.

On the basis of Art. 46 of the Constitution of the Russian Federation, art. 3, 81, part 1, 6, 192, 193, 394 LC RF, art. 151 Civil Code, according to Art. 12, 100, 197, 198 of the Civil Procedure Code of the Russian Federation, the court

decided:

To reinstate Kudryavtsev A.L. in work as the boiler engineer of the Company with limited liability " Energoinvest" from <date>.

To collect from of the Company with limited liability " Energoinvest" the average wage for the time of forced absence in the amount of .... for the benefit of Kudryavtsev A.L.

To collect from of the Company with limited liability " Energoinvest" compensation for moral damage in the amount of RUB... rubles and payment of representative's service in the amount of RUB, in total RUB.... for the benefit of Kudryavtsev A.L.

To collect from of the Company with limited liability " Energoinvest" a state fee in the budget of the city district - Galich, Kostromskaya oblats in the amount of ....

The decision as related to reinstatement Kudryavtsev A.L. in work and collection of average wage for the time of forced absence is subject to immediate execution.

The decision can be appealed in appeal to Kostromskoy regional court through the Galichskiy district court within a month from the date of its adoption in the final form.

Federal judge Vorontsova E.V.

The decision in the final form was made on February 16, 2015.

Federal judge Vorontsova E.V.

Court:
Galichskiy regional court, Kostromskaya oblast

Judges of the case:
Vorontsova E.V. (judge)

Decision № 3-64/2013 3-64/2013~M-93/2013 M-93/2013 dd November 22, 2013, case № 3-64/2013
Leningradskiy regional court (Leningradskaya oblast) - Civil
Point of dispute: Labor disputes- to declare strike unlawful and compensation of damage caused

Case № 3-64/2013

DECISION

In the name of the Russian Federation

Saint-Petersburg November 22, 2013

Leningradskiy regional court consisting of:

chief judge Shadrina E.V.,

with the registrar attending to the judge Levicheva N.S.,

in the open hearing has examined a civil case under the petition of the Company with limited liability "Gruppa Antolin Sankt-Peterburg" to the trade union committee of the primary trade union organization of workers of the Company with limited liability "Gruppa Antolin Sankt-Peterburg"of the Interregional Trade Union of Automobile Industry Workers and primary trade union organization of workers of the Company with limited liability "Gruppa Antolin Sankt-Peterburg" of the Interregional Trade Union of Automobile Industry Workers
to declare the strike unlawful,

found:

The Company with limited liability "Gruppa Antolin Sankt-Peterburg" (hereinafter referred to as the Ltd.) applied to the court with a statement of claim to the trade union committee of the primary trade-union organization of workers of the Company with limited liability "Gruppa Antolin Sankt-Peterburg"of the Interregional Trade Union of Automobile Industry Workers (hereinafter referred to as the trade union committee), K.A. Vedernikov. to declare the strike began at 22:45 on October 15, 2013, unlawful.

In support of the claims it was indicated that on October 15, 2013, at 22:45, night shift workers did not start work and gave the shift manager a notice of the strike and order of the primary trade union organization of workers of the Company with limited liability "Gruppa Antolin Sankt-Peterburg"of the Interregional Trade Union of Automobile Industry Workers (hereinafter referred to as the primary trade union organization) to prohibit the movement of all vehicles at the territory of the factory during the strike.

The petitioner believed that the strike was unlawful announced without taking into account the deadlines, procedures and requirements established by the Labor Code of the Russian Federation. The strike was launched in the absence of a collective labor dispute, as it was initiated by the primary trade union organization that does not unite more than half of the workers, therefore, according to Art. 31 of the Labor Code of the Russian Federation was not entitled to represent the interests of all workers. Meetings (conferences) of workers to declare demands to the employer and declare the strike were not conducted. Evidence of collecting signatures more than half of workers in support of the claims presented to the employer, and in support of the decision to declare the strike were not provided to the employer. Reconciliation procedures were not performed. The decision to declare the strike does not contain all the required information. The notice of the beginning of the forthcoming strike was delivered to the employer in violation of the statutory period.

In the preliminary session on November 6, 2013, at the petition of the petitioner, the defendant Vedernikov K.A. was replaced by the primary trade union organization.

At the same time, in connection with the end of the strike, the petitioner changed the lawsuits and asked the court to recognize the strike conducted from 22:45 on October 15, 2013 to 15:00 on October 17, 2013, unlawful; to oblige the defendants to inform all workers of the Company with limited liability "Gruppa Antolin Sankt-Peterburg" in writing about the decision taken by the court to declare the strike unlawful; to collect jointly the legal costs in the amount of RUB<...> from the defendants for the benefit of the petitioner.

In written objections the defendants indicated that all the conditions necessary in accordance with the Labor Code of the Russian Federation to resolve a collective labor dispute had been met by them. However, the employer unilaterally refused to participate in collective bargaining for the preparation of the collective agreement, to consider workers' demands, to take part in reconciliation procedures, to acceptance of the notice of the strike.

In the court session the representative of the Company with limited liability "Gruppa Antolin Sankt-Peterburg" Borodatyi A.S. Supported the claim and asked to satisfy them.

Representatives of the trade union committee and primary trade union organization Vedernikov K.A., Zhilkin V.P., Solntseva U.S. asked to dismiss the claim.

The court heard the explanations of the persons participating in the case, examined the written evidence and found the claims of the Company with limited liability “Gruppa Antolin Sankt-Peterburg” to be satisfied on the following grounds.

Part 4 art. 37 Constitution of the Russian Federation establishes that 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.

Art.21 of the Labor Code of the Russian Federation established the main duties of workers including resolution of personal and collective labor disputes, including the right to strike, according to the procedure specified in the present Code, other federal laws .

Participation in a strike shall be voluntary. No one can be forced to participate or not participate in a strike. (art. 409 Labor Code of the Russian Federation)

According to art. 398 Labor Code of the Russian Federation 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 .

The day of the collective labor dispute is the day of the employer's decision (its representative) to reject all or part of the claims of workers (their representatives) or employer's (its representative) failure to notify in accordance with Article 400 of this Code of the decision.

A strike is a temporary voluntary refusal of workers to perform labor duties (fully or in part) for purposes of resolving a collective labor dispute .

Article 399 Labor Code of the Russian Federation says that workers and their representatives, as defined according to Articles 29 - 31 and Part 5 of Article 40 of this Code, shall have the right to present demands.

Art. 29 Labor Code of the Russian Federation establishes The interests of workers in collective negotiations, conclusion or changing of a collective contract, control over its execution, as well as in the implementation of the right to participate in the management of an organization, consideration of labor disputes of workers with an employer shall be represented by the primary trade union organization or other representatives elected by the workers .

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 art. 37 Labor Code of the Russian Federation, the interests of all workers of a given employer, with no regard to their trade union membership (art.30 Labor Code of the Russian Federation).

Case files showed that on February 8, 2013, the specified primary trade union organization was created by the constituent meeting of the primary trade union organization of the workers of the Company with limited liability "Gruppa Antolin Sankt-Peterburg" of the Interregional Trade Union of Automobile Industry Workers.

The purpose of its creation was the representation and protection of social and labor rights, professional, economic and other interests of trade union members. The authorities of the trade union committee (the permanent governing body of the primary trade union organization that organizes activities and directs the everyday work of the primary trade union organization between general meetings (conferences)) include, among other things, drafting of collective agreements, approval of the commissions for participation in the negotiations, initiatives to negotiate collective agreements, collective agreements conclusion on behalf of members of the trade union, and control over their implementation, declaration of demands to the employer on social and labor issues, participation in the settlement of collective labor disputes, including participation in conciliatory procedures, organization and conduct of collective actions in support of the demands including strikes (section 2, clauses 7.1, 7.10.8, 7.10.9 of the provisions on the primary trade union organization).

The parties to the court did not dispute that the primary trade union organization united and unites less than half of the employer's workers.

On April 6, 2013, at the meeting of the trade union committee, it was decided to send an offer to the employer to start collective bargaining on behalf of all workers without primary creation of a single representative body.

On April 9, 2013 the employer received the proposal of the primary trade union organization according to Art. 37 of the Labor Code of the Russian Federation and on behalf of all workers to begin collective bargaining.

By order of the employer of April 19, 2013, No. 38, it was prescribed to set up a negotiating commission before May 17, 2013, the commission included representatives of the primary trade union organization and representatives of the employer, and to start the work of the commission on collective negotiations before May 17, 2013.

The preamble of the order showed that it was issued to realize the rights of workers to represent their interests in collective bargaining and conclusion of a collective agreement in the best way possible.

On May 22, 2013, the representative of the employer received the draft collective agreement between of the Company with limited liability "Gruppa Antolin Sankt-

Peterburg" and workers of the Company with limited liability "Gruppa Antolin Sankt-Peterburg", represented by the trade union of the Interregional Trade Union of Automobile Industry Workers . The clause 8.1.3 of the agreement provided the rises of salaries for workers all qualification levels every March 1 using the following formula: the value of the consumer price index (inflation) in the Russian Federation for the calendar year prior the increase in wages, expressed as a percentage to December of the past year, according to Rosstat + 10%. The clause 1.1.2 of the said contract indicated that workers represented in collective bargaining for preparation, drafting and conclusion of the collective agreement by the primary trade union organization.

Thus, the legal relationships established between the primary trade union organization and the employer were covered by Chapters 6 and 7 of the Labor Code of the Russian Federation.

On September 9, 2013, the primary trade union organization sent a letter to the employer, and it appeared from the letter that the head of the employer was changed and the employer refused to participate in collective bargaining.

By the order of the employer No. 63 dd September 11, 2013, the above-mentioned order dd April 19, 2013 was canceled due to the violation of Art. 37 of the Labor Code of the Russian Federation.

Meanwhile, the above circumstances allowed the court to consider that for five months the employer recognized the authority of the primary trade union organization for collective bargaining, conclusion of collective agreements, resolution of collective labor disputes, and in fact allowed it to participate in collective bargaining for preparation and conclusion of the collective agreement as representative of workers, and therefore the reasons to decide that the primary trade union organization, representing the interests of all workers of the employer, regardless of union membership, acted in bad faith, were not available.

In view of the unsettled disagreements between the workers' representative and employer regarding collective bargaining for preparation and conclusion of the collective agreement establishing the remuneration of workers the court believes that in the considered situation there was a collective labor dispute.

According to art. 399 Labor Code of the Russian Federation Demands presented by workers and/or a representative body of the workers of a given organization (branch, mission, or other separate structural subdivision) or individual entrepreneur shall be approved at a corresponding workers' meeting (conference), shall be set out in writing and sent to the employer. An workers' meeting 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 shall be made by the majority of workers (delegates) attending the meeting (conference). If it is not possible to conduct the meeting (conference), the representative body of workers has the right to approve its

decision collecting more than half of the workers' signature in support of the presented demands.

According to art.401 Labor Code of the Russian Federation the procedure for resolving a collective labor dispute shall consist of the following stages: consideration of the dispute by a reconciliation commission, and consideration with the participation of a mediator and/or in labor arbitration. Neither party to a collective labor dispute shall have the right to evade participation in reconciliation procedures .

According to art.410 Labor Code of the Russian Federation A decision on declaring a strike shall be taken by a meeting (conference) of workers of an organization (branch, representative office or another detached structural unit) or 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. The meeting 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. 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 .

The employer shall be notified of the beginning of a forthcoming strike in writing at least five working days in advance .

The following shall be available in a decision on declaration of a strike: a list of disagreements of the parties to the collective labor dispute that are deemed grounds for the declaration and conduct of the strike; the date and time of beginning of the strike, its would be duration and would-be number of participants; the name of the body that leads the strike, the composition of the representatives of workers who are empowered to take part in conciliatory proceedings; proposals for the minimum necessary works (services) to be performed during the period of the strike by workers of the organization (branch, representative office or other detached structural unit) or the individual entrepreneur .

According to the petitioner's information including data submitted to Petrostat (the statistics service) and Employment Center, the number of workers of the Company with limited liability “Gruppa Antolin Sankt-Peterburg” was 230 people as of September 2013, 9 October - October 16, 2013 – 233 people.

In the period from September 27, 2013 to October 10, 2013, the primary trade union organization collected 68 signatures of workers (signatures NAME1, NAME2 and NAME3 were not workers of the employer and duplicated signatures of NAME4 and NAME5 excluded) in support of the presented demands to the employer by the primary trade union organization - the rises of salaries for workers all qualification levels every March 1 using the following formula: the value of the consumer price

index (inflation) in the Russian Federation for the calendar year prior the increase in wages, expressed as a percentage to December of the past year, according to Rosstat + 30%, in support of the decision of the primary trade union organization to conduct a strike up to the full implementation of the presented demands as well as instructing the trade union committee to represent the interests of workers in collective-labor dispute and conduct collective negotiations on behalf of workers.

Thus, in support of the demands presented to the employer and decision to declare a strike, the primary trade union organization collected signatures of less than half of the workers, therefore, the court does not have any reasons to believe that when sending the demands of workers and warning of the forthcoming strike, the trade union committee acted in accordance with its authorities and interests of all workers of the Company with limited liability "Gruppa Antolin Sankt-Peterburg".

At the same time, evidence that the primary trade union organization decided to present demand, and the trade union committee - to declare that strike that meets the requirements of Art. 410 of the Labor Code of the Russian Federation, was not presented by the defendants

Along with this, it should be noted that the subscription lists did not imply that the workers expressed their will to declare the strike at 22:45 on October 15, 2013.

It appeared from the staff report of the head of the production of the Company with limited liability "Gruppa Antolin Sankt-Peterburg" dd October 16, 2013, that on October 15, 2013, he was informed on the beginning of the strike by the representative of the trade union committee and on October 16, 2013, he received the workers' demands, trade union committee's notification on the strike and order of the primary trade union organization dd October 15, 2013 to ensure minimum necessary work during the strike, to prohibit the movement of all vehicles at the the factory.

The defendants did not present evidences that the employer received the demands mentioned in the above-mentioned subscription lists before October 15, 2013, they also did not present evidences proving the compliance with the term of employer's prior notification about the beginning of the forthcoming strike.

Simultaneous presentation of the workers demands to the employer and notification on the strike confirm that reconciliation procedures had not been conducted to resolve the collective labor dispute, thus the defendants refused to participate in them, and according to art. 398, 401 of the Labor Code of the Russian Federation it is unacceptable.

According to art. 413 Labor Code of the Russian Federation during a collective labor dispute, a strike shall be unlawful if it was declared in disregard of the time limits, procedures, and requirements stipulated in the present Code .

Taking into account that the strike was declared in disregard of the time limits,

procedures, and requirements stipulated in the Labor Code of the Russian Federation, the court has grounds to conclude that the strike shall be declared unlawful.

Responsibility for the unlawful strike should be allocated to the primary trade union organization that, representing the interests of workers in the social partnership, participated in collective bargaining on behalf of the workers of the Company with limited liability "Gruppa Antolin Sankt-Peterburg", organized the demands declaration and announced the strike, and the body leading strike - trade union committee.

Art. 413 Labor Code of the Russian Federation the decision to declare a strike unlawful shall be made by the court. The court decision shall be made known to the workers through the body leading the strike, which shall be required to immediately inform the strike participants of the court's decision.

Taking into account that the federal legislator has not established requirements for the form the workers should be informed of the court decision to declare the strike unlawful, and also that in this case the body leading the strike was the governing body of the primary trade union organization, the court considers it possible to satisfy the petitioner's claim to impose the obligation to inform all the workers of workers of the Company with limited liability "Gruppa Antolin Sankt-Peterburg" in writing about the court's decision to declare the strike unlawful to both to the trade union committee and to primary trade union organization.

According to art.98 CPC of the Russian Federation to the party in whose favor the decision of the court was passed the court shall adjudge the compensation from the other party of all judicial expenses incurred in connection with the case, with the exception of the instances envisaged in the second part of Article 96 of the present Code.

According to art. 88 CPC of the Russian Federation the outlays of the court consist of the state duty .

When filing the petition, the petitioner paid the state duty at the amount of RUB 4000 and therefore these costs are subject to reimbursement by the other party - the trade union committee and the primary trade union organization.

Following the art. 194 - 198 of the Civil Procedure Code of the Russian Federation, the court

decided:

to satisfy the claim of the Company with limited liability "Gruppa Antolin Sankt-Peterburg"

to declare the strike conducted from 22:45 on October 15, 2013 to 15:00 on October 17, 2013 unlawful.

To obliged the trade union committee of the primary trade union organization of the workers of the Company with limited liability “Gruppa Antolin Sankt-Peterburg” of the Interregional Trade Union of Automobile Industry Workers and primary trade union organization of the workers of the Company with limited liability “Gruppa Antolin Sankt-Peterburg”" of the Interregional Trade Union of Automobile Industry Workers to inform all workers in writing about the court's decision to declare the strike conducted from 22:45 on October 15, 2013 to 15:00 on October 17, 2013 unlawful .

To collect outlays of the court at the amount of RUB <...> jointly from the trade union committee of the primary trade union organization of workers of the Company with limited liability “Gruppa Antolin Sankt-Peterburg” of the Interregional Trade Union of Automobile Industry Workers and primary trade union organization of workers of the Company with limited liability “Gruppa Antolin Sankt-Peterburg” of the Interregional Trade Union of Automobile Manufacturers in favor of the Company with limited liability “Gruppa Antolin Sankt-Peterburg”.

The decision may be appealed to the Judicial Board for Civil Cases of the Supreme Court of the Russian Federation within a month from the date of its adoption in the final form through the Leningradskiy regional court.

Judge E. V. Shadrins

The decision was made in the final form on November 27, 2013.

Court:
Leningradskiy regional court (Leningradskaya oblast)

Petitioner:
Company with limited liability “Gruppa Antolin Sankt-Peterburg”

Defendants:
Vedernikov K.A., Trade Union Committee of the Primary Trade Union Organization of workers of the Company with limited liability “Gruppa Antolin Sankt-Peterburg”.

Judges:
Shadrina Elena Viktorovna (judge)

Article 1 - – The right to work .

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

...4. to provide or promote appropriate vocational guidance, training and rehabilitation.

Training and rehabilitation

An employer shall determine the necessity for professional training (vocational education and training) and supplementary vocational education (including retraining) of staff for its own needs (Art. 196. LC RF). Being sent to study by the employer means that it is performed at employer's expenses.

The worker himself can receive training, retraining at his own expense.

In instances stipulated by federal laws and other normative legal acts of the Russian Federation, an employer shall be obligated to perform the skill enhancement of workers if it is a condition of the performance by the workers of certain types of activity. An employer must create the necessary conditions for combining work with study for workers undergoing professional training and must provide guarantees established by the labor legislation and other legal acts containing labor regulations, a collective agreement, agreements or local normative acts, and a labor contract (art. 196 LC RF).

The above-mentioned workers are, for example, medical workers.

Workers shall have the right to vocational training, retraining, and skill enhancement, including training for new professions and specialties. Said right shall be exercised by the conclusion of a supplemental contract between an worker and an employer (art. 197 LC RF).

An employer being a legal entity (an organization) shall have the right to conclude an apprenticeship contract for vocational training with a job-seeker and an apprenticeship contract for vocational education or retraining with or without leaving leaving work with an worker of the given organization (art. 198 LC RF).

According to art. 204 LC RF during a period of an apprenticeship, trainees shall be paid a stipend whose amount shall be determined by the apprenticeship contract and shall depend on the profession, specialty, and skill being obtained,

but may not be lower than the minimum wage established by federal law. Work performed by a trainee in practical exercises shall be compensated at the established piece rates.

In order to create a mechanism for an independent assessment of the level of vocational qualifications as well as conditions for encouraging the participation of employers and workers, Federal Laws No. 238-FZ dd July 3, 2016 “On Independent Qualification Assessment” (hereafter referred to as Federal Law No. 238-FZ), No. 239-FZ "On Amendments to the Labor Code of the Russian Federation in Connection with the Adoption of the Federal Law “On Independent Qualification Assessment” and No. 251-FZ" On Amendments to the Tax Code of the Russian Federation in Connection with the Adoption of the Federal Law “On Independent Qualification Assessment”.

All the necessary regulatory legal acts have been adopted to implement the Federal Law No. 238-FZ,

Decree of the President of the Russian Federation No. 676 dd December 18, 2016 "On Amendments to the Regulations on the National Council for Professional Qualifications under the President of the Russian Federation and to the membership of this Council, approved by the Decree of the President of the Russian Federation No. 249 dd April 16, 2014” (hereafter referred to as the National Council) expanded the functions of the National Council.

Thus, the National Council has an authority to decide on establishment of professional qualification councils, granting and termination of their authorities on matters relating to the development of professional qualifications system in the Russian Federation, including:

labor market monitoring, ensuring its needs in qualifications and vocational education;

development and updating of occupational standards and qualification requirements;

organization of qualifications independent assessment for a certain type of professional activity;

examination of federal state educational standards for vocational education, model basic vocational educational programs and their drafts, assessment of their compliance with occupational standards, preparation of

proposals for improvement of these standards of vocational education and educational programs;

organization of vocational and public accreditation of the basic vocational educational programs, basic programs of vocational training and (or) supplementary vocational programs.

The procedure to select organizations in order to confer powers of the qualifications assessment centers to perform independent qualification assessment (Order No. 759n of the Russian Ministry of Labor dd December 19, 2016) was determined.

The procedure to perform independent qualifications assessment in the form of a professional examination was approved (Decree of the Government of the Russian Federation No. 1204 dd November 16, 2016), as well as the form of qualification certificate (Order of the Ministry of Labor of Russia on December 12, 2016 No. 725n).

In order to enable citizens and organizations to appeal against the result of exam and qualification certificate, there is a provision on the appeal commission formed by the professional qualifications council (Order of the Ministry of Labor of Russia No. 701n dd 1 December 2016).

In order to inform citizens, employers and other interested organizations the order of the Ministry of Labor of Russia No. 649n dd 15.11.2016 approved the procedure for formation and maintenance of the register of information on conducting an independent qualifications assessments (hereinafter referred to as the Register) and the Russian Union of Industrialists and Entrepreneurs developed an appropriate information resource, it has been placed in the "Internet" since January 2017.

The Register contains information on independent qualification assessment including information on professional qualification councils, qualification assessment centers, list of qualification and occupational standards provisions (the qualification assessment is performed for) specifying validity periods for qualification certificates and documents required for exam in relevant qualifications.

Thus, citizens and employers can get information regarding qualification assessment center it is possible to receive qualification assessment, documents

submitted for independent qualification assessment, validity period for qualification certificate.

Organizational, methodological, expert and analytical support for activities of the National Council is provided by the Autonomous Non-Profit Organization "National Agency for Qualifications Development" (hereinafter referred to as the National Agency). The Order of the Government of the Russian Federation No. 2348-r dd November 3, 2016 determined that the functions and authorities of the founder of the National Agency on behalf of the Russian Federation are implemented by the Ministry of Labor of Russia and the Ministry of Education and Science of Russia.

There are 28 professional qualifications councils at the National Council in various fields of professional activity: in the field of nuclear energy, construction, electric power, engineering, health, railway transport, lift, housing and communal services, nanotech industry, information technology, financial market etc.

In 2016, there were 68 qualification assessment centers as a pilot project. They have assessed qualification of 4,9 thousand people in the field of construction, engineering, railway transport, etc.

As of September 20, 2017, 132 qualification assessment centers have been established.

However, in connection with the adoption of the Federal Law No. 238-FZ and by-laws aimed at regulating the functioning of independent qualifications assessment systems, a new procedure to select professional qualification councils and organizations to perform functions of qualification assessment centers has been legislated. In this regard, starting from 2017 the selection of organizations eligible to perform functions of the qualification assessment centers will be conducted in accordance with Federal Law No. 238-FZ.

Monitoring of independent qualifications assessment system is performed by the Ministry of Labor of Russia in accordance with paragraph 9 of part 1 of Article 9 of Federal Law No. 238-FZ including on the basis of the Register.

Vocational guidance (+Article 9)

In the Russian Federation, the right to vocational guidance is established by Article 9 of the Law of the Russian Federation No. 1032-1 dd April 19, 1991 "On employment in the Russian Federation" (hereinafter referred to as the Employment Act).

According to the Employment act which determines the legal, economic and organizational basis of the state policy to promote employment, including state guarantees for realization of the constitutional rights of citizens of the Russian Federation for labor and social protection against unemployment, citizens have the right including free of charge information and services related to vocational guidance in the employment service in order to choose the scope of activity (occupation), employment, opportunities for vocational training and supplementary vocational education. The employment services provide the opportunity for citizens to receive these services in electronic form in accordance with the legislation on organization of provision of state and municipal services (art. 9, par. 1).

The right to free access to information and services related to vocational guidance fully applies to all citizens applied to find suitable employment including employed citizens regardless of their age. Moreover, taking into account that the legislation on employment is applied to foreign citizens, citizens and stateless persons (art. 6, par. 2), this service can be provided to the above-mentioned citizens.

Guarantees of rights including to vocational guidance are established in Article 12 of the Employment Act.

The realization of the above-mentioned rights and guarantees is ensured through the provision of citizens registered with the employment services in order to find suitable employment and as unemployed, state services for vocational guidance of citizens in order to choose the scope of activity (occupation), job placement, vocational training and supplementary vocational education, the provision of these services as well as the formation of funds for their financial support has been within the powers of the authorities of subjects of the Russian Federation in the field of promotion of employment since 2012(Article 7.1-1 of the Employment Act).

The provision of this state service is performed in accordance with the federal state standard of the state service for organization of vocational guidance of citizens in order to choose the scope of activity (occupation), employment, vocational training and supplementary vocational education, approved by the order of the Ministry of Labor and Social Protection of the Russian Federation № 380n dd August 23, 2013 (hereinafter referred to as the federal standard of public service for vocational guidance) and it establishes

mandatory requirements for organization of employment services by state institutions of this public service.

The state service for vocational guidance is provided by state employment services to citizens of the Russian Federation applied to these bodies to find suitable employment and to foreign citizens residing in the territory of the Russian Federation on legal grounds, stateless persons (Article 6 of the Employment Act).

This is confirmed by clause 4 of the Federal standard of public service for vocational guidance in order to choose the scope of activity (occupation), employment, vocational training and supplementary vocational education. This service is provided by state employment services to citizens of the Russian Federation, foreign citizens, stateless persons.

The basis for commencement of the provision of this public service is the application of a citizen for provision of the public service or his\her consent with a proposal for the provision of the public service issued by the public employment service institution.

The state service may be provided to the citizen individually and (or) within a group of citizens in accordance with a schedule approved in accordance with the established procedure (the form of public service is agreed with the citizen).

Provision of public services is performed in separate specially equipped premises providing unhindered access for disabled people including disabled people using wheelchairs.

It is allowed to provide public service (part of the public service) by the experts possessing the necessary knowledge and work experience, methods, methods used in the vocational guidance, forms of trainings and technologies for vocational guidance hired by the state employment agencies of the employment service on a contractual basis, and (or) organizations that, in accordance with the procedure established by the legislation of the Russian Federation, have the right to render appropriate services.

Thus, in 2017, 2,800,700 people received state services for vocational guidance or 74.4% of the total number of citizens applied to the employment services for assistance in job search (in 2016, 2,548.1 thousand citizens or 63.6%, in 2015 - 6047.0 thousand citizens or 93.9%).

In 2017, 1,168,200 unemployed citizens (41.7% of the total number of service recipients), 1,298.0 thousand citizens aged 14-29 (46.3%) b received state services for vocational guidance of which more than half (723,800 people) were students of general education institutions. In addition, 228,900 citizens dismissed in connection with the liquidation of the organization or termination of the activity of an individual entrepreneur, reduction (8.2% of the total number of service recipients) also received this state service; 140.8 thousand citizens of pre-retirement age (5.2%); 46.8 thousand pensioners seeking to resume work (1.7%); 100,1 thousand employed citizens (3,6%) including

women who are in labor relations and on leave to attend to a child up to the age of three years - 17,9 thousand people (0,6%); 16.6 thousand citizens released from prisons (0.6%).

In order to improve the quality and availability of public services in the field of employment of the population, on June 9, 2016 the Deputy Prime Minister Ms. Golodets O.Yu. approved the plan of measures for 2016-2018 to improve the quality and accessibility of public services in the field of employment including taking into account the targeted approach to provide these services (hereinafter referred to as the Plan), paragraph 1.6 of this plan provides for monitoring quality and accessibility of public services in the field of employment resulting in monitoring the achievement of quality indicators and availability of public services in the field of employment promotion (this authority of the federal bodies in the field of employment established by sub paragraph 6) paragraph 3 of Article 7 of the Employment Act).

In order to increase the effectiveness of the executive bodies of subjects of the Russian Federation exercising powers in the field of employment and public employment services for provision of public services, the Ministry of Labor of Russia following monitoring assesses the quality and accessibility of public services provided by employment services to citizens and employers .

The quality and accessibility monitoring of public services is performed every six months with the help of a unified system of indicators of quality and accessibility of public services as well as the image of the employment services, which allows to assess their dynamics.

The availability of a public service is one of the characteristics of a public service that determines the possibility for consumers to receive public service s taking into account all objective limitations.

The availability of public services is assessed with the proportion of potential public service recipients received public service in the total number of citizens (registered with the employment service in order to find suitable job, citizens registered as unemployed, underage citizens, etc.).

Quality of service is a set of service characteristics that determines its ability to meet the needs of the recipient in relation to the content of its final result, and, consequently, solution of the problem of employment of citizens.

The quality and availability of public services depend on positive image of the employment services and it is a key factor in their adaptation to new requirements in terms of ensuring the quality and accessibility of public services.

The image of the employment services is assessed with the help of indicators characterizing the level of applications to employment services, quality of vacancies declared in the employment services, provision of transition to electronic forms of interaction and interaction with multifunctional centers for provision of state and municipal services (hereinafter referred to as the MFC).

The above indicators depend, in particular, on the organization of mass events by the employment services on advertising campaigns, on availability of a sufficient number of qualified personnel.

In addition, the peculiarity of the new form of monitoring is the integral assessment of quality and accessibility of public services expressed by the rating of effectiveness of provision of public services taking into account the level of their quality and accessibility, image of employment services as well as the ratio of budget of the subject of the Russian Federation expended on active employment policy measures to the amount of funds from the federal budget for activities of passive employment policy measures (social support of the unemployed).

The lists of subjects of the Russian Federation are formed based on the results of quality and accessibility assessment of public services (rating of achievement of the level of quality and accessibility of public services by the subjects of the Russian Federation) in decreasing order of these indicators for each of the estimated public services. Information is brought to the attention of senior officials (heads of higher executive bodies of state authorities) of subjects of the Russian Federation and heads of executive bodies of subjects of the Russian Federation exercising powers in the field of employment of population for making managerial decisions.

The results of quality and accessibility of public services monitoring and assessment are posted on the official website of the Ministry of Labor of Russia.

In 2017, the implementation analysis of the accessibility standards for public services in the field of employment promotion approved by the order of the Ministry of Labor of Russia No. 748n dd October 26, 2017 "On approval of the accessibility standards for public services in the field of employment" as the minimum indicators for each subject of the Russian Federation, showed that the compliance with the accessibility standard of the state service for vocational guidance of citizens in order to choose the scope of activity (occupation), employment, vocational training was 74.5% with the approved standard of 60.0% nationwide.

In order to expand opportunities in the labor market, familiarize with the prospects for employment in the chosen occupations and working conditions at enterprises and organizations the Federal Law No. 495-FZ dd December 28, 2016, added Article 16.3 (The state information resource "Directory of occupations" (hereinafter referred to as the Directory of occupations)) to the Employment Act. This article establishes that the Directory of occupations is the basic state information resource that contains information on occupations in demand in the labor market, promising and new occupations and is located in the federal state information system "Uniform system of standard reference information ".

Formation of the Directory of occupations is performed with the participation of associations of employers, associations of trade unions, and

associations representing professional communities, organizations engaged in educational activities with the main vocational educational programs and additional vocational programs, scientific institutions, federal executive bodies and executive authorities of subjects of the Russian Federation in order to facilitate the receipt of information by citizens and organizations on occupations in demand in the labor market, promising and new occupations. The Directory of occupations is updated annually.

Formation, maintenance and updating of the Directory of occupations is performed in the manner established by the Resolution of the Government of the Russian Federation No. 590 dd May 18, 2017.

The information on occupations in demand in the labor market, promising and new occupations in the Directory of occupations, can be applied by citizens in planning of work, choice of occupation, educational programs and self-education;

Information contained in the Directory of occupations is public. Access to information contained in the Directory of occupations is provided on a gratuitous basis using the information and analytical system the All-Russian vacancy base "Work in Russia" through information and telecommunication networks of general use, including the Internet.

Article 15 – The right of persons with disabilities to independence, social integration and participation in the life of the community

Employment of persons with disabilities

In accordance with the Federal Law "On the Social Protection of Persons with Disabilities in the Russian Federation" (as amended by Federal Law No. 419-FZ dd December 1, 2014), persons with disabilities are provided with employment guarantees by conducting special measures that increase their competitiveness in the labor market, including:

establishment in organizations regardless of the organizational and legal forms and forms of ownership of quotas for employment of persons with disabilities and minimum number of special workplaces for persons with disabilities;

creation of working conditions for persons with disabilities in accordance with individual rehabilitation programs, habilitation of persons with disabilities.

The edict of Federal Law No. 168-FZ dd July 2, 2013 provides that special workplaces for employment of persons with disabilities are equipped by employers taking into account the disabled functions of persons with disabilities and their life activity limitations.

The minimum number of special workplaces for employment of persons with disabilities shall be established by the executive authorities of subjects of the Russian Federation for each enterprise, institution, organization within the established quota for employment of persons with disabilities.

Since 2012 the implementation of supervision and control over the recruitment of persons with disabilities within the established quota with the right to conduct inspections, issuance of binding instructions and preparation of protocols in accordance with the Law of the Russian Federation "On employment in the Russian Federation" has been included in the powers of state authorities of subjects of the Russian Federation in the field of employment promotion.

In 2018 draft federal law to optimize the mechanism for quoting jobs for persons with disabilities has been prepared, in part: establishment of notion of employers' compliance with quotas for employment of persons with disabilities; optimization of activities to identify employers' non-compliance with quotas; increasing the administrative responsibility of employers for violating the rights of persons with disabilities in the field of employment including increasing penalties for employers non-compliance with quotas for hiring disabled people; increase the flexibility of the quota fulfillment. Such measures should remove a number of restrictions as well as increase the protection of persons with disabilities and motivation of employers for their employment.

Moreover, in order to solve problems of effective employment of persons with disabilities, the Decree of the Government of the Russian Federation No. 893-r dd May 10, 2017 approved the plan of measures to increase the employment of persons with disabilities for 2017-2020 (Action Plan).

Within the Plan, it is planned to establish estimated figures in the field of employment promotion, including the number of workers - persons with disabilities of working age annually .

The Order of the Ministry of Labor of Russia No. 747n dd October 26, 2017 established these estimated figures for 2018 by subjects of the Russian Federation.

In general, the measures envisaged by the Plan will allow to increase the level of employment of persons with disabilities at least twice as much as in 2016 by 2020.

The main directions of the Plan include: improving the mechanism for monitoring the employment of persons with disabilities within quota jobs; increasing the effectiveness of employment services; creation of conditions for expanding employment opportunities for persons with disabilities.

The Ministry of Labor of the Russian Federation with the participation of interested federal executive bodies of subjects of the Russian Federation, executive authorities of subjects of the Russian Federation and public organizations, has begun to implement the measures envisaged by the Plan.

Currently, the Federal Law "On Amendments to the Law of the Russian Federation "On Employment in the Russian Federation: has been drafted and adopted within the Plan, it is aimed at organizing support with the employment promotion for persons with disabilities.

The law establishes: initiative character of the activity of employment services regarding persons with disabilities with their consent (such consent can be given by the person with disabilities upon examination or in the personal account of the federal register of persons with disabilities); service for organization of support with the employment promotion for persons with disabilities; providing individual assistance to an unemployed person with disabilities (including formation of their trip to and from work); organization of interaction of an unemployed person with disabilities with an employer. The law also provides for the allocation of a mentor to the person with disabilities, if necessary, and provision of methodological assistance to the employer by employment services. In 2018, it is planned to adopt the necessary regulatory legal acts to implement the standards of the law. The effective date is January 1, 2019.

So, it is necessary to note the change in the previously applied "declarative order" of work with persons with disabilities. The provision of

employment assistance is initiated by the employment services and not by the person with disabilities himself\ herself .

In order to organize the work of employment services, social protection bodies, education, federal institutions of medical and social expertise within the federal state information system "The Federal Register of Persons with Disabilities", for a 100% coverage in the field of employment for persons with disabilities in need of employment, a person-specific registration of persons with disabilities has been performed based on information provided by institutions of medical and social expertise, Pension Fund of the Russian Federation, Social Insurance Fund of the Russian Federation, Ministry of Health of Russia, Ministry of Education and Science of Russia, Federal Service for Labor and Employment.

Targeted work is aimed at identifying the reasons that hinder the employment of person with disabilities, informing the person with disabilities about his\her opportunities and labor rights, about the possibility of obtaining assistance in job search and other services that facilitate the industrial adaptation and rehabilitation of person with disabilities in the labor market.

The employment services form personalized lists of persons with disabilities in need of employment, including those who did not apply to employment services.

The interdepartmental exchange of data regarding persons with disabilities with the Main bureaus of medical and social expertise in the subjects of the Russian Federation has been established.

Information from individual rehabilitation programs for persons with disabilities (IRPI) is sent to employment services, educational, medical, social organizations, pension fund and social insurance fund.

Such an exchange allows the performers of IPRI to know rehabilitation measures recommended to persons with disabilities in advance and to organize work on rendering the assistance necessary for him\her as early as possible.

All citizens with disability registered for the first time are informed in a timely manner about the services of the employment services and possibility of realizing their labor and professional potential in the new living conditions.

In addition, in order to organize a person-specific registration of persons with disabilities who did not apply for assistance in employment and who need

employment, vocational training, employment services interviewed more than 1.65 million persons with disabilities.

The powers of the state authorities of subjects of the Russian Federation in the field of employment promotion include the development and implementation of regional programs consisting of measures to promote employment, including programs to promote employment of people at risk of dismissal as well as citizens particularly in need of social protection and experiencing difficulties in job search; development and implementation of measures of active employment policy of the population, additional measures in the field of employment of the population.

The state provides additional guarantees to citizens with difficulties in job search by developing and implementing employment promotion programs, creating additional jobs and specialized organizations (including workplaces and organizations for workers with disabilities), establishing quotas for employment of persons with disabilities, and organizing training within special programs and other measures.

Additional measures aimed at, inter alia, promotion of employment of persons with disabilities through the provision of subsidies from the federal budget to the budgets of subjects of the Russian Federation in recent years have been implemented by the following resolutions:

Decree of the Government of the Russian Federation № 1432 dd December 20, 2014 "On approval of the Rules for provision and distribution of subsidies from the federal budget to the budgets of subjects of the Russian Federation for the implementation of additional measures in the field of employment within the subprogram in 2015 "Active employment policy of the population and social support for unemployed citizens" of the state program of the Russian Federation "Employment promotion" provided for the implementation of additional activities in the field of employment including creation of infrastructure necessary for unhindered access of the persons with disabilities to workplaces, in all subjects of the Russian Federation. As a result of the program, 14,600 jobs were equipped. The number of persons with disabilities employed was about 14.9 thousand people.

Decree of the Government of the Russian Federation № 35 dd 22.01.2015 "On provision and distribution of subsidies from the federal budget to the budgets of subjects of the Russian Federation for implementation of additional

measures in the field of employment of population aimed at reducing tensions in the labor market of the subjects of the Russian Federation in 2015" provided for the social employment of persons with disabilities in 18 regions of the Russian Federation.. Participants of the additional measure included 4.7 thousand persons with disabilities.

Decree of the Government of the Russian Federation № 155 dd February 29, 2016 "On provision and distribution of subsidies from the federal budget to the budgets of subjects of the Russian Federation for implementation of additional measures in the field of employment of population aimed at reducing tensions in the labor market of the subjects of the Russian Federation in 2015" established the reimbursement of expenses related to the employment of persons with disabilities, including infrastructure development, workplace adaptation and mentoring in 34 subjects of the Russian Federation (including subjects of the Russian Federation not classified as territories with a tense situation in the labor market). About 1,0 thousand persons with disabilities participated in the program.

In addition, monitoring of persons with disabilities establishment in the equipped workplaces in subjects of the Russian Federation has been continued.

Separately, it is necessary to mention the measures implemented by Rostrud in the development of the "Work in Russia" portal. These measures are also envisaged by the Action Plan.

1. A specialized section "Persons with disabilities employment" was created, available on the portal's homepage and containing background information on services available to persons with disabilities.

2. A database of vacancies for employment of persons with disabilities has been formed. In particular, the portal contains information about vacancies within the quota as well as vacancies not related to quotas the employer is ready to hire persons with disabilities for. As of February 27, 2018 the portal "Work in Russia" contained information on about 78.0 thousand jobs for employment of persons with disabilities within the quota.

3. The opportunity to find vacancies suitable for persons with disabilities employment, including created, introduced within the quota (new search criteria have been introduced, including search for vacancies depending on limitations of the body functions; pictograms have been created allowing visual allocation of vacancies within quota) have been realized.

The job search system for persons with disabilities created on the "Work in Russia" portal is unique for the Russian Federation and is not applied to commercial search and selection sites. The entire vacancy database is publicly available.

4. The opportunity to indicate information about disability in the applicant's resume has been implemented. This measure should simplify the process of recruiting employees for employers within quota jobs.

5. There is a voice-controlled service, which allows visually impaired citizens to use every function of "Work in Russia". The service "reads" information from the portal, including information on vacancies.

It should be noted that the number of vacancies for visually impaired within "Work in Russia" is more than 6 times higher than the number of such vacancies on the 5 largest commercial portals to find work put together.

The tasks to develop "Work in Russia" in 2018 include the development of services to monitor the employment of persons with disabilities, quota jobs posted on "Work in Russia."

The number of persons with disabilities who applied to employment services for assistance in job search accounted for 167.1 thousand people in 2017 (137.2 thousand persons with disabilities in 2016). Of them, 53.0% (39.7% for 2016) of the total number of persons with disabilities who found work (job placement) applied for help in job search.

The number of persons with disabilities employed by the employment services in **2017** amounted to more than 88.5 thousand people, and it is **62.6% or 34.1** thousand more than in 2016.

At the same time, more than **50.0%** of the total number of persons with disabilities employed with the help of the employment services, are employed for permanent jobs (according to the monthly monitoring of the implementation of measures to increase the level of employment of persons with disabilities performed by Rostrud).

In addition, according to the results of 2017 there was an increase in the number of persons with disabilities received public services in the sphere of employment for 2017, primarily services:

vocational guidance - in 2017, vocational guidance services, including psychological support and social adaptation, received by 197.1 thousand persons with disabilities , which is 25.6% more than in 2016;

vocational training -in 2017, 6,300 persons with disabilities received the state service for vocational training and it is 28.4% more than in 2016;

organization of temporary employment of persons with disabilities - in 2017 28.4 thousand disabled people took part in temporary employment, including public works, and it is 25.2% more than in 2016.

self-employment promotion (assistance in organizing their own business) - in 2017, 5.0 thousand persons with disabilities received a service to promote self-employment and it is 49.4% more than in 2016.

An upcoming trend in terms of increasing the efficiency of persons with disabilities employment is their involvement in labor activity in budget organizations and joint-stock companies with state participation. In this regard, the Ministry of Labor of Russia is monitoring the data on number of persons with disabilities employed in these organizations as well as proposals are being developed to encourage such organizations to employ persons with disabilities.

A draft resolution was prepared by the Government of the Russian Federation to introduce changes to the standard form of employment contract with the head of the state (municipal) institution approved by the Government of the Russian Federation No. 329 dd April 12, 2013 "On standard form of employment contract with the head of a state (municipal) institution", it will increase employers' compliance with requirements for quoting jobs for persons with disabilities and also to expand for persons with disabilities' employment opportunities.