

Law of the Republic of Belarus

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On Trade-Unions

Chapter 1. General Provisions

Article 1. Trade Unions

Trade union (hereinafter – trade union) is a voluntary social organization associating citizens, including students of higher, special secondary and technical institutions, having common interests by their line of business both in production and commercial spheres in order to protect the working, social and economic rights and interests based on generally accepted principles of international law and established by General Declaration of Human Rights, International Pact on Economic, Social Cultural Rights, International Pact on Civil and Political Rights, conventions of International labour Organization and other duly ratified intentional treaties of the Republic of Belarus.

Article 2. Right of Citizen to Associate with Trade Unions

Citizens have a voluntary right to establish by their choice trade unions, as well as join trade unions subject to observance of their statutes (regulations).

Trade unions may set up, on a voluntary basis, republican and other associations having rights of trade unions, also join these associations.

Republican associations of trade unions may establish in compliance with statutes territorial (Oblast, city, district) and other organizational structures possessing rights of trade unions.

Trade unions (associations of trade unions) and their organizational structures (subdivisions) are legal entities in compliance with the legislation of the Republic of Belarus and their statutes (regulations).

Article 3. Independence of Trade Unions

Trade unions perform their activity in accord with Constitution of the Republic of Belarus, the present Law and other legislative acts of the Republic of Belarus. Activity of trade unions can be limited in

cases envisaged by legislative acts of the Republic of Belarus on behalf of national security, public order or provision of rights and freedoms of other persons.

Trade unions independently work out and approve their statutes (regulations), determine the structure, elect governing bodies, organize their activities, hold meetings, conferences, sessions, congresses.

Trade unions (associations of trade unions), their symbols, modifications and amendments in their statutes shall be state registered in compliance with the legislation of the Republic of Belarus.

In accord with their statutory tasks and purposes, trade unions have a right to co-operate with trade unions of other countries and, at their own choice, enter any international or other trade union associations and organizations.

Article 4. Prohibition of Discrimination of Citizens by Their Trade Union Affiliation

Affiliation or non-affiliation of citizens to trade unions shall not imply any restrictions of their labor, social, economic, political or personal rights and freedoms guaranteed by the legislation of the Republic of Belarus.

Article 5. Termination or Suspension of Trade Unions

Trade union may terminate its activities by decision of its members as stipulated in statutes (regulations) of the given trade union.

If activities of a trade unions (trade union associations) contradict with Constitution or other legislative acts of the Republic of Belarus, it may be suspended for a period of up to 6 month or terminated with respect of republican trade unions and their associations by judgement of Supreme Court of the Republic of Belarus by presentation of the Procurator-General of the Republic of Belarus, and with respect to territorial trade unions – by judgement of the court upon presentation made by procurator of the given administrative unit.

Article 6. Cooperation of State Bodies and Trade Unions

Development and improvement of social partnership, forms and methods of cooperation of trade unions (associations of trade unions), employers (their associations) and state bodies shall be one of priority targets of social and economic policy of the Republic of Belarus.

Trade unions take part in development and implementation of social and economic policy of the State.

Trade unions have a right to make proposals to state bodies with regard to adoption, modification or repeal of legislative acts of the Republic of Belarus on labour and social economic issues. Normative legal acts concerning labor and socio-economic rights of citizens (excluding normative legal acts containing state secrets) shall be adopted by state bodies with prior notification of relevant trade unions (their associations).

Trade unions through their authorized representatives have a right to participate in the work of collective bodies of ministries and other republican bodies, sessions of local executive and administrative bodies, bodies of management of enterprises, institutions and organizations as stipulated by the Council of Ministers of the Republic of Belarus in coordination with relevant trade unions.

Republican and local budgets may reserve funds for implementation, by proposals of corresponding republican or regional trade union associations, of state and local programs (educational, research, cultural, sport, informational, etc.) aimed at realization of constitutional rights and guarantees of citizens.

Article 7. Representative Capacity of Trade Unions

Representative capacity of republican trade unions, their associations and subdivisions in state authorities shall be determined by:

availability of relevant elective, leading and executive bodies and their authority in compliance with norms of statutes (regulations) and legislation of the Republic of Belarus;

availability of established annual statistical accounting by structure and membership, as well as aggregated financial accounting.

If republican trade unions, their associations and subdivisions, including primary organizations, established at enterprises, institutions, organizations, satisfy the above requirements, they shall have all authority provided by the present Law, and protect labor, socio-economic rights and interests of its members on corresponding levels.

Republican trade unions, their associations and subdivisions, including primary organizations, established at enterprises, institutions and organizations, which do not satisfy the above requirements, shall defend interests of its members within the limits of their powers provided by legislation, also through joining (upon consent of members) collective agreements conclude by more representative trade unions and their associations.

Article 8. Legislation on Trade Unions, Their Rights and Guarantees of Their Activities

Legislation on trade unions, their rights and guarantees of their activities is based on Constitution of the Republic of Belarus and consists of the presents Law and other legislative acts of the Republic of Belarus.

The present Law covers all enterprises, institutions and organizations situated in the territory of the Republic of Belarus, independent of their form of ownership.

Peculiar application of the present Law for bodies of internal affairs, state security, as well as Armed Forces, internal and transport armed forces and other military units of the Republic of Belarus shall be determined by relevant laws of the Republic of Belarus.

Article 9. Legislation on Trade Unions and International Laws

Norms of effective international treaties of the Republic of Belarus governing trade unions' activities shall be part of the legislation in force in the territory of the Republic of Belarus and are subject to immediate application, except cases when international treaty stipulates that application of such norms requires adoption of intrastate law. They have effect of a legal act wherein the Republic of Belarus expresses consent of being bound by the relevant international treaty.

Chapter 2. Basic Rights of Trade Unions

Article 10. Rights of Trade Unions to Protect Labor Rights of Citizens

Trade unions shall defend labor rights of their members, take an active part in the development of state policy for employment, put in proposals for social protection of citizens dismissed from enterprises, institutions and organizations in accord with collective agreement and legislation of the Republic of Belarus.

Trade unions defend labor rights of citizens – its members – when concluding or cancelling labor agreements (contracts), acquaint the newly employed with the collective agreement and statutes of the legal person.

In case of incompliance of the labour agreement with legislation of the Republic of Belarus and collective agreement, trade unions have a right to request from the employer to change terms and conditions of labour agreement (contract) in the interests of the employee (member of trade union).

As stipulated by the legislation of the Republic of Belarus, cancellation of labor agreement (contract) by the initiative of the employer shall be conducted after prior notification of trade union, but not later than 3 weeks in advance. If stipulated by collective agreements, cancellation of labor contracts by the initiative of the employer may be conducted only by prior consent of the relevant trade union.

Liquidation or re-organization of enterprises, institutions and organizations, their structural units, full and partial suspension of production by the initiative of the employer, owner or their authorized management bodies, leading to staff reduction or worsening of working conditions, may be only effected subject to prior notification (not later than 3 months in advance) of the relevant trade unions and negotiations with them regarding observance of rights and interests of citizens.

Article 11. Social Protection of Citizens' Rights

In accord with legislation of the Republic of Belarus, trade unions have a right to participate in the development of social programs for establishment of conditions ensuring proper living standards and free development of individual, as well as measures for social protection of citizens, determination of major criteria of living standards, indexation of wages, salaries, pensions, allowances and compensations in accord with changes of price index, solution of questions related to health rehabilitation and medical service of citizens, as well as exercise public control over observance of the legislation of the Republic of Belarus on social protection of citizens.

As stipulated by the legislation of the Republic of Belarus, trade unions shall take part in distribution of housing and facilities for housing construction, exercise public control over record keeping of citizens in need of better dwelling conditions, using of departmental houses and offices, hostels and other dwelling facilities.

Article 12. Participation of Trade Unions in Privatization and Denationalization

Trade unions shall exercise social control over observance of the legislation of the Republic of Belarus on denationalization and privatization of state property in compliance with the law.

If trade unions are authorized representatives of labor collective, they shall be entitled to participate in negotiations on denationalization and privatization of enterprises and have their own representatives in commissions on privatization of state property.

Article 13. Protection of Labor and Environmental Control

Trade unions shall exercise social control over observance of the legislation of the Republic of Belarus on labor protection and environmental control as stipulated by the legislation.

Trade unions shall have a right to participate in examination of safety labor conditions on industrial facilities being designed, under construction or maintained, as well as machinery and tools being designed or operated, also in employee rating in accord with labor conditions.

Trade unions shall have a right to participate in the development of state programs on labor protection and environmental control, as well as other normative documents regulating labor protection, preventive treatment and ecological safety.

In case of violations threatening life and health of workers, trade unions (or public inspectors of trade unions on labour protection) have a right to demand from employer immediate elimination of these violations and address state authorities to take necessary measures.

If demands to eliminate violations (especially those threatening life and health of workers) are not fulfilled, trade unions (or public inspectors of trade unions on labour protection) shall have a right to demand from the employer to stop the work until a decision is taken by relevant bodies.

Article 14. Collective Negotiations, Conclusion of Collective Agreements

Trade unions (associations) and their organizational structures (subdivisions) have a right to hold collective negotiations and conclude collective agreements in accord with the legislation.

Negotiations and reports on fulfilment of collective agreements with trade unions shall be open.

Article 15. Right of Trade Unions to Conclude Agreements in Social and Labor Sphere

Trade unions may conclude with the employers, their associations and state bodies agreements on labor and social protection, determination of major living standards, amount of compensations in accord with price changes, establishment of a living minimum and timely review of the amount of pensions, allowances and grants in accord with price index, on control over fulfilment of the above measures, as well as other issues in compliance with the legislation of the Republic of Belarus.

Article 16. Right of Trade Unions to Control over Fulfilment of Collective Agreement

Trade unions shall exercise control over fulfilment of collective agreements.

In case of violation of collective agreement, trade unions are entitled to address the party of the collective agreement with a request to eliminate such violation. The request shall be examined within two weeks. Upon expiration of the above term, the violating party shall inform the trade union in writing about the decision taken.

If the party does not satisfy trade unions' requirement or disagreement between the parties, the dispute shall be settled in compliance with the legislation of the Republic of Belarus on settlement of collective labor disputes.

Article 17. Authority of Trade Unions in Social Security and Social Insurance

Trade unions shall have a right to represent and defend rights and interests of citizens in state bodies regarding social security and social insurance and exercise public control over their activity in compliance with the legislation.

Article 18. Authority of Trade Unions in the Sphere of Health Protection

Trade unions shall exercise public control over the work of health institutions.

Trade unions manage their own sanatoria and health resorts, support by money and other material resources development and work of sanatoria and health resorts, recreation facilities, children's camps, take part in the development of physical culture, sport and tourism.

On the basis of agreements with the Council of Ministers of the Republic of Belarus, state bodies and republican association of employers, trade unions shall, at the cost of trade unions' funds and revenues of employers, organize work for improvement of sanatoria and health resorts and development of institutions for recreation, tourism, mass physical training and sport using their own material and technical base.

Article 19. Right of Trade Unions to Exercise Public Control over Observance of Legislation of the Republic of Belarus on Labor and Trade Unions

Trade unions shall have a right to exercise public control over observance by the employer, owner or their empowered bodies of management of legislation of the republic of Belarus on labor and trade unions, and shall be entitled to demand elimination of the violations revealed. The employer, owner or their empowered bodies of management shall examine applications of trade unions regarding elimination of violations of the legislation of the Republic of Belarus on labor and trade unions and within one month inform trade unions about the results.

At the request of its members or other citizens, trade unions shall have a right to apply to the court with a claim to protect their labor and social and economic rights. For this purpose, trade unions may have their own services of legal assistance and other necessary bodies which competence is determined by statutes (regulations) of trade unions and legislation of the Republic of Belarus.

To exercise public control over observance of the legislation on labor, protection of social and labor rights and interests of their members, trade unions shall have a right to establish technical and legal inspection committees of labor, trade union's legal and consulting services, services of authorized doctors empowered by the Council of Ministers of the Republic of Belarus.

Trade unions and their technical and legal inspection committees shall co-operate with state supervisory bodies in exercising control over observance of labor legislation of the Republic of Belarus.

Representatives of trade unions duly empowered by their trade unions shall have a right to freely visit enterprises, institutions and organizations independent of their form of ownership and subordination wherein members of the given trade union work, in order to inspect observance of the legislation of the Republic of Belarus on labor and trade unions, and fulfilment by the employers and their officials of terms and conditions of collective agreement. Council of Ministers of the Republic of Belarus shall establish a procedure of public control over observance of the legislation of the Republic of Belarus on labor to be exercised by trade unions.

Article 20. Right of Trade Unions to Receive and Use Information

In accord with the legislation of the Republic of Belarus, trade unions have a right to receive from the employers (their associations), economic entities and state bodies information on problems related to labor and social and economic development within the limits of the set statistical accounting.

Alongside with other social associations, trade unions shall have a right to use state-owned mass media.

Trade unions shall have a right to cover their activities in mass media in compliance with the legislation, and may be founders of mass media, conduct sociological research and have their own scientific, information and training centers.

The right of trade unions to receive and use information shall be governed by the legislation.

Article 21. Right of Trade Union to Participate in Training and Professional Development

In accord with the legislation of the Republic of Belarus, trade unions have a right to establish secondary special and higher educational institutions, training centers, research institutions, carry out training, re-training and professional development of workers and members of trade unions, managers and specialists of enterprises, institutions and organizations and other citizens.

In compliance with the legislation of the Republic of Belarus and agreements concluded, the above institutions of trade unions may be financed from funds allocated by employers.

Article 22. Right of Trade Unions to Declare Strikes

Trade unions shall have a right to organize and conduct strikes in compliance with the legislation of the Republic of Belarus.

In conduction strikes initiated by trade unions any political demands are forbidden.

Chapter 3. Guarantees of Trade Unions' Rights

Article 23. Obligations of Employers (Their Associations), State Bodies, Economic Entities, Social Action Organisations and Officials with Respect to Trade Unions

Employers (their associations), state bodies, economic entities, social action organisations and officials shall observe the rights of trade unions. For infringement of trade unions' rights and hindering their lawful activities, the above bodies shall bear responsibility in compliance with the legislation of the Republic of Belarus.

Employers (their associations), state bodies, economic entities, social action organisations and officials shall have no right to prevent representatives of trade unions from visiting enterprises and organizations wherein members of these trade unions work.

Article 24. Guarantees for Trade Unions' Workers

If a trade union is a participant of collective agreement, trade union workers shall be entitled to the following guarantees (unless otherwise stipulated by the agreement):

cancellation of labor agreement by the initiative of the employer (except cases caused by guilty actions of the worker) with workers elected as members of trade unions and not released from work, shall be allowed only with prior written notice (not later than 2 months in advance) of the trade union;

cancellation of labor agreement by the initiative of the employer (except cases caused by guilty actions of the worker) with leaders of trade unions not released from work, shall be allowed only with prior consent of the higher trade union body;

members of trade unions shall have a privileged right to stay at work during reduction in the number of employed or staff reduction under other equal conditions;

workers released from work due to their election in trade union's bodies shall be given their previous job (position) upon expiration of their term power. If no such job is available, the worker shall be given (under worker's content) any other equal job (position) at the same enterprise, institution or organization;

disciplinary actions against public inspectors of labor protection and control over observance of legislation on labor, or authorized representatives of trade unions to participate in commissions for collective agreements, settlement of labor disputes, conciliation commissions, shall be allowed only with prior consent of the trade union body;

collective agreements may stipulate additional guarantees for trade union members.

Released trade union workers shall have same social and labor rights and privileges as other employees of this enterprise, institution, organization in compliance with collective agreement.

Article 25. Conduct of Mass Arrangements

For the purpose of their statutory objectives, trade unions shall have a right to organize and conduct meetings, street marches, demonstrations and other collective actions to protect interests of their members and in compliance with the legislation of the Republic of Belarus.

Article 26. Protection of Trade Unions' Right

Protection of trade unions' rights is carried out in compliance with the legislation of the Republic of Belarus. Unlawful restriction of trade unions' rights and obstacles in their powers shall be prohibited.

Article 27. Property of Trade Unions

Trade unions shall own, use and manage their property and money resources in compliance with civil legislation.

Trade unions may own buildings, constructions, sanatoria and health resorts, tourism, sport and recreation facilities, educational and cultural institutions, higher and secondary institutions, training centers, research institutions, enterprises, housing fund, publishing houses, printing offices as well as securities and other property required for execution of their statutory activities.

Trade unions shall not be responsible for liabilities of other social associations, state bodies, local authorities, enterprises, institutions and organizations, and the latter shall not be responsible for liabilities of trade unions.

Sources, procedure of formation and use of funds of trade unions' budgets shall be determined by statutes of trade unions.

Sources of incomes of enterprises and organizations belonging to trade unions, amount of revenues and tax payments shall be under control of state financial bodies and tax inspections in compliance with the legislation of the Republic of Belarus.

In accord with their statutory objectives and tasks, trade unions shall have a right to carry out foreign economic activities, establish trade union banks, insurance and joint-stock companies, commercial joint-ventures, and engage in publishing activities, establish solidarity foundations, cultural and other foundations.

Article 28. Creation of Proper Conditions by the Employer for Trade Unions' Activities

The employer shall allocate to trade unions acting at the enterprise, institution or organization for their use any equipment, premises, transport and communications necessary for their activities in compliance with the agreement.

The employer is entitled to allocate to trade unions for the use of their workers and workers families buildings, facilities, premises and other objects, recreation and sport facilities being on the balance of the enterprise, institution and organization or being leased by enterprise, institution, organisation. Maintenance, repair, heating, lighting, cleaning, protection and other service and furnishing of the above facilities shall be carried out in compliance with the agreement.

List of facilities and amount of allocation to trade unions for their activities at the enterprise, institution or organization shall be determined on the basis of terms set up by legislation of the Republic of Belarus and collective agreement.

Article 29. Liability of Trade Unions

Any damage done by trade union through its unlawful actions to the state, individuals or legal entities shall be recovered by the trade union in compliance with the legislation of the Republic Belarus.

* unofficial translation *