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LEGAL NATURE OF DOCUMENTS ADOPTED BY TRADE UNIONS

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ABSTRACT

Implementation of the relevant rights of trade unions established by this article in regulatory legal acts (the right of legislative initiative) b participation in the preparation of draft regulatory legal acts, activities for the adoption of regulatory legal acts as members of elected state bodies of political parties formed by representatives of trade unions or trade unions, preparation of regulatory legal acts by authorized state bodies and other means, including In particular, the issues of the influence of trade unions through their cooperation with members of parliament are legally analyzed.

The article also provides a comparative legal analysis of foreign experience in organizing trade union activities; proposals have been developed to identify priority areas for improving the activities of trade unions, improving legislation regulating this activity.

The participation of trade unions in the law-making process and the documents they adopt are of a specific nature and are considered important in the life of society and the state. The shiitake of trade unions in law-making activities in the world can be classified as:

the implementation of the relevant rights of trade unions established by regulatory legal acts (the right of legislative initiative; the right to participate in the preparation of draft regulatory legal acts, etc.) (Austria, Israel, India, Singapore, Uganda);

activities for the adoption of regulatory legal acts as members of elected state bodies of political parties formed by representatives of trade unions or trade unions;

influence on the process of preparation and adoption of regulatory legal acts by authorized state bodies in other ways, including through the cooperation of trade unions with members of parliament;

cooperation with political parties represented in state bodies (Germany, Norway, Japan, Portugal, France, Italy, Egypt, Senegal), conclusion of contracts with professional lobbyists (USA only), interaction with parliamentary candidates (Armenia, Ukraine).

In accordance with the legislation of Uzbekistan, law-making activities carried out by trade unions can be classified both direct and indirect in terms of content. While direct law-making is manifested in the form of legal acts adopted by trade unions, indirect law-making is



participation in the development of regulatory legal acts affecting the socio-economic rights and interests of employees, and draft regulations in the field of technical regulation, as well as regulatory legal acts and technical documents affecting the socio-economic rights and interests of employees. on draft regulatory acts in the field of regulation.

The Council of the Federation of Trade Unions of Uzbekistan has the right to participate in the development of draft laws and regulatory legal acts on labor and socio-economic issues. For example, trade unions participated in the development of the Labor Code, the laws "On Labor Protection", "On trade unions and their rights and guarantees". With their participation, draft laws "On social partnership" and "On trade unions" were developed [1].

The importance of trade unions in local rulemaking in the system of labor law norms has been repeatedly noted in the scientific and legal literature. Local regulations are closer to mediated public relations than to centralized ones.

Local legal regulation is the adoption of a regulatory act related to the performance by the employer independently or taking into account the opinion of a representative body of employees of only those regulatory and legal functions that operate at the enterprise, institution, organization [2]. In accordance with article 21 of the Labor Code, trade unions at the enterprise and their elected bodies or other bodies elected by employees may represent and protect these interests when expressing the interests of employees in labor relations. It is established that the presence of other representative bodies at the enterprise does not interfere with the activities of trade unions to fulfill their duties. Until now, the situation has developed in such a way that other representative bodies of workers "play a supporting role and do not create competition for traditional trade unions [3]".

The Labor Code provides for the classification of trade unions and their bodies depending on the circumstances of the expression of the interests of employees. Trade unions, their associations, subdivisions and primary trade union organizations have a preferential right to conduct collective negotiations, conclude collective agreements and agreements on behalf of employees whose interests they express.

In the first case, trade unions of organizations participate in the creation of local regulatory documents.

Labor relations are regulated by both legislative acts and local regulations adopted directly by the enterprises, institutions and organizations themselves (by the employer or by agreement of the employer with the representative bodies of employees (jointly)). These include the collective agreement of enterprises and organizations, the network collective agreement, internal labor procedures of the enterprise, etc. Such internal documents:

resolve issues not directly regulated by law; clarify certain conditions and labor standards; provide employees with additional rights and guarantees that go beyond those established by law [4].

If we consider the process of participation in the creation of local documents in the broad sense of the word (as well as any other action aimed not only at directly drafting a legal act, but also at creating a local regulatory act or contributing to it), then we can distinguish the following forms of participation of trade unions in the creation of local documents:

Consultations with the employer regarding the adoption by the elected body of the trade union of local regulations containing the norms of labor legislation (in accordance with article



18 of the law, the employer consults with trade unions before making decisions affecting the interests of employees, and in cases provided for by labor legislation and regulations, receives their consent);

Taking into account the opinion of the trade union when adopting local regulations in the field of labor in cases stipulated by the Labor Code, laws and other regulatory legal acts, collective agreement; (in accordance with article 28 of the Law, trade unions and their associations are required to adopt regulatory legal acts affecting the socio-economic rights and interests of employees, as well as regulatory legal acts in areas of technical regulation). participate in the development of draft documents);

coordination of drafts of local regulatory legal acts, if this is provided for by a collective agreement, agreements.

When implementing various forms of trade union participation in the creation of local norms, various methods and means of work are required to achieve the desired result. In some cases, the employer exerts influence on employees and, accordingly, on their representative body to make profitable decisions. In other cases, local norms have an impact on creativity, leading arguments against the adoption of a document by the employer or giving a reliable motivation to solve the problem of the agenda by means provided for by regulatory legal acts.

In accordance with the legislation, trade unions, their associations, subdivisions and primary trade union organizations have a preferential right to conduct collective negotiations, conclude collective agreements and agreements on behalf of employees whose interests they express.

Persons representing the employer are prohibited from conducting collective negotiations on behalf of employees, as well as concluding collective agreements and agreements.

The rules of the internal labor regulations, the vacation schedule and local documents on remuneration are accepted in a separate order. Their coordination with the representative body of employees is mandatory. In most cases, the interests of employees at the enterprise are represented by trade unions and their elected bodies (the trade union committee). In order for the local document to be implemented and have legal force, the employer must submit it for approval to the representative body of employees operating in the organization. After receiving his consent, the local documents are approved by the employer and come into force.

In labor legislation, the procedure for approving local documents with the trade union, the content of the decision to approve or disagree with the document, the procedure for making reasonable amendments to the letter to the employer, if the trade union committee considers that certain norms contradict the law or insufficiently guarantee the rights of employees, does not establish any mechanisms for approving and applying local documents. Issues such as the employer's acceptance or rejection of the union's objections remain open in the legislation. The trade union Committee is a collegial body, based on the rule of its adoption by a majority vote, it is advisable to clearly define the role of trade unions in the creation of local documents in the law. If there is a strong trade union in the organization, capable of defending the rights of employees in practice, the employer is forced to take into account his



opinion. Thus, the trade union must win and strengthen its reputation as a constructive opposition in the conditions of modern legal realities [5]. The presence of a weak trade union committee, as a purely nominal organization, leads to a reduction in the number of members of the relevant trade union. Indeed, the implementation of protective and representative functions carried out by trade unions in the process of preparing and adopting local regulatory legal acts is actually the most important factor in solving the issue of stimulating membership in trade unions. It depends on how effectively trade union organizations represent and protect the social and labor rights of employees, on the number of people willing to join a trade union [6].

Since the range of local regulations, when adopting which it is necessary to take into account the opinion of the trade union body, is limited to specific circumstances, the trade union committee, as documents adopted in accordance with the collective agreement, must take into account the opinion of the trade union committee or, in agreement with it, consolidate actions affecting the most important issues in the field of labor. This activity is connected with the conduct by trade unions of a "legal examination" of local documents. At the stage of reforming the transition to market relations, the expert value of trade unions becomes even more important. Checking local legal acts for their acceptability and social significance helps to avoid mistakes that may violate the rights and interests of employees. The active use by trade union committees of the rights granted in this area allows to a certain extent to improve the quality of local documents accepted by the employer, which, undoubtedly, should have a positive impact on the level of legal protection of citizens [7].

Local documents must meet the requirements of legislation, the interests of employees, reflect the realities of life (for example, they should not worsen the situation of employees in comparison with labor legislation), transactions, agreements, their preparation and adoption should be carried out in accordance with the procedure established by the organization, the trade union committee is obliged to check local regulations for compliance with all these requirements. In addition, the trade union committee is obliged to ensure that the newly adopted local acts do not contain norms that worsen the situation of workers. Arap should shed light on the economic reasons for making such a decision by a representative body if the employer insists on making such changes to the norms in the text of the local document [8].

Also, in the course of trade unions' activities to create local regulatory documents, the norm-making function of trade unions is implemented. The participation of trade unions in the process of drafting local documents indicates that they act not only in the field of law enforcement, but also in the field of rule-making - the establishment of a regulatory framework for relations between labor subjects and other relevant relations.

In labor relations with employers and in some cases with state authorities regulating social and labor relations, trade union bodies can show their social activity by creating regulatory legal acts.

It is established that normative legal acts affecting the socio-economic rights and interests of employees, as well as draft normative acts in the field of technical regulation, are subject to mandatory coordination with the relevant trade union or union of trade unions. In our opinion, it is necessary to ensure the participation of trade unions not only at the stage of



approving the document, but also in the process of developing the concept of a regulatory legal act.

Although the law does not clearly classify documents adopted directly by the trade unions themselves, in accordance with article 46 of the Law on the Results of Public Control by Trade Unions, a final document is drawn up in the form of a protocol, conclusion, certificate, instruction, submission or other form provided for by law, based on a proposal, protocol, conclusion, certificate, instruction, order, orders, orders, orders, orders, orders, orders, submission, and also the decision can be presented as the main document of trade unions.

In the legal literature, opinions are expressed that the relations of trade unions with their members are not of a legal nature. Such a point of view can be formulated by V.M.Guadov, I.O.Snigireva and other scientists classify such relations into such types as internal (non-legal) and external (legal) relations. As noted in the literature, internal relations are regulated by the charter and other norms within the union. Trade unions are not responsible for fulfilling the rights and obligations to their members [9]. In accordance with Article 77 of the Civil Code, the association (Union) and other associations are not liable for the obligations of their members. However, the literature also suggests that the inability to appeal against the actions of a trade union in relation to the representation of an employee in court negatively affects the union itself.

When a trade union body does not perform its functions effectively, its responsibility takes the form of distrust of it and not being elected for a new term. The number and complexity of the tasks facing trade unions do not always allow us to wait until the end of the term for the election of the head of the trade union or members of the trade union organization and hold trade union meetings ahead of schedule. Similar problems arise at US enterprises, where trade unions can vote on dissolution if the activities of the trade union organization do not satisfy employees. The union will be excluded from negotiations with the management if a majority votes for dissolution. Since the mid-70s, the number of votes for dissolution has doubled and is up to 20% of all votes for the recognition and evaluation of trade unions.

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