

LAW OF THE REPUBLIC OF AZERBAIJAN

About trade unions

The present Law determines rights of trade unions in the Republic of Azerbaijan, warranties of their activity in the protection of labour, social, economic rights and legal interests of trade union members in accordance with the Common Declaration of Human Rights, conventions and recommendations of the International Labour Organisation, *the European Social Charter*. ^[1]

Chapter I

General Provisions

Article 1. Basic definitions

Trade union represent independent public non-political organisation, that joins employees, engaged in production and non-production sphere, as well as pensioners and persons, being educated, on a voluntary individual membership principle for the protection of their labour, social, economic rights and legal interests at working places, professions, branches and on the general republican level. It operates on the basis of own Articles and present Law.

The present Law defines:

- «**initial trade union**» as a trade union, set up by employees of production and non-production sphere, as well as pensioners and persons, being educated, directly at the working place;
- «**professional, branch republican or territorial associations of trade unions**» as *republican or territorial trade union* associations, established by primary professional and branch trade union associations; ^[2]
- ~~«**professional, branch associations of trade unions**» as trade associations, set up by professional and branch trade associations on the republican or corresponding territorial level;~~ ^[3]
- «**employee**» - *an individual, carrying out labor activities on the basis of employment agreement (contract) concluded with the employer in accordance with labor legislation;*
- «**employer**» - *the owner or a manager, designated (authorized) by it, authorized body of the company, as well as the individual entitled to enter into, terminate or change the employment agreements (contracts) with employees who have reached full capacity, engaged in entrepreneurial activity without establishing a legal entity;* ^[4]
- «**company**» - *for the purpose of this Law, any structures, including representative offices or branches of foreign legal entities;* ^[5]

- «**persons, being educated**» as students, ~~pupils~~, mastering corresponding professions, specialties in *institutions of vocational, secondary special and higher education* with giving up work. ^[6]

Article 2. Trade union legislation

Trade union legislation of the Republic of Azerbaijan consists of the Constitution of the Republic of Azerbaijan, present Law, other legislation acts of the Republic of Azerbaijan about activity of trade unions of the Republic of Azerbaijan.

The legislation of the Republic of Azerbaijan is not to restrict trade unions rights, specified in commonly applicable international legal norms and conventions of the International Labour Organisation, *the European Social Charter*.

Article 3. The right for consolidation into trade unions

Employees, pensioners, persons, being educated have all uniform right to voluntary set up trade unions at their choice and without preliminary permission, as well as join trade unions for the protection of their legal interests, labour, social - economic rights and conduct trade union activity.

For the achievement of aims, foreseen in the article 1 of the present Law not less than seven persons have the right to set up a trade union, and having consolidated into a professional union on a voluntary basis adopt its Articles.

The order of membership of non-working pensioners and unemployed to trade unions is regulated by the Articles of trade unions.

Persons, being on military service of the Republic of Azerbaijan are not permitted to consolidate into trade unions.

~~Persons, working in the administration cannot be members of the trade union, operating at a given enterprise.~~ ^[8]

Trade unions can set up their initial organisations, professional, branch, republican and other territorial organisations on a voluntary and independent basis.

In order to perform their statutory functions, trade unions shall have the right on the basis of the voluntary principle to form associations (councils, federations, confederations) on branch, territorial and other characteristics. ^[9]

Article 3-1. Status of a trade unions^[10]

Trade unions may have local, territorial or republican status.

The trade union association, combining the primary trade union organization of institutions by industry (professions) in one administrative-territorial unit (city, region, village) has the status of the local trade union.

The trade union association that combines local trade unions, operating in one administrative-territorial unit (city, region, village) has the status of a territorial trade union.

The trade union association, combining the primary, local and territorial trade unions by industry (professions) and individual spheres has the status of the republican trade union.

In accordance with the fourth part of this article, the trade union association, established in the territory of Nakhchivan Autonomous Republic, has the status of the republican union.

The trade union association, established by combining more than half of the trade unions with republican status, has the status of all-republican union.

Article 4. Articles of trade unions and their registration

The Articles of trade unions is not to contradict the Constitution and laws of the Republic of Azerbaijan. As a rule they are to specify the following:

- 1) name and place of its location;
- 2) aims, tasks, forms and methods of activity;
- 3) membership rules;
- 4) rights and duties of members;
- 5) internal organisational structure;
- 6) elective bodies, rules of their election and recall;
- 7) scope and terms elective bodies authorities;
- 8) financial sources, fixing of membership fees;
- 9) provisions, related to international relations;
- 10) property issues;
- 11) order of the Articles adoption and amendments and addenda to it;
- 12) order of activity termination.

Trade union *association* is considered to be legal entity and has a *status* of a legal entity since the moment of *state registration* of its Articles. [111](#)

The trade union association is to be registered by state in an order, established by the legislation. [\[12\]](#)

Article 5. Independence of trade unions

Trade unions are independent from state bodies, institutions, political parties, public associations in their activity and do not report to them. *Any interference of state bodies and officials, that may restrict trade union rights or impede the lawful activities under their respective Articles, is prohibited.* [\[13\]](#)

Trade unions independently elaborate and adopt their Articles, programs of activity, determine structures, elect and recall administrative bodies, hold meetings, conferences, plenum sessions, sittings, congresses and carry out their activity on the basis of constitutional rights.

All trade unions enjoy equal rights, independently of their name and organisational structure.

Article 6. Restriction of the political activity of the chairmen (vice-chairmen) of trade union associations [\[14\]](#)

~~Trade unions are prohibited to conduct political activity, join political parties or carry out joined activity with them, render assistance, make contributions and get help and charitable means from them.~~ [\[15\]](#)

Heads of trade unions or their deputies cannot at the same time participate in administrative bodies of political parties. Heads of trade unions or their deputies elected or appointed into administration of political parties can continue their activity only on one post.

Article 7. Prohibition of citizens discrimination for their participation into trade unions

Unless otherwise specified in the present Law participation into trade unions cannot cause restriction of labour, social-economic, political, personal rights and freedoms of citizens, guaranteed by the legislation.

It is prohibited to stipulate employee's admittance to work, promotion and dismissal of the employee owing to *his initiative to establish trade unions, entry or walkout from the existing trade union.* [\[16\]](#)

Membership in trade union for men and women should be open, under the same conditions and equal opportunities should be created for them. [\[17\]](#)

Article 8. Termination or suspension of trade unions activity[\[18\]](#)

The termination of trade unions activity is carried out in the order, specified by their Articles.

It is not permitted to set up and ensure activity of trade unions, ~~contradicting requirements of the first part of the article 6 of the present Law,~~ aiming at or by means of overthrow, forced change of constitutional system or break of territorial integrity of the Republic of Azerbaijan, propaganda of war, violence and cruelty, as well as kindling of race, national and religious hostility, conducting of other actions, contradicting constitutional system of the Republic of Azerbaijan and not compatible with its international legal liabilities. The activity of such trade unions is terminated in *an order established by the legislation by the Constitutional Court of the Republic of Azerbaijan.* ^[19]

The activities of trade union that impede the elimination of circumstances leading to the declaration of martial law and the implementation of established measures may be suspended until the end of the state of martial law. ^[20]

Article 9. Symbols of trade unions

Professional, branch and Republican associations of trade unions can have symbols, flags, membership certificates, not contradicting to national-ethical peculiarities of the Azerbaijan people, constitutional system and territorial integrity of the Republic of Azerbaijan. These symbols are adopted by the respective bodies of trade unions ~~and approved by the governmental registering body in the applicable order.~~ ^[21]

Trade unions cannot use *symbols* of political parties. ^[22]

Chapter II

General rights of trade unions

Article 10. Trade unions participation in the elaboration of norms

Trade unions can participate in the elaboration of legislative acts of labour and social-economic issues.

Draft laws, related to labour, social and economic rights of employees are considered with discussion of conclusion of the republican association of trade unions.

Republican associations of trade unions can appeal only to corresponding legislative, executive and court authorities to claim legislative acts, resolutions and instructions of state bodies, contradicting employees interests and rights of trade unions.

Normative acts, concerned with labour, social-economic rights and interests of employees are adopted by state authorities *and local governments* after preliminary notification of the corresponding trade union prior not less than 15 days. ^[23]

In legally specified cases, the republican association of trade unions *participates* in the elaboration of normative acts, regulating rules of application of the legislation about labour and social-economic issues. ^[24]

Article 11. Rights of trade unions on the protection of labour rights

Trade unions protect labour rights of their members, take part in the working out of state occupational policy.

If the liquidation of the enterprise or its structural subdivisions at the initiative of *the employer* can result in full or partial termination of production, reduction of working places or deterioration of labour conditions, such measures are to be conducted with preliminary notification of corresponding trade unions prior not less than three months and conducting of negotiations on the observance of employees rights and interests, unless otherwise specified by the legislation.

Trade unions carry out control over state of occupation, observance of the legislation about guarantees in occupational field within the limits of their authorities and in the legally established order.

Article 12. Rights of trade unions for control over observance of legislation about labour and trade unions

Trade unions are entitled to demand from *the employer* the observance of the legislation about labour and trade unions, as well as social economic issues and elimination of infringements found.

The *employer* is bound to consider these demands and inform trade unions about results in the specified period but not later than a month.

In case of head of the enterprise (branch office, representation, department or another separate division) or its deputies infringing labour legislation, non-fulfillment of terms (liabilities) under the collective contract (agreement) in force, trade unions can raise a question about drawing them to disciplinary responsibility before competent authorities.

Trade unions can appeal to court with claims to protect rights of their members and fulfil duties of a representation at court's sittings.

Trade unions independently set up services of rendering legal aid to their members and organise ~~attorney's offices of trade union~~, legal inspections, legal expert groups, legal ~~consultation~~ offices, firms and other bodies. ^[26]

Article 13. Rights of trade unions in relation to labour safety

Trade unions are to participate in the control over observance of the legislation, regulating employees' labour safety at working places, compensation for injures as a result of production traumas, observance of labour conditions norms, production sanitary, by the *employer* in accordance with the requirements of the present Law, the Law of the Republic of Azerbaijan «About labour safety» and other normative acts. ^[27]

Article 14. Rights of trade unions on the conclusion of collective bargaining contracts (agreements)

The rights of trade unions for conclusion of collective contracts and agreements will be established by the legislation of the Republic of Azerbaijan. ^[28]

Collective bargaining and collective bargaining agreement conclusion is based on the proposals of trade unions.

Trade unions within its powers carries out collective bargaining and conclude collective bargaining agreements with public bodies and other organizations on issues of economic, social and cultural development.

Public authorities and employers are obliged to start negotiations on collective bargaining agreements conclusion within ten calendar days from the date of receipt of the written proposals of trade unions and provide the answer to the initiator of collective bargaining, by providing information about the representatives who will participate in the negotiations from their side. ^[29]

Trade unions within its powers carries out control over the execution of collective bargaining and collective agreements in accordance with the legislation.

Article 15. Rights of trade unions in the field of fulfilment of control over the employees life level

Associations of trade unions participate within the limits of their powers in the preparation of plans and programs of social and economic protection of their employees, determination of compensation amounts depending on the change of main criteria of life, and prices coefficient, participate in the control over observance of life minimum, fixed by the legislation, and timely increase of salaries, pensions, scholarships and benefits caused by the growth of prices.

Article 16. International relations of trade unions

According to the aims and tasks of their Articles trade unions can join international organisations of trade unions, conduct foreign economic activity in the legally specified order.

Article 17. Informational rights of trade unions

With the aim of realisation of their tasks and rights under Articles and authorities, specified in the present Law, as well as informing of their members trade unions can set up mass media and publishing houses; press services and sociological investigation centres, demand data, not representing state, commercial or another secrete, protected by law, from officials, state and economic bodies and *employer*. ^[30]

State and economic bodies and the *employer* are bound to freely supply trade unions with the related information.

Article 18. Rights of trade unions in the consideration of labour disputes

Trade unions solve labour disputes of their members with the *employer* within the limits of their powers and participate in the consideration of collective labour disputes (conflicts)..^[31]

The subject and order of labour disputes (conflicts) solving are determined by the legislation of the Republic of Azerbaijan.

Article 19. Rights of trade unions for the conducting of mass measures

Trade unions can organise and hold strikes, meetings, street marches, demonstrations and other mass measures under legislation in force and for achievement of their aims and tasks according to the Articles.

Chapter III

Legal guarantees of activity and property status of trade unions

Article 20. Duties of the state and economic bodies, public organisations and officials in relation to trade unions ^[32]

State and economic bodies, political parties and public associations, *employer and other* officials are to observe trade unions rights and further their activity. ^[33]

The employer, regardless of ownership, by accounting ensures deduction of membership fees to the trade union from the employees' salaries, who are members of the trade union,

and within 4 working days transfers them to the special account of the trade union organization of this enterprise, company or organization. [134](#)

The infringement of this Law cause disciplinary, administrative or criminal responsibility in an order stipulated by the legislation. [135](#)

It is prohibited to create obstacles to heads of trade unions to visit working place of trade union members to check observance of the legislation about labour and trade unions, conditions of collective contracts, labour agreements, social issues by the *employer* and in connection with other issues of trade union aims. [136](#)

Receiving of preliminary consent of the trade union when terminating the employment contract by the employer shall be regulated in accordance with the labor legislation of the Republic of Azerbaijan. [137](#)

Article 21. Guarantees for employees, elected into trade unions bodies and not discharged from job functions performance[138](#)

Members of trade unions, not discharged from *job functions performance*, for the period of their participation in elected trade union bodies, *organized training courses, seminars* are discharged from *job functions performance* with the payment of average salary at the expense of trade union with consent of the *employer*. [139](#)

Members of the trade union, elected into the composition of initial organisations of trade unions and not discharged from *job functions performance*, are granted free time, the length and terms of which are state in the collective contracts (agreements) for the conducting of trade union activity.

Article 22. Guarantees for employees, elected into trade unions bodies and discharged from job functions performance[140](#)

Members of the trade union, discharged from *job functions performance* in connection with their election for elective positions of trade union bodies are granted previously occupied job (position) and in case of its unavailability - another equal job (position) on the same or another enterprise with the employee's consent. [141](#)

If there is no possibility to grant corresponding job (position) the trade union retains an average salary to employee for the period of his looking for a job, but for not longer than six months.

The employees, elected to the trade union and discharged from job function performance in the company, are subject to the privileges established for other employees of the enterprise on an equal basis. [142](#)

Article 23. Duties of the employer on the provision of material conditions for the activity of trade union initial organisations^[43]

The *employer* provides equipment and premises, necessary for the activity of organisation of trade union on conditions, specified in the collective contract.

Under the resolution, adopted at the conclusion of the collective contract the enterprise can submit either available or leased premises, constructions and other units, as well as recreational bases, children's and other health camps, necessary for the organisation of recreation, cultural-educational, physical and healthy work with employees and members of their families, for free of charge utilisation of trade union.

The enterprise can supply trade unions with means for social, economic and cultural measures, specified by the collective contract.

Article 24. Guarantees of trade unions property rights

The order of accumulation and spending of trade unions budget is determined by their Articles.

Trade unions can own property, financial means, including currency, and other property, necessary for the material provision of their charter activity, on a collective-property basis. ^[44]

It is not permitted to confiscate property of trade unions.

At the termination of trade union activity, the fate of its property is to be determined in order, specified by the Articles of the corresponding trade union.

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