

# The Law of the Azerbaijan Republic

## About trade unions

The present Law determines rights of trade unions in the Azerbaijan Republic, 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.

### **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 associations of trade unions*» as trade associations, set up by professional and branch trade associations on the republican or corresponding territorial level;

«*citizens*» as citizens of the Azerbaijan Republic and persons without citizenship, as well as foreign citizens, working on labour contract basis at enterprises, independently of the form of property and economic mode on a corresponding speciality and profession;

«*administration*» as officials of the enterprise, independently of the form of property and economic mode, as well as owners or administrative body authorised by them, having the right to conclude, cancel or amend labour contracts with employees;

«*enterprise*» as institution, enterprise, organisation, association, joint or mixed type ventures, joint stock societies, farms and other working places, independent of the form of property and economic mode;

«*persons, being educated*» as students, pupils, mastering corresponding professions, specialities in colleges of higher education and secondary vocational schools, vocational technical schools with giving up work.

## **Article 2. Trade union legislation**

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

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

## **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 Azerbaijan Republic 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.

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

## **Article 4. Articles of trade unions and their registration**

The Articles of trade unions is not to contradict the Constitution and laws of the Azerbaijan Republic. 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 is considered to be legal entity and enjoys rights of a legal entity since the moment of registration of its Articles.

The Articles of the trade union is registered in the order, specified by the Law of the Azerbaijan Republic «About public associations».

### ***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, able to prevent trade unions from execution of their rights, excluding cases specified by the present Law, is prohibited.

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. Inadmissibility of political activity of trade unions***

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.

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 owing to his membership to a certain trade union, joining or coming out of it.

### ***Article 8. Termination of trade unions activity***

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 Azerbaijan Republic, 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 Azerbaijan Republic and not compatible with its international legal liabilities. The activity of such trade unions is terminated by the Supreme Court of the Azerbaijan Republic at the submittal of the Ministry of Justice of the Azerbaijan Republic.

### ***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 Azerbaijan Republic. These symbols are adopted by the corresponding bodies of trade unions and confirmed by the registering body in the applicable order.

Trade unions cannot use symbols of political parties.

## ***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 and economic authorities after preliminary notification of the corresponding trade union prior not less than 15 days.

In legally specified cases republican association of trade unions can participate in the elaboration of normative acts, regulating rules of application of the legislation about labour and social-economic issues.

### ***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 administration 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 administration the observance of the legislation about labour and trade unions, as well as social economic issues and elimination of infringements found.

The administration 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-fulfilment 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 unions, legal inspections, legal expert groups, legal consultation offices, firms and other bodies.

### ***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 administration in

accordance with the requirements of the present Law, the Law of the Azerbaijan Republic «About labour safety» and other normative acts.

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

Trade unions have preferential right in the holding of negotiations with the administration, state and economic authorities and conclusion of collective contracts and agreements.

Holding of negotiations and conclusion of collective contracts are to be carried out on the basis of trade unions proposals.

Trade association conduct negotiations with corresponding state and economic bodies on problems of economic, social and cultural development.

The administration, state and economic authorities are to start not later than 10 days negotiations about conclusion of collective contracts, agreements at trade union proposals.

Trade unions effect control over the execution of collective contracts, agreements.

The order of collective contracts (agreements) conclusion is determined by the legislation of the Azerbaijan Republic.

**Article 15. Rights of trade unions in the filed 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 administration.

State and economic bodies and the administration 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 administration within the limits of their powers and participate in the consideration of collective labour disputes (conflicts).

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

***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 administration, state and economic bodies, public organisations and officials in relation to trade unions***

State and economic bodies, political parties and public associations, administration and officials are to observe trade unions rights and further their activity.

The infringement of trade union's rights or prevention of its legal activity cause disciplinary, administrative or criminal responsibility in the legally specified order.

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 administration and in connection with other issues of trade union aims.

***Article 21. Guarantees for employees, elected into trade unions bodies and not released from work***

Members of trade unions, not released from work, are released from work with the payment of average salary at the expense of trade union with consent of the administration.

Members of the trade union, elected into the composition of initial organisations of trade unions and not released from production work, 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 released from production work***

Members of the trade union, released from work 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.

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.

***Article 23. Duties of the administration on the provision of material conditions for the activity of trade union initial organisations***

The administration of the enterprise 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.

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.

***President of the Azerbaijan Republic***

***Heydar Aliyev***

***Baku, February 24, 1994***

***N 792***