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## **THE PROTECTION OF TRADE UNIONS' FUNDS AND PROPERTY**

### **ЗАХИСТ КОШТІВ І МАЙНА ПРОФСПІЛКОВИХ ОРГАНІЗАЦІЙ**

#### **Topicality**

In foreign countries the problem of ensuring the legitimate administration of trade union funds and property and their protection against misuse, while at the same time avoiding interference by the public authorities with the right of workers and employers' organizations to conduct their own internal affairs in full freedom, especially since the Second World War, has become the subject of increasing public interest and concern.

While the problem has existed as a problem of law and practice in many countries almost as long as the workers and employers in those countries have organised themselves in associations for the purpose of engaging in collective industrial relations, a number of developments in recent years have contributed to bring the question to the notice of a wider public than the authorities and organisations most directly concerned.

#### **Goal**

In Ukraine the lower standard of living caused by the recent crisis demand that trade unions defend the rights of hired workers. The issue became even more urgent after Ukrainian government has been trying to become the owner of all funds and all property of trade unions, which belongs to them by right of ownership. However, Ukrainian trade unions, unlike those in foreign countries, are unable to spearhead resistance to the pressure exercised by the government which has teamed up with big business to put the trade union movement and its property under its control.

The present study is devoted to the study of foreign law and practice and particular reference to the following subjects:

- sources of trade union funds and property;

- purposes for which trade union funds and property may or may not be utilised;
- internal administration of trade union funds and property;
- voluntary measures to secure or encourage good trade union administration;
- supervision of trade union financial administration by public authorities;
- sanctions in respect of unauthorised use of trade union funds and contraventions of legislative provisions;
- disposal of trade union assets on winding-up or dissolution.

Ukrainian trade unions have such problems as financial weakness, leadership issue, politicalisation of unions, problem of recognition of trade unions. Every effort has been made to concentrate particularly on legal provisions and practice relating specifically to trade union funds and property, it has also been found necessary to make some reference to measures of wider scope in cases where the financial administration, autonomy or supervision of trade unions has to be judged in the light of provisions affecting trade union activity as a whole.

On the other hand, certain aspects of the legal status of trade unions which closely affect trade union funds and property — such as the acquisition of legal personality, the right to sue and be sued, immunities from criminal or civil actions in certain cases, etc. — have not been specifically pursued, because they would require considerable research into points of abstruse law and practice which sometimes require controversial issues, without contributing materially to the solution of the real problem under consideration.

In most cases, foreign trade union funds are primarily derived from the regular contributions of the members who also often pay an entrance fee when they first join the union. In times of urgent need, some unions impose special levies on their members in addition. Of comparatively less importance from a purely financial point of view are the fines imposed on members as a disciplinary measure and the legacies, bequests and gifts that unions may receive from time to time. In a few countries, legislation has enabled unions to benefit from contributions levied on non-members. In certain cases, governments assist trade unions indirectly — e.g., by granting fiscal exemptions or privileged use of public services or by enacting laws which protect their property against distraint — while in others a direct governmental subsidy may be paid, either to the general funds of the union or

as a special payment earmarked for particular purposes. Finally, in very few instances, payments to trade unions by employers are specifically permitted or prescribed by laws.

The principal international standards for the purpose of ensuring the independence of foreign workers and employers' organisations in their internal administration (including, of course, financial matters) are laid down in the Freedom of Association and Protection of the Right to Organise Convention (No. 87) which was adopted by the International Labour Conference in 1948. Article 3 of this Convention is the most important for the question of the independence of financial administration and related matters, it should be remembered that Article 4 of the Convention provides that "Workers and employers' organisations shall not be liable to be dissolved or suspended by administrative authority"; this is particularly important when considering the sanctions which may be imposed on organisations in the event of unauthorised use of their funds [1].

In the U.S.S.R. large grants were made to workers' organisations, which were charged with duties in regard to the state insurance scheme, labour protection and activities in the field of culture and sport, and the position appeared to be similar in Bulgaria, Hungary and Poland, however, portions of state property in these countries may be handed over permanently to corporate bodies for their own use [2].

### **Summary**

Trade union rules should provide: the fixing and method of collection of entrance fees and contributions; the conditions under which special levies may be imposed; the conditions under which fines may be imposed on members and the maximum amount of such fines. We point out the difficulty of the problems which arise in regard to the protection of Ukrainian trade union funds against misuse today, and we approve the proposal that a full and objective study of the matter should be prepared. Ukrainian trade unions is a further illustration of the difficulty and importance of these problems, but it considers that, since in the present case the intervention of the government is of a purely temporary and exceptional nature. Legal requirements in Ukraine concerning provisions to be included in union rules or statutory provisions governing the above matters, should not be such as to impose unreasonable restrictions on the right of unions to draw up their constitutions and rules and to organise their administration. Supervision of Ukrainian trade unions general funds should not normally exceed a control to ensure that formal

statutory conditions, such as the furnishing by trade unions of annual financial returns, are complied with, and should not, in any event, infringe the generally accepted right of organisations to draw up their constitutions and rules, to elect their representatives in full freedom and to organise their administration and activities. Where measures of other than purely formal supervision exist in the case of trade unions which are at a relatively early stage of development, the government should bear in mind the desirability of relaxing such measures, progressively and as quickly as possible.

### **References**

1. The Freedom of Association and Protection of the Right to Organise Convention. (1948). No 87.
2. Constitution and Rules of the Trade Unions of the U.S.S.R. (1954). Adopted by the 11<sup>th</sup> Trade Union Congress of the U.S.S.R., 15 June 1954. Moscow, Central Council of Trade Unions, Profizdat.

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## **ЗАРУБІЖНІ КЛАСИФІКАЦІЇ ПРАВ ДИТИНИ**

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Невід'ємною складовою прав людини є права дитини. В міжнародних нормативно-правових актах та національному законодавстві визначено, що саме діти потребують особливого захисту з боку держави. При цьому їх місце у світі залежить від змісту та специфіки прав неповнолітніх осіб.

**Метою публікації** є дослідження зарубіжних класифікацій прав дитини.

Існування різних правових систем у світі сприяло створенню низки класифікацій прав дитини. На думку Б. Франкліна, найпоширенішим є поділ прав дитини на дві групи [1], а саме: