



# LAW OF THE KYRGYZ REPUBLIC

dated October 16, 1998 No. 130

## About trade unions

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*(As amended by the Law of the Kyrgyz Republic dated August 4, 2004 No. 105)*

### **Chapter I General Provisions**

#### **Article 1. Trade unions in the Kyrgyz Republic**

Trade unions (trade unions) in the Kyrgyz Republic are voluntary public associations of citizens on the basis of common interests by type of activity both in the production and non-production spheres, created to protect the labor and socio-economic rights and interests of their members.

#### **Article 2. Right to unionize**

Every citizen who has reached the age of fourteen and is working or studying in an educational institution, as well as pensioners, have the right to voluntarily form trade unions of their choice, as well as join trade unions, subject to their statutes.

Trade unions can be created at enterprises, institutions and organizations, regardless of the form of ownership, with three or more employees. Their representative bodies are committees or trade union organizers elected at trade union meetings (conferences).

### **Article 3. Registration of trade unions, their associations, primary trade union organizations as a legal entity**

The legal capacity of trade unions, their associations as a legal entity arises from the moment of their state registration in the manner prescribed by the legislation of the Kyrgyz Republic.

*(As amended by the Law of the Kyrgyz Republic dated August 4, 2004 No. 105 )*

### **Article 4. Independence of trade unions**

Trade unions are independent in their activities and are subject only to the legislation of the Kyrgyz Republic. They are not accountable and not controlled by state authorities, employers, political parties and other public associations. Any intervention capable of restricting the rights of trade unions or hindering the implementation of their statutory activities is prohibited, unless otherwise provided by law.

*(As amended by the Law of the Kyrgyz Republic dated August 4, 2004 No. 105 )*

### **Article 5**

Belonging or not belonging to trade unions does not entail any restriction of labor, socio-economic, political, personal rights and freedoms of citizens guaranteed by the Constitution of the Kyrgyz Republic. It is forbidden to condition the hiring, promotion at work, as well as the dismissal of an employee due to his membership or non-affiliation to a trade union, joining or leaving it.

### **Article 6**

The reorganization or termination of the activity of a trade union or primary trade union organization is carried out by decision of its members in the manner determined by the charter of the trade union, the regulation on the primary trade union organization, and the liquidation of the trade union or primary trade union organization as a legal entity - in accordance with the legislation on registration of legal entities.

If the activities of republican trade union associations are contrary to the Constitution and laws of the Kyrgyz Republic, they may be suspended for up to six months or prohibited by a decision of the Supreme Court of the Kyrgyz Republic on the proposal of the Prosecutor General of the Kyrgyz Republic.

If the activity of territorial trade unions, their associations or primary trade union organizations is contrary to the Constitution and laws of the Kyrgyz Republic, it may be suspended for up to six months or prohibited by the decision of the relevant local court upon the proposal of the prosecutor of the relevant region, city, or district.

### **Article 7. Legislation on trade unions, rights and guarantees of their activities**

Legislation on trade unions, rights and guarantees of their activities consists of this Law, other laws and other regulatory legal acts of the Kyrgyz Republic adopted in accordance with them.

Features of the application of this Law in the Armed Forces, internal affairs bodies, national security bodies, internal troops are determined by the relevant laws of the Kyrgyz Republic.

## **Article 8. Powers of primary trade union organizations**

The powers of primary trade union organizations are determined by the legislation of the Kyrgyz Republic, trade union charters, collective agreements, agreements concluded between trade unions and employers.

Primary trade union organizations, their representative bodies function according to the charter of the republican, inter-trade union, territorial or sectoral association of trade unions.

## **Chapter II Fundamental Rights of Trade Unions**

### **Article 9. Rights of trade unions to protect the labor rights of workers**

Trade unions protect the rights of their members to work, take part in the development of the state employment policy, carry out public control over the state of employment of citizens and compliance with the legislation of the Kyrgyz Republic on labor and employment, propose measures for the social protection of persons released from enterprises, determined by a collective agreement, an agreement on basis of legislation.

A change in the form of ownership, liquidation, reorganization of an enterprise and its structural divisions, full or partial suspension of production at the initiative of the employer, owner or a management body authorized by him, entailing a reduction in jobs or deterioration in working conditions, can only be carried out subject to prior notification of at least for three months of the relevant trade unions and negotiations with them on the observance of the rights and interests of workers.

*(As amended by the Law of the Kyrgyz Republic dated August 4, 2004 No. 105 )*

### **Article 10. Termination of an employment contract at the request of a trade union body**

At the request of the trade union body, the employer is obliged to terminate the employment contract with an official of a state enterprise or remove him from his position if he violates labor legislation or does not fulfill an obligation under a collective agreement.

If a violation of the labor law, infringement of the labor rights of an employee is allowed by the employer or an official of an enterprise of a non-state form of ownership, then at the request of the trade union body they can be removed from their positions for up to 6 months.

The demand of the trade union body to terminate the employment contract or dismissal from office may be appealed within ten days by an official or employer to a higher trade union body, the decision of which is final.

*(As amended by the Law of the Kyrgyz Republic dated August 4, 2004 No. 105 )*

### **Article 11. The rights of trade unions to negotiate and conclude collective agreements, agreements**

Trade unions act as a social partner in labor and socio-economic relations with state authorities, local governments and associations of employers, employers (their representatives).

Trade unions and their bodies have the right to negotiate with the administration of the employer, the owner or the body of dispatch authorized by him, to conclude collective agreements, agreements on behalf of workers at the republican, sectoral and territorial levels, to control their implementation.

Trade unions protect the labor, socio-economic rights and legitimate interests of their members by concluding:

general agreements between the Federation of Trade Unions of Kyrgyzstan, the Government of the Kyrgyz Republic and associations of employers;

agreements between republican branch trade unions and ministries, departments;

agreements between territorial associations of trade unions, employers and local executive authorities;

collective agreements with employers.

Agreements and collective agreements are legally binding for enterprises, organizations and institutions, regardless of the form of ownership in the respective territory or industry, as well as for financial and industrial groups of transnational corporations, enterprises with foreign capital.

Trade unions have the right to negotiate with other representative bodies of employees of enterprises, to distribute their propaganda materials.

*(As amended by the Law of the Kyrgyz Republic dated August 4, 2004 No. 105 )*

## **Article 12**

The rights of trade unions to protect the rights of citizens in the field of conditions and wages, labor protection and safety at work, housing conditions, social insurance, health protection and cultural interests of workers, pensions are regulated by the relevant legislation of the Kyrgyz Republic.

Republican, territorial associations of trade unions and primary trade union organizations, within their competence, participate in the development of measures for the social and economic protection of workers, determining the main criteria for the living standards of the population, the amount of compensation depending on changes in the price index, monitor compliance with the legally established subsistence minimum and pensions, scholarships, allowances, have the right to apply to the court with a statement of claim against violators of the social rights of citizens.

## **Article 13. Rights of trade unions in the field of social insurance, social security and health protection**

Trade unions participate in the management of funds intended for social insurance of workers and members of their families, on the principles of equality and exercise public control over the work of social security, social insurance and healthcare bodies of the Kyrgyz Republic.

## **Article 14. Rights of trade unions to exercise control over compliance with labor legislation**

Trade unions have the right to monitor compliance by the employer with the legislation of the Kyrgyz Republic on labor and employment of the population, the

implementation of collective agreements, agreements and demand the elimination of identified violations. The employer is obliged to consider the submissions of trade unions to eliminate violations of the law or to cancel the illegal decision and, within a month, inform the trade union body about the results of its consideration and the measures taken.

To supervise and control compliance with labor and labor protection legislation, trade unions create legal and technical labor inspectorates that have the same rights as the state labor inspectorate and act in accordance with the provisions approved by the Federation of Trade Unions of Kyrgyzstan.

*(As amended by the Law of the Kyrgyz Republic dated August 4, 2004 No. 105 )*

#### **Article 15**

Trade unions, their bodies have the right to have their representatives in commissions for the privatization of state property, including social facilities, created in the structure of state power and their representative body.

Trade unions have the right to demand from the boards of business partnerships and companies that they respect the legal rights and social guarantees of their participants - members of the labor collective, to apply to the court with a statement of claim against an employer who violates their rights.

*(As amended by the Law of the Kyrgyz Republic dated August 4, 2004 No. 105 )*

#### **Article 16**

Representatives of trade unions on a parity basis are included in the body for the consideration of labor disputes and participate in their resolution in accordance with labor legislation.

To protect the socio-economic, labor, housing and other rights of their members, trade unions create legal services and organize consultations.

#### **Article 17**

Trade unions participate in the development of the socio-economic policy of the state, in the development of legislative acts of the Kyrgyz Republic on social and labor issues as an equal social partner in the tripartism system.

Trade unions have the right to make proposals to state authorities on the adoption, amendment or repeal of legislative and other normative acts on labor and socio-economic issues.

Trade unions have the right to nominate their representatives for election to other representative bodies.

Trade unions have the right to have their representatives in the collegial management bodies of enterprises.

Trade unions have the right to participate in the conclusion of interstate agreements on issues of migration, employment, labor, pricing and social security.

#### **Article 18. The rights of trade unions to information**

In order to carry out their statutory activities, trade unions have the right to receive free and unhindered information from the employer, as well as from state bodies, on issues related to labor and socio-economic development.

Trade unions have the right to cover their activities in the media, create their own media, can conduct sociological research, have cash, information, educational, methodological, research centers.

Representatives of the trade union have the right to freely visit enterprises and workplaces where members of the trade union work in order to fulfill the statutory tasks and exercise their rights.

*(As amended by the Law of the Kyrgyz Republic dated August 4, 2004 No. 105 )*

#### **Article 19**

rallies, street marches, demonstrations , strikes and other collective actions in defense of the interests of trade union members in accordance with the legislation of the Kyrgyz Republic and the charters of trade unions.

#### **Article 20. Representing the interests of employees in court**

Trade unions have the right to represent in court the legitimate rights and interests of their members at any stage of legal proceedings.

### **Chapter III Guarantees of trade union rights**

#### **Article 21. Guarantees of property rights of trade unions**

Trade unions own, use and dispose of property belonging to them by right of ownership and funds necessary to ensure their statutory activities. Trade union property is not subject to privatization.

Trade unions, in accordance with their statutory goals and objectives, have the right, in accordance with the procedure established by law, to create trade union banks, insurance, cultural, educational and other funds, as well as to carry out foreign economic, sanatorium, tourism and sports activities.

Trade unions are not liable for the obligations of state, economic, cooperative and other public organizations, which, in turn, are not liable for the obligations of trade unions.

Sources, the procedure for the formation and use of the funds of the trade union budget are determined by the charters of trade unions and collective agreements.

The financial activities of trade unions are carried out in accordance with their charters.

#### **Article 22. Guarantees for elected trade union workers**

Dismissal at the initiative of the employer of the chairmen of trade union committees, members of the trade union committee, trade union organizers who are not released from production work, in addition to the general procedure for terminating the employment contract established by the Labor Code of the Kyrgyz Republic, is allowed only with the consent of the higher trade union body.

*(As amended by the Law of the Kyrgyz Republic dated August 4, 2004 No. 105 )*

#### **Article 23. Judicial protection of the rights of trade unions**

Judicial protection of the rights of trade unions and their elected representative bodies is guaranteed.

Cases of violations of the rights of trade unions are considered by the court on the proposal of the prosecutor or on the basis of a statement of claim or complaint of the relevant trade union body, primary trade union organization.

#### **Article 24. Responsibility for violation of the rights of trade unions**

For violation of the legislation on trade unions and their charters, officials of public authorities, employers bear disciplinary, administrative, criminal liability in the manner prescribed by the legislation of the Kyrgyz Republic.

*(As amended by the Law of the Kyrgyz Republic dated August 4, 2004 No. 105 )*

### **Chapter IV Responsibility of trade unions**

#### **Article 25. Responsibility of trade unions**

For violation of their obligations under a collective agreement, agreement, organization and conduct of a strike recognized by the court as illegal, trade unions and persons included in their governing bodies are liable in accordance with the legislation of the Kyrgyz Republic.

### **Chapter V Final Provisions**

#### **Article 26. Entry into force of this Law**

1. Enact this Law from the moment of its publication.
2. Instruct the Government of the Kyrgyz Republic to bring its regulatory legal acts in line with this Law.

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**President of the  
Kyrgyz Republic**

**A.Akaev**

**Adopted by the  
Legislative Assembly  
of the Jogorku Kenesh  
of the Kyrgyz Republic**

**October 5, 1998**