

# Legal Status and Procedure for The Formation of Trade Unions in Uzbekistan

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**Abstract:** This article examines the legal status and organizational framework of trade unions in Uzbekistan. It analyzes the unique legal mechanisms that distinguish trade unions from other public associations, particularly in the processes of formation, reorganization, and dissolution. The research is based on comparative legal analysis, national legislation, including the Law "On Trade Unions" and the Civil Code of the Republic of Uzbekistan, as well as international standards and doctrinal perspectives. Special attention is given to the legal procedure for state registration of trade unions and the principle of their independence from state bodies. The article highlights the challenges in regulating the relationship between trade unions and government bodies, as well as the pressing need to clarify legal norms regarding their activities in the labor market. The study emphasizes the evolving role of trade unions in protecting workers' rights, participating in employment policy, and contributing to the development of human capital within the national labor market. Recommendations for improving legislative provisions are also presented.

**Keywords:** - Civil society institutions, social interests, socio-economic rights, trade unions, non-governmental non-profit organization, social partnership, public oversight.

## Introduction:

One of the features of the emerging civil society in our country is the ever-increasing role of public organizations, including trade unions, which are considered its constituent institutions, in democratic reforms. Issues concerning the formation, reorganization, and liquidation of trade unions are regulated by specific norms. The formation and functioning of trade unions have distinct legal characteristics compared to other public associations and are based on complex organizational and legal mechanisms.

As K.D. Ewing notes, "trade unions play a key role in protecting workers' rights and establishing systems of collective bargaining, though their legal status and independence from state intervention vary significantly across jurisdictions" [1].

In Uzbekistan, as with other legal entities, trade unions are established through state registration. However, some scholars argue that many non-governmental,

non-profit organizations are deemed established once a decision to create them is adopted by a general meeting or congress [2].

The formation of legal entities, including trade unions, follows certain requirements: one or more founders adopt a constituent document to define organizational goals and allocate resources. This document may be a single decision or an agreement among multiple founders. State registration is mandatory to formalize legal entity status [3].

According to Tonia Novitz, "The legal regulation of trade union registration should respect autonomy and avoid imposing excessive bureaucratic barriers that may infringe international norms on freedom of association" [4].

It is demonstrated that the requirements for establishing trade unions differ from the general rules for non-governmental non-profit organizations. They officially begin operations as legal entities after state registration. The principles of statutory activity,

organizational independence, and non-accountability to state bodies determine their legal status.

Trade unions conduct their activities through the formation of a legal entity in the form of a public association. When establishing a public association, special requirements are set not only for the composition of the founders but also for their number. For instance, according to Article 8 of the Law "On Public Associations in the Republic of Uzbekistan", a public association is created at the initiative of at least ten citizens.

Clause 13 of the Regulation on the Procedure for State Registration of Non-Governmental Non-Commercial Organizations, approved by Cabinet of Ministers Resolution No. 57 of March 10, 2014, stipulates that the list of founding members of trade unions must include at least three thousand people. In our opinion, it would be advisable to reduce this requirement based on international experience and the requirements imposed on other non-governmental non-profit organizations by national legislation.

Tonia Novitz emphasizes, "The legal regulation of trade union registration should respect autonomy and avoid imposing excessive bureaucratic barriers that may infringe international norms on freedom of association" [5].

In addition, in accordance with It is advisable to include in Article 21 a provision stating that the state body authorized to carry out state registration of trade unions, their associations, as well as subdivisions that are legal entities and primary trade union organizations, does not have the right to refuse to register or monitor the activities of trade unions, their associations, subdivisions and primary trade union organizations. This proposal serves to ensure the principle of independence and self-governance in the activities of trade unions.

At the same time, it is advisable to establish at the legislative level that trade unions, their associations, subdivisions, and primary trade union organizations have the right to opt out of state registration.

One of the main problems in the legal development of trade union activities is the lack of a clear definition of legal mechanisms governing their relations with state bodies. At the same time, the high unemployment rate among young people indicates the need to reform trade unions based on new strategies and approaches.

Trade unions should actively participate not only in protecting labor rights but also in strengthening inter-institutional cooperation within the national labor market and positively influencing the quality of human capital. In this regard, it should be noted that it is necessary to clarify and improve the legal framework concerning the rights and obligations of trade unions, their organizational structure, and relations with the state.

The boundaries of legal regulation of relations involving trade unions are determined by their purpose, the need to represent and protect workers' rights and interests in the labor sphere, and labor relations that bring the greatest benefit to workers. Additionally, the scope of trade union regulation is defined by the specific means and methods employed by trade unions, as well as the interaction between legal and non-legal measures. The definition of a trade union outlines its primary task: protecting human interests and social and labor rights. This implies that in pursuing their main objective, trade unions possess corresponding rights[6]. The most crucial task of trade unions is to safeguard workers' rights and interests in professional relations[7].

The scope and content of trade union rights are primarily determined by the purpose of their formation, tasks, and position within the political system. Consequently, the legal status of trade unions in the labor sphere is established by the state with trade union participation. Trade unions contribute to the formation of legislative norms governing their activities. Trade union rights can be classified according to various criteria.

I. O. Snigireva considers it expedient to divide the labor rights of trade unions into two types: rights aimed at directly protecting the rights and interests of employees, and rights that contribute to the realization of the right to protect the rights and interests of employees[8].

The first group includes substantive rights: participation in the regulation of working conditions, control over compliance with labor and occupational safety legislation, and participation in the resolution of labor disputes.

The second group consists of procedural rights: ensuring the organizational independence of trade unions; demanding accountability from the head of the

organization or their deputy for violating labor laws and other regulatory legal acts, as well as the terms of collective agreements and contracts; applying to the federal labor inspectorate and judicial bodies to protect the rights and interests of their members (as well as other employees, regardless of membership, on their own initiative or at the employees' request); organizing collective actions (mass events); and participating in the collegial governing bodies of the organization with the consent of employees. L.M. Mairova categorizes the rights of trade unions, based on their definition, into those established by law and those established by collective agreements[9].

In these documents, parties may provide broader rights for trade unions and their bodies than those stipulated in legislative acts. The rights established in these documents, unlike those enshrined in legislation and forming the basis of their status, constitute an additional component of trade unions' legal status. The author emphasizes that the general statutory rights of trade unions are manifested in accordance with the powers of a specific trade union body, trade union structure, or representatives of a specific trade union, as established by law and charter.

In protecting collective rights, trade unions participate in the employer's legislative activity and, in cases stipulated by law, in the collective-contractual regulation of working conditions. They also demand the repeal of normative legal acts that violate workers' rights or are adopted without taking their opinions into account.

According to the law, trade unions are defined as voluntary public associations of citizens connected by their common professional interests based on type of activity or study. These associations are created for the purpose of representing and protecting their labor and other socio-economic rights and interests, operating on the basis of their charter.

At the same time, trade unions, their associations, subdivisions, and primary trade union organizations have the right to receive free information on issues concerning the socio-economic rights and interests of employees from state bodies, their officials, and employers for the implementation of their statutory activities.

One of the most important and significant rights of trade unions is the right to promote employment.

Trade unions and their associations have the right to participate in the development of state employment programs, to propose measures to ensure employment, including the creation of new jobs and preservation of existing ones, improvement of organizational activities, and prevention of mass layoffs of employees.

The task of trade unions should not be limited to protecting the labor rights of workers in enterprises. The trade union, as an institutional organization, should form a unified socio-economic, cultural, and historical space within the national labor market, as well as enhance the effectiveness of interaction between its institutions and contribute to a beneficial effect on increasing labor productivity, the income level of the population, and the quality of human capital as a whole.

In terms of legal status, trade unions, as public organizations, are not accountable to the state for exercising their rights and fulfilling their obligations, except for property liability in case of a strike declared illegal by a court. However, in this instance, the legal responsibility arising from violations of labor legislation is of a civil-legal nature. The state influences trade unions by assisting them in exercising their rights and obligations, implementing the rights granted to them, and creating guarantees for their successful operation. In carrying out their activities, trade unions are guided by the principle of independence, which is fundamental to them. According to Article 9 of the relevant law, trade unions in their activities, including financial matters, are independent of state authorities and administration, are not accountable to them, and are not subject to their control, except in cases stipulated by law. In this context, three aspects apply to trade unions in relation to state bodies and employers: independence, lack of accountability, and freedom from control. Nevertheless, the income that trade unions generate from entrepreneurial activities as legal entities is subject to oversight by relevant state bodies and other public associations[10].

It should be noted that, in the context of deepening socio-economic reforms, the state annually assigns a special role to trade unions by involving them in the development and implementation of socially oriented state programs. Thus, the state recognizes trade unions as its social partner in the social protection of the

population and the building of civil society. Trade unions are acknowledged by the global community as the most authoritative and widespread representatives of workers[11].

Although the Law of the Republic of Uzbekistan "On Trade Unions" does not explicitly outline the obligations of trade unions, their responsibilities are broadly defined in the Law "On Non-Governmental Non-Commercial Organizations"[12].

Based on the rights and obligations of trade unions, M.V. Kuznetsov notes their following features[13]: firstly, the association of citizens in trade unions is based on the principle of voluntariness, as the legislator prohibits coercion into joining or remaining in any association; secondly, trade unions are public associations, therefore they are subject to the general provisions of the laws on public associations, being voluntary, self-governing, non-profit organizations. They are associations of citizens based on common interests for the implementation of shared goals defined in the charter of a public association. Trade unions, like other public associations, are non-profit organizations, meaning they cannot generate income; the main goal of their activity is not the distribution of profit among founders and members; thirdly, only citizens, i.e., individuals, can be members of a trade union; fourthly, a trade union should unite people according to professional interests, i.e., by the nature of their activity, the members of the trade union should be united by common production and professional interests; fifthly, the main purpose of creating a trade union should be to represent and protect the social and labor rights and interests of workers.

Before discussing the trade union system, we believe it is necessary to clarify the meaning of the word "system". A system (from Ancient Greek "whole", consisting of parts; union) is a set of elements that form a certain integrity and unity, interacting with each other. It is also a group of interacting or interconnected elements that function according to a set of rules to create a unified whole[14]. As a trade union system, we can understand the totality of organizations created on professional, production, territorial-production, sectoral, and intersectoral territorial principles for the joint implementation and protection of labor and socio-economic rights and interests. The Federation of Trade Unions of Uzbekistan stands at the apex of this

system.

The highest body of the Federation of Trade Unions of Uzbekistan is the Congress, which convenes every 5 years. Between congresses, the Federation's activities are managed by the Council of the Federation of Trade Unions of Uzbekistan. Council members are elected at congresses of industry trade unions, conferences of territorial associations of trade union organizations, as well as at the Federation Congress.

Trade unions, in a broad sense, like other public organizations, can be established within the framework of regional, republican, and territorial trade unions. However, a distinctive feature is that trade unions can also be formed at the sectoral level. Their activities are guaranteed on the basis of equality[15]. Trade unions at the republican level are represented in the activities of the Federation of Trade Unions of Uzbekistan.

## **CONCLUSION**

In conclusion, it should be noted that the historical analysis of the relationship between trade unions and workers is largely shaped by employers' reluctance to yield to workers' social conditions. In the initial stage of their formation, trade unions wielded significant socio-economic power, as strikes could be decisive in resolving disputes between workers and employers. Such methods are not characteristic of modern trade unions, resulting in weakened "pressure" on employers and a lack of constructive communication between employers and trade unions. One way to address this issue is to strengthen the integration of trade union organizations through vertical and horizontal hierarchical connections. At the republican level, it is necessary to improve cooperation among trade unions, territorial trade unions, sectoral trade unions, trade unions of organizations and firms, and trade unions of employees and managers.

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