

# **MASTER'S PAPER**

**TITLE: The Role of the Legal Environment for the  
Development of Trade Unions  
In the Republic of Armenia**

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## Introduction

Trade Unions as comparably organized bodies in Western Europe started to operate from 18<sup>th</sup> century. This was connected with industrial revolution in western countries. The significant growth in number of workers, who were unskilled or semi-skilled, created a need for establishing institutions which would protect the rights and interests of employees against employers<sup>1</sup>. Since that time Trade Unions have passed long way of development in Western European countries. They have successfully protected the rights and interests of employees and not in vain they are considered as one of the main institutions in Western European countries which are continuously building and maintaining civil society in those countries.<sup>2</sup>

Trade Unions are one of the main participants in EU law making processes, especially when the proposed laws are connected with social and economical issues. In case of dissatisfaction with the enacted laws Trade Unions are raising their voice by organizing dramatically huge mass strikes compelling governments to act in the most possible way, which serves for the best interests of workers and the whole society at all<sup>3</sup>. However nowadays Trade Unions in EU face serious problems connected with globalization processes and technological revolution. Trade Unions are losing their members dramatically as large part of workforces are being transmitted from traditional industrial activities to the areas of new technologies and providing services. The employees from these new areas are not enough enthusiastic for becoming members of Trade Unions although they also face numerous problems connected with their work activity. As a result of mentioned above, Trade Unions are starting to struggle for attracting new members from new field of employees

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<sup>1</sup> Свобода Объединения, Международное Бюро Труда, 1996, Женева.

<sup>2</sup> <http://ilo-mirror.library.cornell.edu/public/english/bureau/inst/download/dp9999.pdf>

<sup>3</sup> Brian Bercusson, European Labor Law, 1996, University of Manchester.

which weren't emphasized before. Such fields are women employees, unemployed population, pensioners etc.<sup>4</sup>

The first Trade Unions in Armenia were established since 1905 in Yerevan, Gyumri, Kars and Alaverdi<sup>5</sup>. In 1922 was created Armenian Trade Unions Council as the head coordinator of all Trade Unions in Armenia. After Second World War, Trade Unions started to develop much faster in Soviet Armenia. In 1980s Armenian Trade Unions had a big number of members, reaching approximately 1.350.000. Trade Unions in Soviet Armenia possessed huge human and material resources and very often they functioned as a protector of workers interests<sup>6</sup>. However Trade Unions in Soviet Armenia lacked one of the main principles of Trade Unions which is the independence from State. Trade Unions were protecting the rights and interests of employees unless it was in the best interests of State and Government.

After collapse of Soviet Union, Trade Unions in RA lost almost 85% of their members as the industrial activity in RA declined significantly (approximately 90%). In 1994 Trade Unions General Meeting decided to cease the existence of Armenian Trade Unions Council and to create a new body with some structural changes. This new body was named Armenian Trade Unions Confederation (ATUC) and included 24 Republican branches of Trade Unions. However these reforms didn't change anything significantly in the life of Trade Unions in RA. The dramatic lack of financial and human resources didn't allow Armenian Trade Unions to implement any new programs for the actualization of their activities in modern society of RA. Nowadays Trade Unions are considered as declarative institutions in RA which continue to exist because it is prescribed by law and it is

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<sup>4</sup> <http://www.fafo.no/pub/rapp/675/675.htm>

<sup>5</sup> [http://www.hamk.am/arhm\\_patm\\_arm.asp](http://www.hamk.am/arhm_patm_arm.asp)

<sup>6</sup> *ibid.*

accepted practice in developed countries, whereas Trade Unions in EU member states are considered as one of cornerstones of maintaining civil society.<sup>7</sup>

According to statistical review carried out by OSCE and APR Group only 5% of Armenian employees are members of Trade Unions from which only 20% thinks that Trade Unions are able to protect their labor rights and interests<sup>8</sup>. According to the same review, the institution of Trade Unions in RA sooner may stop to exist at all if rapid and significant effective changes will not be initiated in this area for the actualization of Trade Unions activities.

The objective of this paper is to research the legal environment in which Armenian Trade Unions are operating and to find out whether there are any disadvantages which hinder the development of Armenian Trade Unions, and advantages which may promote the development of Trade Unions in RA.

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<sup>7</sup> OSCE Armenia & APR Group, Awareness on the Role of Labor Rights and Trade Unions Among Workers. Asoghik, Yerevan 2009.

<sup>8</sup> Ibid.

## **Chapter One**

### **The Role of Judicial Proceedings in the Development of Trade Unions in RA.**

Since 2008 until now Armenian Trade Union Confederation with 8 Trade Unions Republican Branches initiated or essentially assisted to initiate 12 judicial proceedings aimed to protect supposed violated worker's rights against employers. This number shows how passive are ATUC and Republican Branches of Trade Unions (TURB) in protecting the employees rights by judicial systems. According to ATUC vice president the main reason of this significant passivity is that after unsuccessful negotiations between Trade Unions and employers which are resulting on an unlawful firing of employees or other violations, only relatively small numbers of employees are deciding to protect their rights in the court. The overwhelming majority of workers are refusing to go to the court reasoning that they don't trust to the judicial system of RA, being sure that they will lose the case as their employers are much more powerful and will influence on the results of court's decision. Thus according to them the attempt to protect their rights by judicial proceedings will be just waste of time and money. These facts are also affirmed by the statistical review mentioned above, according to which only 14% of employees are ready to protect their violated rights by judicial proceedings and only 1.5% of them will apply to Trade Unions in case of labor dispute for the legal assistance. These facts show that only relatively small numbers of workers believe that their violated rights can be recovered by court and even lower numbers of workers believe that Trade Unions can be effective method for protecting their rights. The situation is becoming more critical when observing the dynamic of growth of cases initiated by ATUC and TURBs. From 12 cases in last three years only two were lodged in current year by the month of November, compared to 4 cases in 2008 and 6 cases in 2009. The decline is explained by the increasing of lack of trust in

society to Trade Unions.<sup>9</sup> The other reason is the lack of lawyers in ATUC and TURBs. Only two lawyers work in ATUC and 4 lawyers in 8 TURBs and in private dialogue the head of legal unit of ATUC acknowledged that they are now reluctant to be involved in judicial proceedings as they are involved in many other legal issues which will be disturbed if they engage in new judicial proceedings. However despite all the negative facts mentioned above, the surprisingly positive fact is that from 12 cases initiated from year of 2008 until now by ATUC and TURBs, 8 were won, 2 were lost and 2 cases are pending before trial currently. Inter alia the cases were won and against public agencies and against private companies and even against corporation which is one of five big taxpayers in RA. Although the number of cases is not high enough that to draw final statistical conclusions, however the fact that 80% of all cases with participation of Major Trade Unions were successfully won in courts, gives general view that judicial system in RA is quite ready to recover the violated rights of employees. From that 8 won cases it is worth to describe in details the case Galina Marchenko v. Zvartnots Aviarmeteocenter (ZA) CJSC affiliated company of Ministry of Natural Protection. This case is remembered as a noisy case in the history of Armenian Trade Unions and is the only case which was broadcasted by many TV channels and printed in many newspapers. The brief summary of the case is the following. Galina Marchenko has worked in ZA CJSC since 1980 as an engineer; in 2004 she received the post of the chief of shift, in the department of meteo predictions. In 11.12.2008, by the order of director of that company, she was fired from her job without any legal basis. Half year before being fired Galina Marchenko with 17 other employees organized General Meeting of Employees and established Trade Union in that company. She was also elected as a president of that Trade Union. The Director of the ZA also applied to the State Labor Agency (SLA) for the obtaining consent of that agency in firing a member of a Trade Union from work. This is the requirement of Labor Code of RA article 119 1<sup>st</sup> and 2<sup>nd</sup>

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<sup>9</sup> OSCE Armenia & APR Group, Awareness on the Role of Labor Rights and Trade Unions among Workers. Asoghik, Yerevan 2009.

paragraphs that representatives of employees who are elected to occupy some positions in Trade Unions can't be fired by employer without the consent of SLA. Soon after director's application was submitted, the SLA refused to give its consent for firing Galina Marchenko. Despite this fact Galina Marchenko was fired from her position and decided to recover her violated rights in court. The case was lodged in Malatia-Sebastia Common Jurisdiction Court of First Instance in year of 2009.

Galina Marchenko claimed that she was fired from her job position with some violations of Labor Code of RA. Particularly there was a violated articles 119.1st and 2nd paragraph according to which she could be fired only after the consent of SLA, and article 114.4 parts 1st and 2<sup>nd</sup> which stipulates that employer can't fire an employee on the basis of employee's participation in Trade Unions activities. Director also violated the charter of the company which stipulates that the number of employees in ZA Company can be reduced only after the order of Ministry of the Natural Protection of RA. The defendant argued that there wasn't a violation of Article 119 of labor Code of RA, as Galina Marchenko and other employees established a Trade Union with numerous procedural infringements and thus she couldn't be considered as a lawful representative of employees. Consequently there wasn't a need to obtain consent of SLA in order to fire her. The defendant also argued that there was a decision of Minister of MNP (who also was a brother of ZA director) to reduce the number of employees in ZA and consequently there wasn't any violations of ZA Charter. In its final decision on 11.02.2009. the Common Jurisdiction Court of First Instance of Malatia-Sebastia hold that the plaintiff was fired from her position with the violations of RA Labor Code articles 119 and 113 and with the violation of charter of ZA CJSC and decided to recover the position of Galina Marchenko in ZA. The ZA also should pay the average salary to Galina Marchenko for the period when she was deprived from the opportunity to continue her work. The court's reasoning in finding the violations 119 and 113 of RA Labor Code and violation of ZA Charter by its director was the following. The court denied the argument of defendant that the Trade



Union in ZA was established with procedural infringements. Thus Galina Marchenko was a lawful representative of ZA employees and her firing without the consent of SLA was in violation with Article 119 of Labor Code of RA. The court also held that the firing of employee who is hired for an unfixed term can be initiated only with the presence of requirements of RA Labor Code, Article 113. The court found that there wasn't available any of requirements of Article 113 in firing Galina Marchenko and thus she was fired with the violation of Article 113 of Labor Code. The court also found a violation of ZA charter as in Articles of 8.1 and 8.2 of that chapter is stipulated that the decision to reduce the number of employees can be accepted only in General Meeting of ZA Shareholders. As there wasn't any decision of General Meeting of ZA Shareholders to reduce the number of employees in ZA the court found that ZA violated its charters article 8. The court also found the order of Minister of MNP to reduce the number of employees in ZA as a void as that order didn't fall within competency of Minister. The Court of Appeal and the Court of Cassation of RA affirmed the decision of First Instance Court.

This case is considered as a remarkable case not for the holdings of the court but rather for the firm resistance of Galina Marchenko for the recovering of her violated rights. The director of ZA Company was a native brother of Minister of MNP. The lawyer of ATUC mentioned that many times Galina Marchenko was pressured by them to take back the application from the court. He also mentioned that the Minister of MNP tried to use his connections in order to influence on the decision of the court. However with the joint cooperation with Trade Unions and mass Medias the plaintiff recovered her violated rights and is now working in the same position which she had before being fired. This case is unique first of all by the fact that simple employee got in conflict with high officials including Minister and instead of giving up, persistently struggled for her violated rights and passing three instances of RA judicial system recovered her rights. The success came by close cooperation with Trade Unions and mass Medias and it is not excluded that these institutions played

a major role for the winning of this case. It is not secret that the more public is aware about the facts of the case the more judges are pressured to make transparent and honest decisions and the mass Medias are the best instruments for influencing on public's opinion.

Another case which also attracted attention of some mass Medias and society was the case of Miners v. Dino Gold Mining Company. This company hadn't pay additional fees to miners who worked in night time and in conditions which are harmful for the health. The case was lodged in year of 2008 in Common Jurisdiction Court of First Instance of Syunik Marz. Miners were actively supported by Miner's Republican Trade Unions Branch and by ATUC. Some TV channels broadcasted these events. In its decision the court held that Dino Gold Mining Company violated RA Labor Code Articles 183 and 184 which stipulate that employees who work in night time or in the conditions which is harmful for the health should be paid additional fees by employers in the size of 150% of their ordinary salary. The Dino Gold Mining Company didn't appeal the case and compensated to miners all the non paid fees. The case is also interesting from the point of view that before applying to court, miners organized strikes and lengthy negotiations with Dino Gold Mining Company's representatives but the company refused to pay additional fees to workers reasoning as an argument its difficult financial situation. After court's decision this company found financial resources and compensated to its miners. From other 6 successfully pended cases, two were against mid size factories, one against Educational Institution, one against Ministry of Social Affairs, and two against International Companies from which one against IP company and another against mining company.

The small statistical review showed that although Armenian major trade unions were involved in relatively small number of cases in last three years, however they won 80% of all that cases in court which were aimed to protect the violated rights of employees. Surprisingly Trade Unions are not happy with this fact and even they are reluctant to be involved in further judicial proceedings for protecting worker's rights. Whereas the proper propaganda of the fact, that with the assistance of

Trade Unions, workers recovered their violated rights in the 80% of all judicial proceedings could serve as an effective method for obtaining workers trust and reliance to Trade Unions as an effective Institution which is able to protect the rights and interests of employees.

## Chapter Two

### **Are Trade Union laws in RA Good Enough In Order to Promote the Development of Trade Unions?**

Trade Unions in RA are governed by the Laws on Trade Unions (LTU) and by the Labor Code of RA. It is not secret that the development of the institutions such as Trade Unions which play important role in society beside socio-political factors also mainly depends from the legal environment in which they are conducting their activities. From this perspective it was essential to observe Armenian laws on Trade Unions in comparison with the similar laws in some EU member states where the institution of Trade Unions are quite developed. Particularly the comparison of legislations was made with Baltic countries (Latvia, Lithuania) as they passed similar way with that of RA and with Scandinavian countries where the institution of Trade Unions is very developed.<sup>10</sup> The comparison showed that the laws on Trade Unions in RA are essentially similar with the analogues laws of the countries mentioned above. According to Laws on Trade Unions in RA, Trade Unions are granted all the fundamental rights and privileges as in developed countries. Particularly the comparison was made in terms of independence of Trade Unions activities from public and private bodies, the process of establishment, the level of protection of Trade Union members from being fired because of their activities and the scope of Trade Unions activities granted by laws. Article 13 of LTU which concerns the independence of Trade Unions is the following. *Trade Unions shall be independent from State bodies, local self-governing bodies, employers, political social and other organizations. Trade Unions are not accountable in front of the bodies mentioned above. State bodies, local self-governing bodies, employers and other*

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<sup>10</sup> [http://www.etuc.org/IMG/pdf\\_TURKISH\\_4.pdf](http://www.etuc.org/IMG/pdf_TURKISH_4.pdf)

*organizations and natural persons are strictly prohibited to interfere or hinder the lawful activities of trade unions prescribed by their charter and laws of RA. The same Article part 4<sup>th</sup> stipulates that the limitation on rights of workers on the basis of their participation in the activities of trade unions is strictly prohibited.* This Article resembles the copy paste version of targeted countries laws on independence of Trade Unions and creates all the necessary conditions for Trade Unions to conduct their activities independently from other public and private parties. This fact was also affirmed in interview with directors of ATUC and TURBs who mentioned that they are conducting their activities independently and without any interference from other bodies. However the situation is another in case of local Trade Unions as very often employers are creating Trade Unions by their own initiation and then are controlling the activities of Trade Unions. Thus many local Trade Unions de facto are losing their independence and becoming an instrument in the hands of their employers. However this fact can't be explained as a result of imperfections in the LTU as it is explicitly stipulated that Trade Unions shall conduct their activities independently from employers, and employers are strictly prohibited to anyhow interfere with the lawful activities of Trade Unions. Rather this situation is explained by the fact that Armenian workers are not ready to protect their rights which are granted them by laws and Armenian employers are not ready to accept the fact that in their organizations can co-exist a fully independent body which has the right to protect the rights and interests of employees by limiting some powers of employers.

In terms of establishing Trade Unions, LTU Article 4 stipulates that the lowest number of employees who can establish Trade Union is three, whereas the analogous laws in Lithuania<sup>11</sup> and Denmark sets forth that the lowest number of employees who can establish Trade Union is thirty or at least 1/5 of all employees in that organization<sup>12</sup>. From this comparison it is obvious that Armenian workers have much more opportunities for establishing Trade Unions than that of workers

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<sup>11</sup> Laws on Trade Unions in Republic of Lithuania, article 6.

<sup>12</sup> <http://www.litlex.lt/Litlex/Eng/Frames/Laws/Documents/60.HTM>

in targeted countries. In all targeted countries like in RA Trade Unions are obtaining a status of legal personality after the registration in state bodies.

In terms of protection of Trade Union members against employers, the Article 119 of labor code of RA stipulates that the members of Trade Unions who occupy elected posts can be fired or can receive warning from employers only after consent of State labor Agency. In case of same sanctions against the members of Trade Unions who do not occupy elected posts employer can fire them or give warning only after negotiation process between Trade Union and employer or its representative. In case of dissatisfactions with the results of negotiations Trade Unions can bring a suit against employer on behalf of member of Trade Union. However again we are facing with the problem that theoretically the laws provide essential protection for Trade Union members but in practice these laws are used rarely. As it was mentioned above one of the reasons is that many local Trade Unions are just an instrument in the hands of employers and consequently they will not act against employer's interests. In many other cases when there is a conflict, employers are refusing to negotiate with Trade Unions at all. However in very random cases Trade Unions are disputing this fact in courts although it is explicitly stipulated in labor code of RA<sup>13</sup> that in cases of conflicts between employers and employees who is a member of trade Union, employer must start negotiations with Trade Unions.

In case of collective disputes between employer and employees Trade Unions are granted wide range of rights prescribed by Part 11 of Labor Code of RA. Particularly when the dispute arises between employees and employers, Trade Unions as representatives of employees must start negotiations with representatives of employers. If dispute is not reconciled, the State labor Agency must send its agent for the mediation of conflict. In case if these also didn't give any results Trade Unions have the right to start strikes in the manner prescribed by laws or to file a suit against

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<sup>13</sup> RA Labor Code, Chapter 11, Articles 64-71.

employer. Inter alia it is not prescribed by law, in which situations conflict can be considered as a collective dispute and the mere disagreement between employees and employer on certain issues can be constituted as a collective dispute. This fact prevent employers from arguing whether the collective dispute initiated by Trade Unions is lawful or no. Accordingly Trade Unions in RA when being unsatisfactory from the results of negotiations with employers automatically are obtaining the right to organize strikes. Articles 79 and 80 of Labor Code of RA stipulates that employers do not have the right to fire employees or give them warnings or make other limitations of employee's rights on the basis that they are organizing strikes. The same article 80 sets forth that employees who participate in strikes are maintaining their job positions and employer may only temporarily hire a new employee for empty positions of strikers. Thus the law grants strong protection to strikers as employer is strictly prohibited to fire an employee who is participating in strike activities. The laws for organizing strikes in RA are even disadvantageous for employers as they don't stipulate any time limits for the duration of strikes. So lawful strikes may be suspended only when strikers decide so. Thus although Trade Unions in RA have quite well established rights for organizing strikes, only in very seldom cases of collective disputes the mechanism of strikes were used by Trade Unions for achieving their goals, whereas the strikes in Western European countries are the main tools which Trade Unions are using for making their voice listenable to employers and to the governments.

Like in laws of targeted countries in RA also, laws stipulate that head Trade Unions have the right to participate and make suggestions to legislative bodies in law making processes especially when the issues are connected with labor rights and interests. In EU law making processes Trade Unions are one of the main participants and their opinion regarding the purposed laws appropriateness is considered as an expert's opinion. The other policy for granting such a big role to Trade Unions in law making processes is that Trade Unions in EU are considered as one of the main Institutions

which maintain civil society in EU member states and by allowing Trade Unions to actively participate in legislative processes EU is maintaining the bridges which tightens society with EU legislative and executive bodies. In comparison to EU head Trade Unions, Armenian Trade Unions are participating in law making processes only randomly and in very limited issues. This problem may not be explained by poor laws in RA as they like the laws in targeted countries stipulate that Trade Unions have the right to make proposals to legislative bodies. Here the discretion relies on State and legislative bodies as how often they will invite Trade Unions in law making processes and to what extent they will accept the proposals of Trade Unions. Trade Unions in EU member states are considered as representatives of civil society thus they are granted solid role in law making processes and as Trade Unions in RA are representing only 5% of Armenian employees from which only 1% believe that Trade Unions are able to protect their rights and interests<sup>14</sup>, consequently it is not surprisingly that Trade Unions in RA are invited to participate in law making processes only in random cases.

In the light of all facts mentioned above it can be seen that Armenian laws on Trade Unions are granting equivalent rights and protections to Trade Unions like the similar laws in developed European countries. However these well established laws are not effectively assisting Armenian Trade Unions to develop, as they are invoked by employees or by Trade Unions themselves in very rare situations. The main reason for this is that neither Trade Unions themselves nor employees in RA are legally mature enough that to use these well established laws for the protection of their rights and interests.

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<sup>14</sup> OSCE Armenia & APR Group, Awareness on the Role of Labor Rights and Trade Unions among Workers. Asoghik, Yerevan 2009.



## **Chapter Three.**

### **Social, Political and Economical Factors which Hinder the Development of Trade Unions in RA.**

Other reasons that hinder the development of Trade Unions in RA and are directly or indirectly connected with legal environment of RA are the following.<sup>15</sup>

1. The dramatic lack of human and material resources.
2. The lack of coherent labor agenda.
3. Nepotism.
4. High level of corruption.
5. Lack of free market competition.
6. Absence of State aid to Trade Unions.

However the thorough discussion of this factors do not fall within the scope of this project and each of this factors will be discussed shortly in essential terms.

After Soviet Union collapse RA Trade Unions lost almost 90% of their members and thus far they are not able to recover at least partially these big losses. As the main financial resources of Trade Unions are comprised from membership fees, thus significant decline of members unavoidably brought to lack of financial resources also. Today the financial resources of Major Trade Unions are merely enough to pay salaries to its employees, and it is impossible to implement any essential programs for the actualization of Trade Unions activities without finances. However like in RA, in

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<sup>15</sup> <http://heinonline.org/HOL/LandingPage?collection=journals&handle=hein.journals/cllpj30&div=53&id=&page=>

developed European countries also Trade Unions are increasingly losing their members, which is connected with decline of industrial activities in those countries and transfer of labor force from traditional industrial sections to the fields of new technologies and providing services. With the created situation European Trade Unions are trying to find new members from the fields which weren't emphasized by them before. These new fields are women employees, unemployed population, people of pension age, informal employees, employees of new fields appeared as a result of technological revolution and even prisoners<sup>16</sup>. Thus the advice to Armenian Major Trade Unions will be to struggle for attracting new members for Trade Unions from the fields mentioned above. For implementing these tasks Armenian Major trade Unions need coherent labor agenda which will be aimed to attract new members, new financial resources and new ways of cooperation with society taking into consideration European best practice. In interview, vice president of ATUC acknowledged that they don't have any certain agendas for the development of Trade Unions. As a reason he mentioned that unless the socio-political factors mentioned above exist, Trade Unions may not develop in this country and whether Trade Unions in RA have or no some certain agendas for their actualization are something not essential and even meaningless. From the interview it is obvious that Trade Unions are giving up against the negative socio-political facts mentioned above, instead of finding solutions for the elimination or at least mediation of those negative facts. Corruption and nepotism are also essential factors that hinder effective activities of Trade Unions. According to Transparency International Report 2010 corruption in RA remains in very high level and the labor relations are one of the main fields of the corruption. Thus many employees are being hired on the basis of corruption and nepotism and later by the same means they are tightened to independently protect their violated rights and interests against employers. In case of former, employee may fear to get in conflict with employer as he obtained his job by illegal means and in

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<sup>16</sup> <http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan040131.pdf>

case of later an employee may fear to get in conflict with employer as he obtained his job due to his “uncle’s” recommendations and the same ‘uncle’ will be strongly frustrated if his nephew will have any conflicts with employer. It is also interesting that 25% of requested Armenian employees answered that they will try to resolve their conflicts with employers by means of networking. This fact undoubtedly shows the dramatic low level of legal and general literacy of Armenian workers. In case of corruption it is difficult for Trade Unions to combat against it, as it was said above many employees are engaged in corruption and struggling against corruption Trade Unions may have impact of interests with their members.

The remaining two factors are lack of free competition in RA and absence of State aid to major Trade Unions. It is not secret that many economic fields in RA are monopolized and are operated under the control of several individuals. Monopolization in economy of RA operates not only in global level, but also in local levels, for example in many districts of RA many types of businesses are shared among some individuals, and people outside of that chain may face serious illegal obstacles in order to enter into those fields of businesses. Thus in many areas of businesses in RA, because of the lack of free competition, employers do not need to compete with each other, as each of them is taking its share of profit already designated to him. Consequently employers do not need to hire qualified employees as it is undermined by the reasons mentioned above. The created situation makes fruitful land for the growing of nepotism and it is difficult to imagine that semi-skilled relatives of employer, who are greatly thankful for getting that job, will establish Trade Unions in order to protect their rights and interests in front of their sponsors.

The last factor is the absence of State aid to Major Trade Unions. In European countries States provide essential assistance to Major Trade Unions. Particularly realizing that Trade Unions are facing global challenges connected with new technological revolution and globalization processes EU assisted to establish European Trade Unions Confederation. This Major Trade Union in Europe

which is comprised from Major Trade Unions of member states, organizes different trainings in order to prepare Trade Unions of Member States to prevail serious problems appeared as a result of globalization and technological revolution<sup>17</sup>. EU also grants essential financial resources to Major Trade Unions of Member States for the implementation of programs which will help Trade Unions to effectively combat all the challenges existed in front of them nowadays. However by assisting Trade Unions, State should not anyhow gain control over them, as one of the main principles of Trade Unions is their independence from public and private bodies. Thus State should assist Trade Unions without any expectations of gaining control over them. This situation is similar with that of opposition parties in parliament to which State grants financial assistance without anyhow interfering into their activities. In RA State is not assisting Trade Unions at all. As a reason Government successfully (cynically) uses the argument that Trade Unions should be independent from State.

In the light of all said above it is obvious that Trade Unions are not developed in RA mainly because of the socio-political and economic factors. All these factors are interdependent to each other and Trade Unions may prevail these obstacles step by step. Trade Unions need coherent labor agendas which will help them to obtain new members. With the growing of new members Trade Unions will obtain more power and will be able to protect their member's rights and interests properly. Particularly strong Trade Unions may struggle by lawful means for the establishment of free competition in Armenian markets. In its turn free market competition will oblige employers to hire highly educated and qualified employees instead of hiring their semi-skilled relatives. This will reduce nepotism and corruption phenomena in labor relations. Consequently it is more probable that these highly educated employees will be more eager to protect their labor rights and interests and will become active part of Armenian civil society. Instead of implementing or at least making

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<sup>17</sup> <http://www.etuc.org/>

attempt to implement the steps described above which will help to eliminate all the negative social, political and economical factors mentioned above Trade Unions are waiting until civil society will be built in Republic of Armenia, which will force government to eliminate all that negative factors which hinder the development of Trade Unions.

Trade Unions are waiting until civil society will be built in the Republic of Armenia without realizing that they are one of the main institutions which must build that civil society in Armenia.

## **Conclusions and Recommendations.**

According to statistical review carried out by OSCE and APR Group, only 5% of Armenian workers are members of Trade Unions from which only 20% believe that Trade Unions are able to protect their rights and interests in front of employers and State. The same review also stipulates that Trade Unions in RA sooner may cease to exist at all. The main aim of this paper was to find out the upsides and downsides of the legal environment in which Armenian Trade Unions are conducting their activities. The comparison of RA Trade Union laws with some European developed countries analogous laws showed that Armenian laws are significantly similar with that of European countries and provide equivalent rights and protections to Armenian Trade Unions. However the research also showed that although Armenia has relatively well developed laws on Trade Unions nevertheless these laws are many times undermined by employers as they very often ignore or violate these laws. These actions carried out by employers mostly remain unpunished as in significantly law number of such cases Trade Unions or employees are deciding to protect their rights in the court. Thus the conclusion is that although Armenia has quite well established laws on Trade Unions however that Trade Unions are not able and ready to make serve these rights for the protection of employees rights and interests. The aim of this paper also was to research the role of judicial system in RA in the development of Trade Unions. A small statistical review showed that in last 3 years only 12 judicial proceedings were lodged by ATUC and 8 Republican Branches of Trade Unions. This number shows the passivity of Armenian Trade Unions in protecting their rights by judicial systems. On the other hand these review also showed that 80% from all 12 cases initiated by ATUC and

TURBs were successfully pended before a court. However this fact is not considered by Trade Unions as an big success and effective mean for recovering the trust of workers to Trade Unions.

In the light of the all facts mentioned above the final conclusion can be drawn that neither the Trade Union Laws nor the judicial proceedings that are aimed to guarantee these laws can be considered as factors that hinder the development of Trade Unions from the legal perspective but rather proper application of these factors can promote the development of Trade Unions in RA. Rather a factor that hinders the development of Trade Unions in RA from the legal perspective is, that Armenian Trade Unions at this moment are not legally mature enough that to use effectively all the rights and protections enjoyed to them by RA Legislation for the protecting the rights and interests of Armenian workers and Trade Unions themselves.

Taking into considerations all the facts and conclusions mentioned above the following recommendations are purposed for the development of Armenian Trade Unions.

Taking best practice of European countries attract new members from the parts of the population which weren't emphasized before. Such parts are women employees, unemployed population, pensioners, youth, etc.

Enhance the cooperation with European Major Trade Unions in order to better learn their experience and to make serve this experience for the development of Armenian Trade Unions.

Using the fact that 80% of all cases were won in courts by Major Armenian Trade Unions and that Armenian laws on Trade Unions are quite developed encourage Armenian workers to engage in judicial proceedings if their labor rights are violated.

Actively cooperate with mass Medias and NGOs in order to organize mass propagandas on the public's opinion that Trade Unions are able to protect their members violated rights in courts and thus recover the trust of Armenian workers to Ra judicial system and to Trade Unions themselves.

Regularly conduct seminars and trainings with Trade Union members and other workers in order to enhance their legal awareness and make them able to protect their rights and interests granted them by laws.

Actively participate not only in issues directly connected with labor relations, but also in other social, political and economical issues such as struggle for establishing free market competition, eliminating corruption etc. For implementing these tasks use as a model, means and methods applied by European Major Trade Unions. (Mass strikes, demonstrations, negotiations, judicial proceedings).



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## **Interviews.**

Araqelyan Khachik, Vice President of Armenian Trade Unions Confederation.

Piliposyan Miqael, Head of legal unit of Armenia Trade Union's confederation.

Jhangiryan Hasmik, president of Agroproduction sector's republican branch of Trade Unions.

Armaghanova Gayane, president of health sector's republican branch of Trade Unions.

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