

Legal relations in sphere of labour law of Russia

**Author: PhD in law,
Associate professor Sobolev S.A.**

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- Dissemination of course slides «Labour law in Russia» is prohibited.
- Opinions, given in present work, do not reflect common accepted point of view in law science and labour law.
- Present publication is developed in accordance with educational program course «Labour law in Russia».
- Legislation about law and court practice is given for December 20, 2011

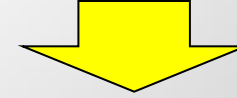
Issues:

- 1. Concept and types of legal relations in labour sphere and in labour law.**
- 2. Elements of legal relations in sphere of labour law and its general characteristics.**
- 3. Concept, types and structures of legal authorities (facts) in labour law.**
- 4. Law legal relation: concept of peculiarities (distinctive differences), content**

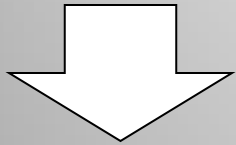
Social relations in labour sphere:



regulated by law



not regulated by law



by norms of labour law



**by norms of law
branches**

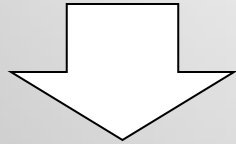
Scientists define the theme:

E.B. Khohlov, V.A. Safonov (2008): «Legal relations in labour sphere»

O.V. Smirnov (2009): «Legal relations in sphere of wage labour»

**A.M. Lushnikov, M.V. Lushnikova (2009):
«Subject of labour law and sphere of
norms of labour law»**

Types of legal relations in sphere of labour law:



Labour legal relations

in subject LL

organizational

procedural

procedural



Labour legal relation

**The others, directly
connected with labour,
legal relations in labour
sphere**

precedent

incidental

concomitant

Labour legal relation – is a complex legal education, consists of multiple interrelated laws and responsibilities of parties, adding according to LL norms.

Laws and responsibilities of parties of labour relations (Lushnikov A.M., Lushnikova M.V., M., 2009):

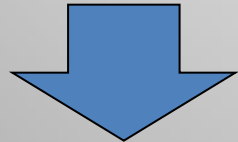
- 1) Basic (statute) – art. 21, 22 LC RF;**
- 2) Private statute – supplement basic;**
- 3) Contractual – in labour and others labour contracts.**

Types of legal relations in labour sphere:

E.B. Khohlov, V.A. Safonov (2008)



**independent
labour**

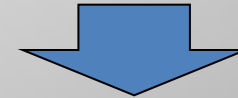


**not regulated by
law**

**is a subject of
civil
regulation**



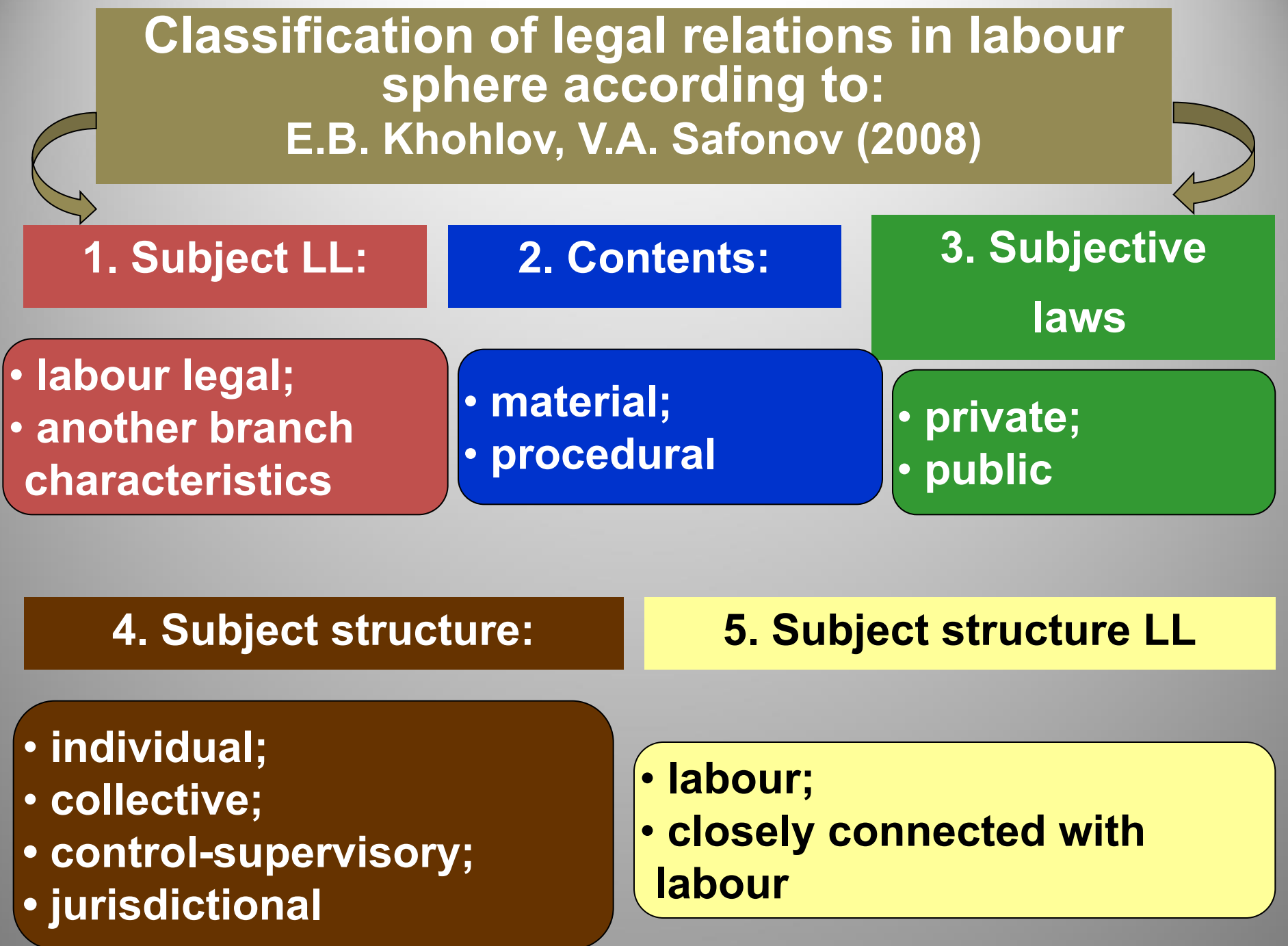
dependent labour



**can
exceed the bound of
legal regulation**

**taking into account diversity
of interest get different types
of legal relations**

Classification of legal relations in labour sphere according to: E.B. Khohlov, V.A. Safonov (2008)



1. Subject LL:

- labour legal;
- another branch characteristics

2. Contents:

- material;
- procedural

3. Subjective laws

- private;
- public

4. Subject structure:

- individual;
- collective;
- control-supervisory;
- jurisdictional

5. Subject structure LL

- labour;
- closely connected with labour

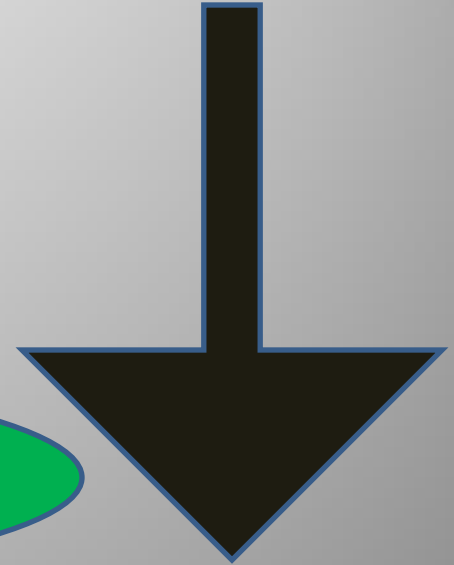
Types of legal relations in labour sphere from the point of view in sphere of labour law norms:



labour



official-labour



non-labour

Elements of legal relations

```
graph TD; A[Elements of legal relations] --> B[Object (work or service)]; B --> C[subject or subjects]; C --> D[content of legal relation (mutual laws and responsibility)]; D --> E[legal authorities (facts) (legislative, legally changed, legally discharged)];
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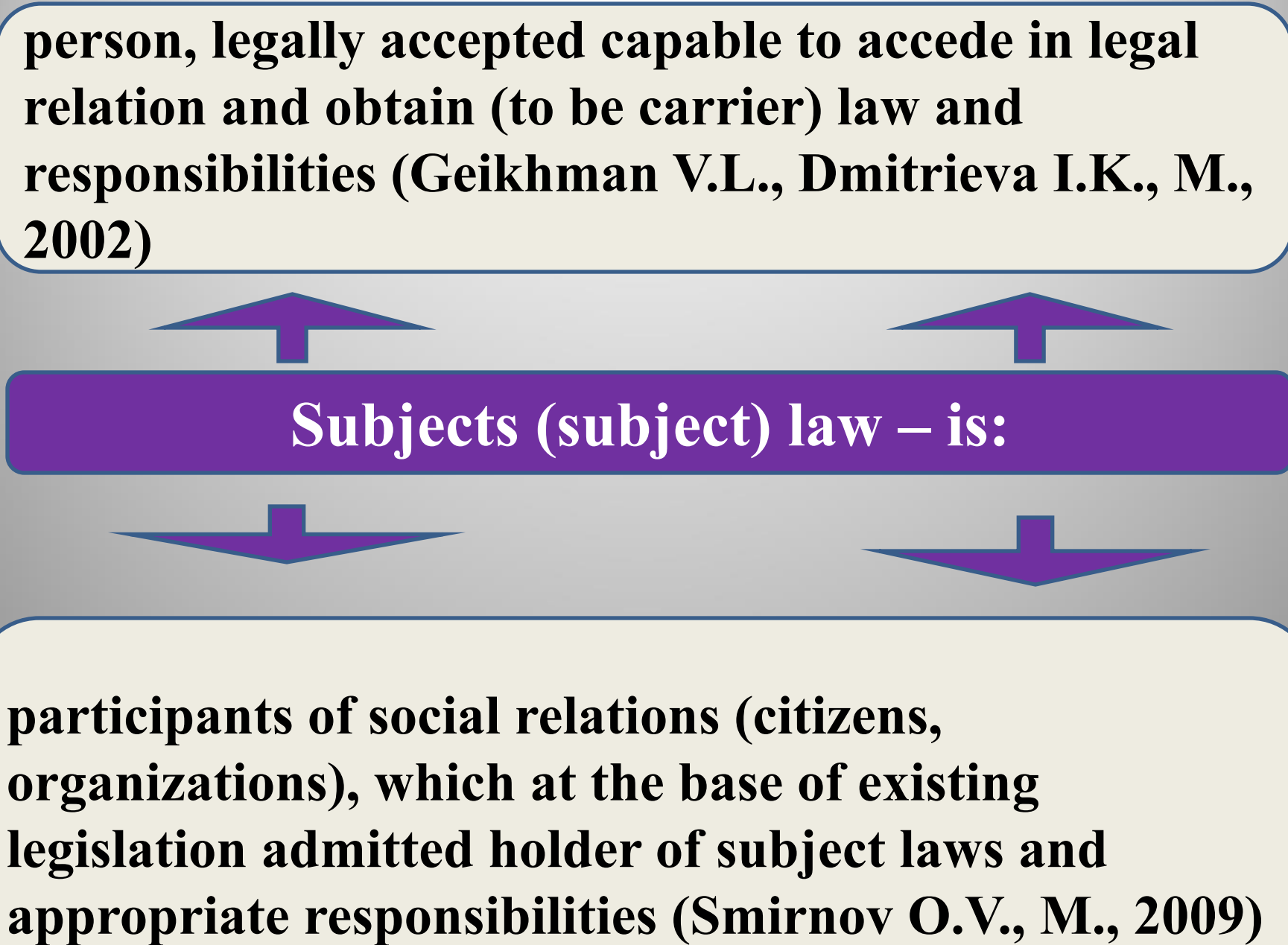
**Object
(work or service)**

subject or subjects

**content of legal relation
(mutual laws and responsibility)**

**legal authorities (facts)
(legislative, legally changed,
legally discharged)**

person, legally accepted capable to accede in legal relation and obtain (to be carrier) law and responsibilities (Geikhman V.L., Dmitrieva I.K., M., 2002)



Subjects (subject) law – is:

participants of social relations (citizens, organizations), which at the base of existing legislation admitted holder of subject laws and appropriate responsibilities (Smirnov O.V., M., 2009)

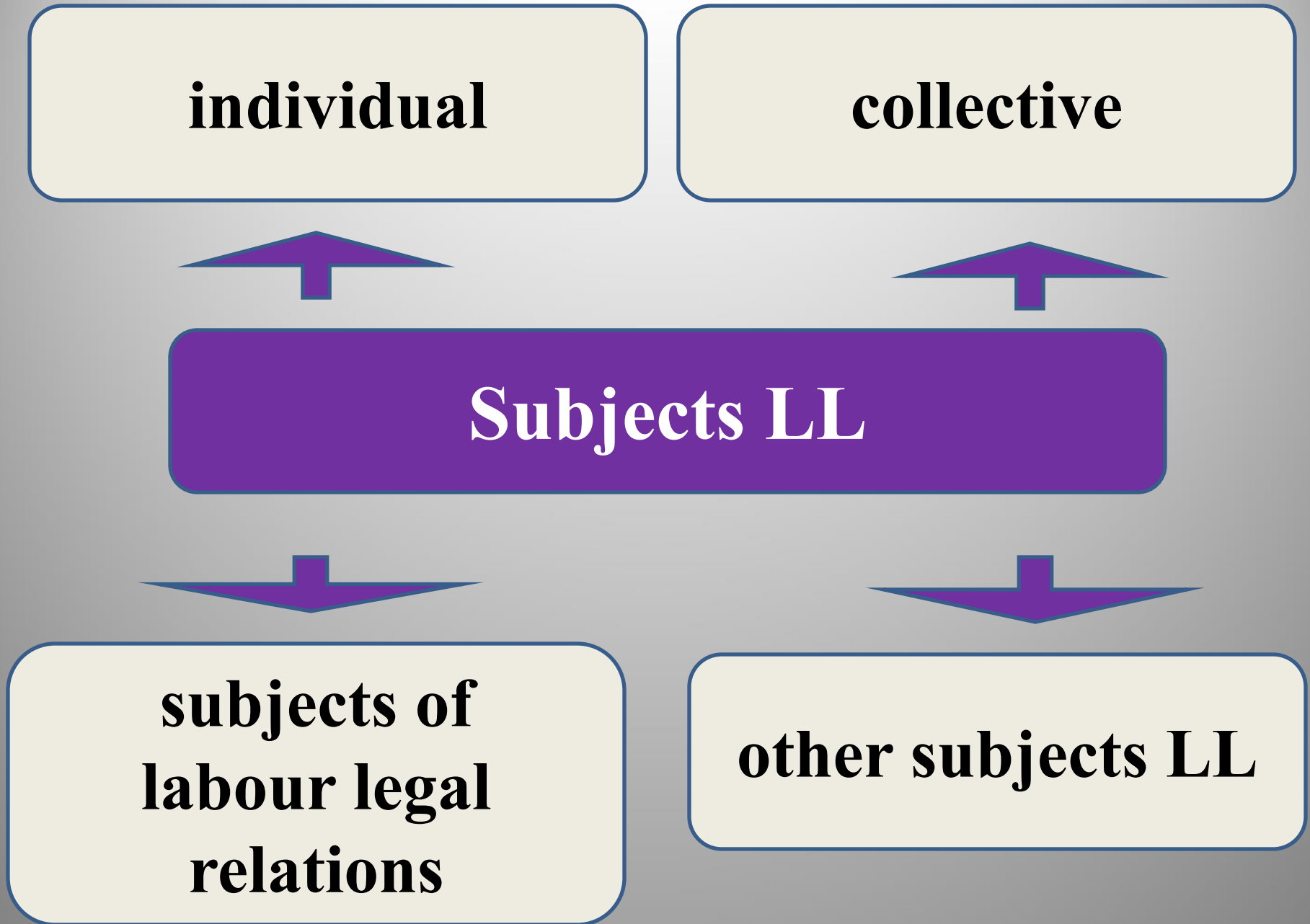
individual

collective

Subjects LL

**subjects of
labour legal
relations**

other subjects LL



Subjects LL

```
graph TD; A[Subjects LL] --> B[legal competence]; A --> C[capacity]; A --> D[delictual ability];
```

legal competence

capacity

delictual ability

Subjects of labour legal relations

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graph TD; A[Subjects of labour legal relations] --> B[Employee]; A --> C[Employer]; B --> D["- in general rule since 16 years old;"]; B --> E["- 15 years old;"]; B --> F["- 14 years old;"]; B --> G["- younger 14."]; C --> H["- individual person;"]; C --> I["- juridical person;"]; C --> J["- another subject in Federal Law"];
```

Employee

**- in general rule
since 16 years old;**

- 15 years old;

- 14 years old;

- younger 14.

Employer

- individual person;

- juridical person;

**- another subject in
Federal Law**

Trade unions

**Labour
collective**

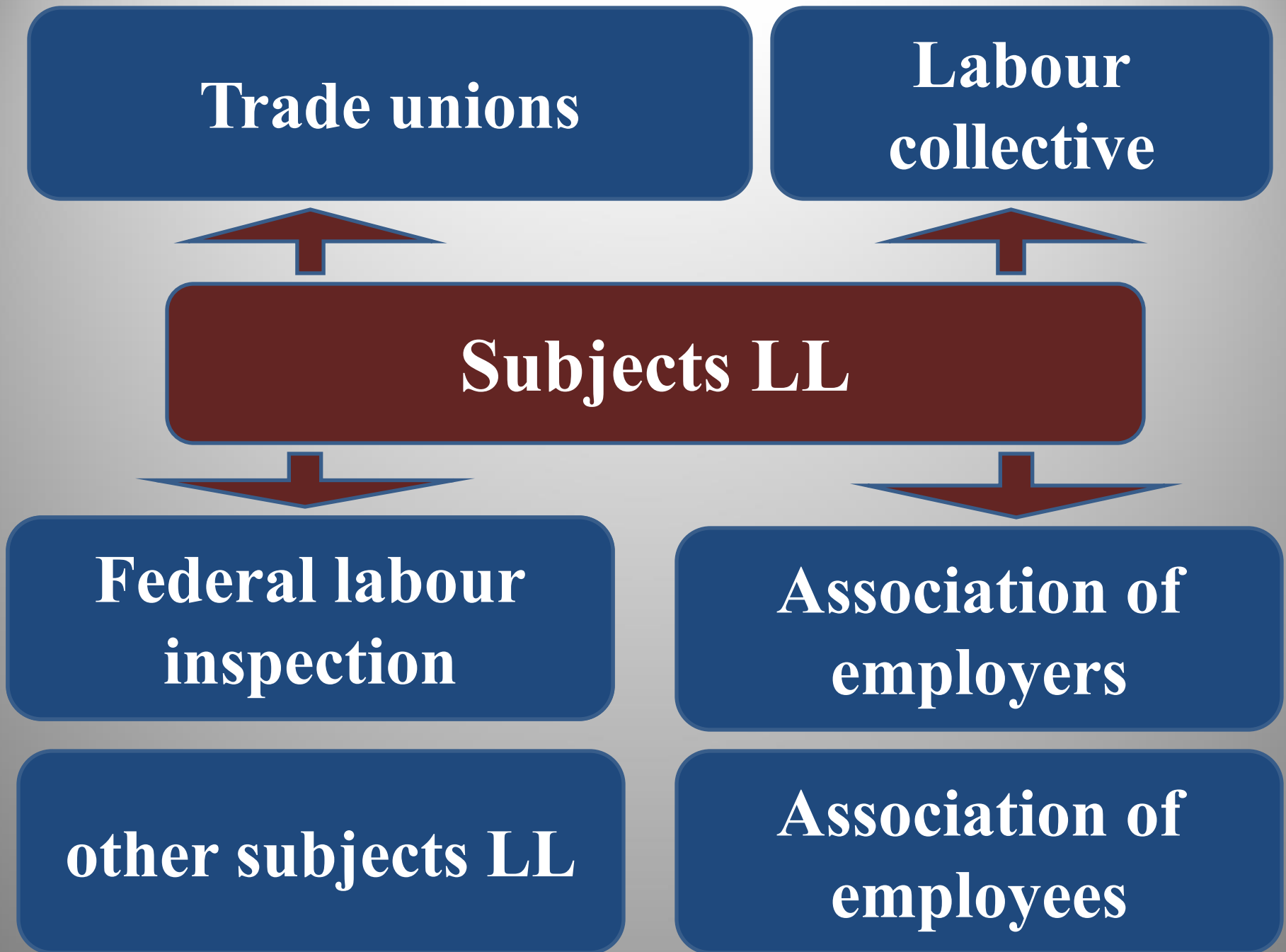
Subjects LL

**Federal labour
inspection**

**Association of
employers**

other subjects LL

**Association of
employees**



simple

complex

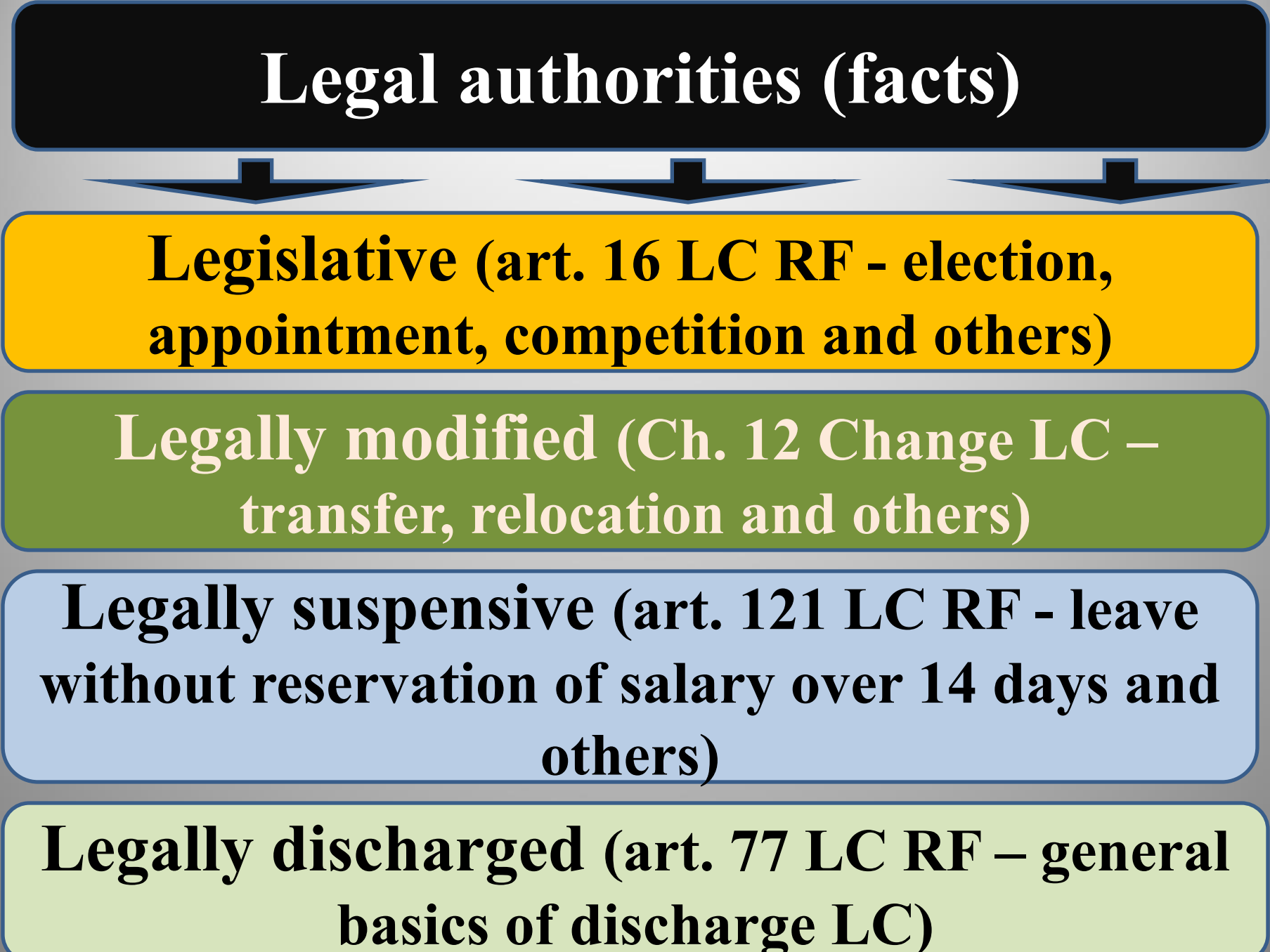
**Legal authorities
(facts)**

events

actions

**Juridical fact – concrete vital
circumstance with its beginning law norm is
connected with origin, alteration, determination
of legal relations
(Leushin V.I., 1996)**

Legal authorities (facts)



```
graph TD; A[Legal authorities (facts)] --> B[Legislative (art. 16 LC RF - election, appointment, competition and others)]; A --> C[Legally modified (Ch. 12 Change LC – transfer, relocation and others)]; A --> D[Legally suspensive (art. 121 LC RF - leave without reservation of salary over 14 days and others)]; A --> E[Legally discharged (art. 77 LC RF – general basics of discharge LC)];
```

Legislative (art. 16 LC RF - election, appointment, competition and others)

Legally modified (Ch. 12 Change LC – transfer, relocation and others)

Legally suspensive (art. 121 LC RF - leave without reservation of salary over 14 days and others)

Legally discharged (art. 77 LC RF – general basics of discharge LC)

*Features of labour relations
(art. 15 LC RF):*

- agreement of parties;
- Individual work of employee;
- work in labour function;
- salary is paid;
- abidance to standing orders;
- labour protection is provided, etc.

Labour relations (art. 15 LC RF) – based on agreement between employee and employer about personal abidance of employee for salary its labour function... (work in position according to staff list, specialty with qualification...) , employee's abidance to the rules labour routine providing working conditions by employer, povided by labour law norms

Educational scientific literature:

1. Course of Russian labour law. In 3 v. V. 1: General part / In edition by E.B. Khohlov. Saint-Petersburg, 1996.
2. Labour law in Russia: tutorial for higher institutions / in general edition by E.B. Khohlov, V.A. Safonov, M., 2009.
3. Lushnikova M.V., Lushnikov A.M. Course of labour law: In 2 v. V. 2. Labour rules in human rights system. Individual labour law: Tutorial M., 2004.
4. Lushnikova M.V., Lushnikov A.M. Course of labour law. Tutorial: In 2 v. V. 1. Essence of labour law and creation history. Labour laws in human rights system. General part. M., 2009.
5. Skobelkin V.N. Labour legal relations. M., 1999.
6. Soshnikova T.A. Labour law in schemes with comments. M., 2010.
7. Labour law: tutorial / In edition. O.V. Smirnov, I.O. Snigireva. M., 2009.
8. Theory of state and law: Tutorial / Responsible editor V.M. Korelsky, V.D. Perevalov, Yekaterinburg, 1996.