

Social partnership in labour sphere: lecture 1

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- **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**

Lecture 1. Issues:

- Social partnership in labour sphere (further SP). Concept apparatus SP.
- Creation history and modern development of SP.
- Concept and content of SP.
- Basic principles, forms and bodies of SP.
- Parties of SP and its representatives.
- Collective negotiations: terms, order and procedures of realization.

Social partnership in labour sphere (art. 23 LC RF) – system of interrelations between employees (representatives of employees), employers (representatives of employers), public authorities, local government authorities, directed to provide interests of employees and employers in questions of regulation in labour and others directly connected with them relations.

Social partnership – interaction of government authorities, employers and trade unions in determination and realization in life agreed social-economical politics, politics in sphere of labour relations, and also bilateral relations between employers and trade unions, directed to protection of interests agreement in order, defined by legislation (art. 1

**Model law about social partnership
from November 16, 2006)**

First «social-partnership acts» some authors started to find in the second half XVIII century (Citulsky V.F., 2006)

Appearance of first collective agreements in Russia

is correlated with the beginning of XX (Tal L.S., 1909; Voitnsky I.S., 1911). (First coll. agreement in 1904 in Baku (Mirzoev M., 1996))

History of legal regulation social-partnership relations in Russia:

Soviet period: KZoT 1918, 1922, 1971; resolution VCSPS and GKT USSR November 27 1987

General thesis about order of collective contracts making.

**Decree of President RF from November 15 1991
«About social partnership and resolution of labour
disputes (conflicts). (Becomes invalid in 1996)**

**Law RF March 11 1992 «About collective
contracts and agreements»
(Becomes invalid in 2006)**

**History and nowadays of
social-partnership relations
in labour sphere:**

- 1) art. 15, 30, 37, 72 Constitution RF;**
- 2) Part two. Section II. «Social partnership in
labour sphere» LC RF;**

Social partnership in labour sphere (further SP) is:

**1. Principle LL
(art. 2 LC RF)**

**2. Method
element LL
(art. 2, 9
LC RF)**

**3. Institute LL
(P. 2. Section II
LC RF)**

**4. Collective
(social-partnership,
social-labour)
legal relations in LL (art. 1,
40,
45, 398 LC RF and others)**

**5. Source
(form) LL
(art. 5 LC RF)**

**6. Quite concrete collective contract,
agreement**

1. SP – is principle of SP

...right to participate for employees, employers, and its unions in agreement of regulation labour and other ...relations (art. 2 LC RF)

2. SP – is method element LL

... combination of state and agreement regulation of labour and other...relations (art. 2 LC RF)

According to labour legislation regulation of labour and others...relations could be made by making, changing, addition ...CC, CA, LC (art. 9 LC RF).

3. SP – is LL institute

**Objectively made totality of law norms,
directed to regulation of collective
(social-partnership, social-labour)
relations (Part Two. Chapter II. art. 23-55 LC RF)**

**Concept apparatus, history of
creation and modern development**

Principles SP, parties, order disputes settlement and others

Collective contract (art. 40-44, 50, 51 LC RF)

Agreement (art. 45-51 LC RF)

**General position LL.
General beginning LL**

SP institute

**4. SP – are collective (social-
partnership, social-labour)
legal relations in LL (art. 1, 40,
45, 398-418 LC RF)**

**Separate institute
norms LL
(art. 94, 101, 103,
108, 128, 135 LC RF)**

**Discussion and
resolution of
collective LC
(Ch. 61 LC RF)**

Concept apparatus and content of institute of social partnership in labour sphere
(further SP) is developed:

**1. By science and
separate
scientists**

**2. Normative
legal acts**

**3. Law-enforcement
(legal) practice**

1. By science and some scientists (content SP)

- **SP**, is a basic for agreement regulation of labour relations with the help of collective contracts and agreements, ***is included in LL method, as a part of its integral features (Smirnov O.V., Snigireva I.O., 2007)***

- **SP** is done on bilateral basis (in condition of so called ***bipartism***, i.e. bilateral cooperation between employers And employees), and on trilateral basis (... «***threepartism***», i.e employees, employers and state). (***Mavrin S.P., Khohlov E.B., 2007***)

- **in legal mechanism SP** is chosen ***regulatory*** and ***protective parts*** (***Lushnikov A.M., Lushnikova M.V., 2003***)

- **SP** is a good example of ***self-organization*** in civil society (***Nurtdinova A.F., 1998***)

2. Normative legal acts develop concept apparatus:

LC RF

**FL, Laws
subjects RF**

**Acts WTO UN,
CIS**

Union of employers – non-governmental organization, united employers on voluntary basis for representatives of interests and right protection of its members in mutual relations with trade unions, government authorities and local government authorities (art. 33 LC RF)

Employees use appropriate protection against any **discrimination** activities, directed to liberty restraint **unions** in labour sphere (**art. 1 Convention WTO № 98 «About law principles use for organization and for administration of collective negotiations» (1949)** ...application for job ...job preservation...discharge...of employee... that not to be a part of trade union or get out of trade union...

1. LC RF

**Union of employers
(art. 33)**

Collective contract (art. 40)

**Agreement
(art. 45)**

**Collective labour dispute
(art. 398)**

Lockout (art. 415)

2. FL from January 12 1996 № 10-FL

«About trade unions, its rights and guarantees of activity»

**Trade union
(art. 2)**

Primary trade union (art. 3)

**Trade union representative
(agent) (art. 3)**

3. Conventions, Recommendations WTO, UN, Model laws CIS

Social partnership

Collective negotiations

Collective contract

Sources (forms) SP

Constitution RF: art. 30 – right for union, including creation of trade unions to protect the interests; Art. 37 – right for individual and collective labour disputes..., right for strike.

Acts WTO, CIS: Declaration about basic principles and rights in labour sphere (1998) – association freedom and active right recognition for collective negotiations (art. 2); Convention about law principles application for organization and for making collective negotiations (1949); Model law about social partnership from November 16 2006

LC RF, FL, laws of Russian subjects, other NLA, collective contracts, agreements: FL May 1 1999 «About Russian trilateral commission in regulation of social-labour relations» and others

**respect and
interest
registration**

**equality of
rights**

**interest of
parties
in agreement
relations (art. 54
LC
RF)**

**Basic principles of SP
(in art. 24 LC RF – 12)**



**state
assistance**

**labour legislation
compliance
(art. 8, 9 LC RF)**

**authority of
parties
representatives**

**parties responsibility, its
representatives
for non-compliance through its
fault CC, CA**

Forms of SP (art. 27 LC RF)

**participation of SP parties
in disputes
resolution**

collective negotiations

**mutual consultations
(negotiations)**

**participation of
employees in
organization management**

Authorities SP (art. 35, 35-1 LC RF)

Russian trilateral commission

**1. federal level
commission consists of
representatives:**

- General Russian association of trade unions;
- General Russian association of employers;
- Russian Government.

2. subject of RF

3. territory level

**4. branch (inter-branch) level – RF,
subject or subjects RF, territory**

**trade
unions**

**other
representative
s**

Employers in the person of authorized representatives

**Parties SP and its representatives
(art. 25, Ch. 4, 29-T34 LC RF)**

Employers in the person of authorized representatives

**organization
executive or
representative
s**

**employer-
individual
entrepreneur
(personally) or
others.**

**association of
employers**

Collective negotiations

Organizations of workers and entrepreneurs have to use proper protection against any acts of intervention from the part of each others or from the part of its agents or members in creation and activity of organization and management (Convention WTO № 98 «Regarding use of law principles for organization and making of collective agreements» 1949 Ratified by USSR)

Collective negotiations ...all negotiations, which are made between entrepreneur, group of entrepreneurs or one or some entrepreneur organizations, From one part, and one or some workers organizations - from another...(Convention WTO № 154 «About assistance to collective negotiations» 1981 Not ratified by Russia)

Collective negotiations (further CN) art. 37 LC RF

order

procedure

terms

Start day of CN

**7 calendar
days**

**Offer to begin CN
in written form**

2 weeks

**Participate in CN only
plenipotentiaries**

1 month

**Two or more prof.
organizations
could create united
representative
authority**

3 months

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