

UDC 341.383:331.105.44(470)«1905–1917»
DOI: 10.24919/2519-058x.12.177554

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Бібліографічний опис статті: Mahas-Demydas, Y. & Rudnytska, O. (2019). Legal status of the trade unions in the Russian empire in 1905 – 1917. *Skhidnoievropeiskyi Istorychnyi Visnyk [East European Historical Bulletin]*, 12, 64–73. doi: 10.24919/2519-058x.12.177554

**LEGAL STATUS OF THE TRADE UNIONS
IN THE RUSSIAN EMPIRE IN 1905 – 1917**

Summary. *The purpose of the article is the study of the trade unions legal status in the Russian Empire in 1905 – 1917, which was the form of the employees struggle for their socio-economic rights. The methodology of the research: the adherence to the principles of objectivity and historicism contributed to the consistent disclosure of the preconditions, the content and the consequences of the trade union law introduction in Tsarist Russia. The use of the comparative historical, historical legal methods made it possible to trace the influence of the legal component on the history of the trade union movement development during the specified period. The scientific novelty consists in a detailed historical and legal analysis of the content of the trade union legislation in the Russian Empire, its positive sides, the drawbacks and prospects of a practical application in the specified period. Conclusions.* For the first time, there was done an in-depth analysis of the legal acts, regulating the legal status of the trade unions in the Russian Empire in 1905 – 1917. At the end of the XIXth and the early XXth centuries, the

labor movement was intensified due to the difficult financial situation of the workers, their political and legal empowerment in the territory of the Russian Empire. The outbreak of the First Russian Revolution made the authorities give the legal status to the trade unions: The Temporary Rules enshrined the employees right to create the professional organizations to protect their socio-economic interests. The legislation contained certain legal drawbacks and contradictions. The government's desire to maintain control over the trade union movements was manifested in a number of the restrictions: a number of categories of the workers were deprived of their right to participate in the trade unions, the functions of the latter were restricted, and the legal order established by them gave the authorities the considerable opportunities for the abuse. However, while the Russian trade union law was less progressive than that of other European countries, it was a major breakthrough in the civil society development in the Empire. Despite the proclaimed temporary nature, the above-mentioned legal act was in effect until 1917.

Key words: the trade union, the First Russian Revolution, Temporary Rules on the societies and unions, the trade unions statute, authorities, legal status.

ПРАВОВИЙ СТАТУС ПРОФСІЛОК У РОСІЙСЬКІЙ ІМПЕРІЇ В 1905 – 1917 рр.

Анотація. *Мета роботи* – дослідження правового статусу профспілок у Російській імперії, що у 1905 – 1917 рр. були однією з форм боротьби найманих працівників за свої соціально-економічні інтереси. **Методологія дослідження:** дотримання принципів об'єктивності та історизму сприяли послідовному розкриттю передумов, змісту і наслідків запровадження профспілкового законодавства у царській Росії. Застосування порівняльно-історичного, історико-правового методів дали змогу прослідкувати вплив юридичної складової на історію розвитку профспілкового руху у вказаний період. **Наукова новизна** полягає у детальному історико-юридичному аналізі змісту профспілкового законодавства Російської імперії, його позитивних сторін, прогалин та перспектив практичного застосування у вказаний період. **Висновки.** У статті було вперше здійснено постатейний аналіз нормативно-правових актів, що регулювали правовий статус професійних спілок у Російській імперії в 1905 – 1917 рр. Такий історико-юридичний розгляд правових норм допоміг визначити їхні позитивні сторони, прогалини та перспективи практичного застосування. Наприкінці XIX – на початку XX ст. на теренах Російської імперії через скрутне матеріальне становище робітників, їх політико-правове безправ'я активізувався робітничий рух. Спалах Першої російської змусив владу надати професійним спілкам легальний статус. Тимчасові правила закріплювали право найманих працівників на створення професійних організацій для захисту своїх соціально-економічних інтересів. Законодавство містило певні юридичні прогалини та суперечності. Прагнення уряду до збереження контролю над профспілковим рухом проявилось у низці обмежень: низка категорій робітників були позбавлені права на участь у профспілках, функції останніх були обмеженими, а закріплені законодавством порядок їх функціонування відкривав органам влади широкі можливості для зловживань. Водночас, хоча російське профспілкове законодавство було мени прогресивним, ніж законодавство інших європейських країн, воно стало значним проривом у розвитку громадянського суспільства в імперії. Незважаючи на проголошений тимчасовий характер, указаний нормативно-правовий акт діяв аж до 1917 р.

Ключові слова: професійна спілка, Перша російська революція, Тимчасові правила про товариства і союзи, статут профспілки, органи влади, правовий статус.

The problem statement. The trade unions, as non-governmental organizations, which aim at representing and protecting the socio-economic interests of workers, have a particular historical and legal development. Nowadays, under conditions of a market economy, the trade union movement has got a considerable potential in the direction of asserting workers' rights, a constructive cooperation with the employer, and facilitating enterprises development. Unfortunately, in modern Ukraine, the professional associations, not completely freeing themselves from the negative experience of the USSR, have not yet become the fully fledged subjects of protection of labour, the socio-economic rights and interests of their members.

Taking this fact into consideration, it is topical to study the historical experience, in particular, of the trade union movement in the Russian Empire, which included Ukrainian lands. One of the factors, which influenced the trade unions formation and activities in tsarist Russia, was the trade union legislation, the nature of which corresponded to the socio-economic and political conditions of that period, the interaction nature of the industrial sphere with the state.

The analysis of sources and recent researches. The legal status issue of the trade unions in the Russian Empire has been partially analysed in the historical science. For instance, the surname of V. Hrynevych, the pre-revolutionary researcher, should be mentioned in this aspect. His scientific work is devoted to the working professional movement analysis in Russia. However, considering the trade union legislation, the author, according to his words, analyzed only the basic features of the Temporary Rules of 1906. (Grinevich, 1908, p. 80). D. Antoshkin (Antoshkin, 1921) та O. Rozenfeld (Rozenfeld, 1923) paid the most general attention to the legislative aspects.

Unfortunately, the problem of the trade union law of tsarist Russia is of little interest to modern scholars. In our view, this is due to the stereotype that the trade union movement is well-researched by the historians of the Soviet period. However, the latter is not true, since some part of the historical material is not reflected in their research works, and the other part requires some revision and release from the ideological strata.

It is worth mentioning the works of D. Pospelovskiy (Pospelovskiy, 1983), V. Bonnell (Bonnell, 1983), V. Tsitulskiy (Tsitulskiy, 2011) among the attempts to analyze the legal status of the trade unions. However, despite the promising title of the article by V. Tsitulskiy (Tsitulskiy, 2011), the author only briefly analyzed the problem of the trade unions legal status. The main part of this work is devoted to the history of their origin and the professional associations activities. The latter, of course, is of a scientific value, but does not correspond to the author's stated topic of the publication.

It legal status follows from the above-mentioned, the problem of the trade unions legal status in the Russian Empire in 1905 – 1917 has not been sufficiently studied and needs a more detailed analysis.

The purpose of the article is the study of the trade unions legal status in the Russian Empire in 1905 – 1917, which was the form of the employees struggle for their socio-economic rights.

The statement of the basic material. At the end of the XIXth and early XXth centuries, in the territory of the Russian Empire the situation of workers was extremely difficult. The low wages, the violations of a technical safety at enterprises, a long duration of working hours, the arbitrariness of administration, the poor sanitary and hygienic conditions were the typical signs of an employee's daily life. The situation was complicated by the political lawlessness, the inability to protect their socio-economic interests. These factors led to the workers' strikes, which were often suppressed by the punitive and repressive authorities. Aware of the dangers, posed by the labour movement to the autocratic empire, the government took measures to improve the workers status, both legislative and organizational.

In the 1880-ies – 90-ies a factory inspection (a controlling body) was established and the first factory laws were passed in Russia (Valetov, 2007, pp. 34–38). At the organizational level, the government facilitated the creation of the mutual assistance societies (*zubatovshchyna*) to meet the needs of the workers. S. Poliarush believes that the professional mutual assistance societies were similar to the trade unions in purpose, but differed in the methods they used: if the mutual assistance societies tried to improve the position of the worker by means of their

internal resources, the trade unions sought to protect the economic interests of their members by fighting entrepreneurs. It happened when, having gained experience of self-organization at the mutual assistance societies, workers tried to reorganize them into the trade unions (Poliarush, 2018, p. 155).

In general, the above-mentioned government measures were ineffective. The Russian labour legislation was far behind the laws of Western Europe, where the trade unions were legally active, whereas in Russia they were forbidden: for example, in France the right to create the trade unions was recognized in 1864, in Great Britain – 1871 (Shcherbyna, 2012, p. 42).

The revolutionary events of 1905 forced the authorities to change the policy radically. The legalization of the trade unions, which were spontaneously created during this period, was the concession of the revolutionary movement. On April 21, 1905, a circular, issued by the Ministry of the Internal Affairs (MIA), abolished the legal responsibility for the strikes. The Manifesto of October 17, 1905 declared the freedom of thought, speech, assembly and union (Pospelovskiy, 1987, p. 66), (Vysochayshiy manifest «Ob usovershenstvovanii gosudarstvennogo poryadka», 1909, p. 150). The proclamation of rights and freedoms had to be backed by the guarantees of their fulfillment. Thus, on December 2, 1905, the law was issued, which allowed organizing the peaceful strikes (except for the strikes at the enterprises of a public and state importance) (Vremennye pravila nakazuemosti uchastiya v zabastovkakh, 1909).

On March 4, 1906, the Temporary Rules for Societies and Unions (hereinafter referred to as the Temporary Rules) were approved, in which Section I governed the activities of the public organizations, created by an open order, and Section II concerned the trade unions, for which it was necessary to be registered (O vremennykh pravilakh ob obshchestvakh i soyuzakh, 1909). The Legal Act was positioned as a temporary measure since the 1st State Duma had to adopt a General Law on the Societies and Unions in the new legislative order (Zhurnal Gosudarstvennogo soveta s suzhdeniyami po proektu vremennykh pravil ob obshchestvakh i soyuzakh, 1912, p. 82). However, no permanent Act was adopted until February 1917.

The Temporary Rules caused mixed reactions in the society. In the government circles, the document was seen as a forced means of relieving a social tension. According to S. Witte, a Chairman of the Council of Ministers, the labour disputes and misunderstandings between the employers and the workers were an inevitable phenomenon of the capitalist relations. The task of the authorities was to provide the conditions for the peaceful resolution of such conflicts, and the creation of the trade unions, both among the workers and the entrepreneurs, should be considered the best means of resolving them. At the same time, the government was careful to treat the professional associations as a potential threat to the existing order. In particular, the workers' trade unions were at risk of being politicized, and the business associations could grow into the economic unions that were undesirable for the country's economy. The employees' ability to defend their economic interests should be sufficient to deter them from the political struggles, but limited so as not to cause dissatisfaction of the factory owners (Zhurnal Gosudarstvennogo soveta s suzhdeniyami po proektu vremennykh pravil ob obshchestvakh i soyuzakh, 1912, pp. 98–99). In the Temporary Rules the revolutionary circles of the society saw numerous restrictions on the trade union activity, and, for example, the representatives of the tsarist guards – the danger to the state system.

Article 1 of Section II of the Temporary Rules set out the purpose of the trade unions: to identify and reconcile the economic interests, to improve the working conditions of their members or to increase the productivity of the enterprises, belonging to them

(O vremennykh pravilakh ob obshchestvakh i soyuzakh, 1909, p. 204). To fulfill these tasks, the trade unions could perform the following functions (Article 2): finding ways to resolve the misunderstandings between the employers and the employees through negotiation or arbitration; to find out the size of wages and other working conditions in various fields of industry and trade; providing a financial assistance to its members; the establishment of the cash registers: a funeral, a dowry, a mutual aid, etc.; establishing libraries, vocational schools, courses and readings; assisting its members in the profitable purchase of the essentials and tools; the assistance in finding work or employees; providing a legal assistance to its members.

From these tasks, it became clear that the trade unions could not raise the issue of improving working conditions and payment by the employer, but the trade unions had the right only to find out the actual amount of wages, working hours and other conditions, set by the owner of the enterprise. This formulation was caused by the government fears that workers would make an entrepreneur meet their requirements (*Zhurnal Gosudarstvennogo soveta s suzhdeniyami po proektu vremennykh pravil ob obshchestvakh i soyuzakh*, 1912, p. 99). The local authorities refused to register the trade unions, in the statute of which the purpose of the association was described as «protecting the legal and economic interests of its members», demanding to replace the word «protection» with «ascertainment and agreement» (*Shelymagin*, 1952, p. 186).

The introduction of the arbitral tribunals was intended to eliminate a factory inspection from the involvement in the disputes settlement between the employers and the employees. The experience illustrated the following: the factory inspection activity in this area was so inefficient that it often led to even a greater conflicts escalation, a real unrest that had to be suppressed by the police, and even the military. This, in turn, reinforced the distrust to the government and promoted the spread of a revolutionary propaganda in the working circles (*Zhurnal Gosudarstvennogo soveta s suzhdeniyami po proektu vremennykh pravil ob obshchestvakh i soyuzakh*, 1912, p. 100).

However, the good intentions of the government were not realized because of its negligence, since the Temporary Rules did not make reference to the statute of the civil proceedings, governing the activities of the arbitral tribunals. Thus, there was no mechanism for the use of the special professional arbitration courts, and all attempts by the trade unions to use the institute failed: the employers, using the lack of the legal rules, responded to the requirements of the arbitration courts with lockouts, which, in turn, made the workers strike (*Blazhchuk*, 1908, p. 6).

The trade unions could open their departments, on condition they would not be separated from the central management organization. But the association of several societies in the trade unions and the management of unions from abroad was forbidden (*On Temporary Rules*, 1909b, p. 205), as the authorities wanted to prevent the trade unions from the politicization and their participation in the revolutionary movement. It should be noted that in Western Europe, in 1901, the International Secretariat of the National Trade Union Centers (ISNTUC) was established, which included the representatives from most major European and the US labour movements (*Milner*, 1988).

Article 7 of Section II of the Temporary Rules stated that members of the trade unions could be persons of both sexes, who worked for industrial and commercial enterprises (both state and private) and were engaged in homogeneous work or crafts. Owners of identical, homogeneous or productive business relationships could also form their own trade unions (*O vremennykh pravilakh ob obshchestvakh i soyuzakh*, 1909, p. 205).

This legal rule had several disadvantages. For example, in the legal rule there was not mentioned about the minimum number of participants, required to form the trade union. This theoretically allowed 2–3 persons to register their own professional association, which in the future remained only on paper: the association had neither members nor premises, did not show any activity. The police official of the Ministry of Internal Affairs M. Blazhchuk, who in 1907, because of the police concern on the intensive trade union movement, analysed the situation of the trade unions. In his note he marked that in the Empire there were 85 such puppet societies, artificially created by revolutionaries there, where workers did not need it (Blazhchuk, 1908, p. 5). Analyzing this information, it should be taken into account the hostile attitude of the author of the note, as a police official, to any non-governmental organizations and the revolutionary movement. In our opinion, in addition to the reason, stated by M. Blazhchuk, the inaction of many trade unions was explained by other factors, in particular, the pressure on the unions by the authorities, the repression against members-activists. However, the low level of a public consciousness and self-organization did indeed take place in the working environment, and the government, which initially sought to suppress the workers' initiatives in the long run, later realized that such actions did not work in its favour: by preventing the workers from amateur activities, the government itself performed the function of meeting the workers' needs, but it led only to the fact that in all social troubles, the workers blamed the government. The revolution made the government realize that allowing the workers to take care of their own economic interests in the professional associations alone would help distract them from the political struggle. Often, the cause of conflict between the employer and the employees was not only the miserable condition of the latter, but also the elemental workers' ignorance, regarding the economic factors of the industrial production. To explain and to find the peaceful ways of resolving disputes – that was the trade unions' purpose from the point of view of the government (*Zhurnal Gosudarstvennogo soveta s suzhdeniyami po proektu vremennykh pravil ob obshchestvakh i soyuzakh*, 1912, pp. 97, 100).

The legal restriction of the trade union movement only to the industrial and commercial sphere meant that the agricultural workers, the railway workers, the mail and telegraph workers, the prompters, the pilots, and the representatives of other non-productive industries were restricted in the right to participate in the trade unions. According to the circular of the Ministry of Internal Affairs of July 23, 1906, their associations were created on the basis of Section I of the Temporary Rules. Outside the document there were the professional associations of workers, whose enterprises were not the subject to factory and mining inspection (stonemasons, carpenters, musicians, pharmacists, etc.). Because of the regulation absence, these workers began to set up their companies in accordance with Section I of the Temporary Rules, until a circular was issued on November 30, 1907, explaining that these categories of workers were the subject to Section II, if they were employed by, or were the owners of commercial or industrial enterprises (Rogovin, 1912, p. 30). The civil servants, the railway workers, the mail and telegraph employees were not allowed to participate in the trade unions. They could only be incorporated into the non-governmental organizations under Article 9 of Section I of the Temporary Rules (*O vremennykh pravilakh ob obshchestvakh i soyuzakh*, 1909, p. 201).

Article 8 of Section II of the Temporary Rules allowed the teenagers to join the trade union (*O vremennykh pravilakh ob obshchestvakh i soyuzakh*, 1909, p. 205). That issue created some controversy with other legal acts. Thus, under the civil law, the teenagers could not independently dispose of their property. However, according to the Temporary

Rules, the trade unions had the right to buy and dispossess a real estate, to create capital, to sign agreements, to sue and to be sued, etc. (O vremennykh pravilakh ob obshchestvakh i soyuzakh, 1909, pp. 203, 206). The same controversy concerned the Jews and the Roman Catholics, who had some restrictions on the property rights. But the trade unions, whose members the Jews and the Roman Catholics were, did not have such restrictions (Blazhchuk, 1908, p. 5).

The main document, governing the activities of the trade union, was the Statute. It should include the name of the company, the purpose, the location, the level and the methods of its activities; the names, the patronymic names and the founders' names; the procedure for joining the company and of the participation termination; the members' rights and responsibilities; the amount of membership fees; the power of the governing bodies and the terms of their being in power, etc. (O vremennykh pravilakh ob obshchestvakh i soyuzakh, 1909, p. 205).

The union applications were filed to a senior factory inspector or district mining engineer two weeks before the union started its functioning. Then the applications were transmitted, by the governor or the mayor, to the provincial or city association, where, within a month, the trade unions were to be granted either a registration or refusal. The decision to close the trade union was made by a provincial or city association at the initiative of the governor or the mayor. The professional societies are the subject to closure in case of the violations detection, committed at their opening, deviation from the statute, the society threat to a public safety or peace, if the activity of the company became immoral in nature, etc. The decisions could be appealed in the Senate: such complaints were filed by the trade unions to the provincial or city association, from where the governor sent them to the Senate. The timeframe for reviewing complaints was not regulated by law (O vremennykh pravilakh ob obshchestvakh i soyuzakh, 1909, pp. 203–205). Thus, the legislation paved the way for the authorities abuse: the notion of immorality, the violations of a public safety and peace could be taken by any actions that did not please the authorities or the owner of the enterprise, and the complaints consideration in the Senate lasted for 2–3 years (Shelymagin, 1952, p. 189). The city association included a senior factory or a district inspector, the police officers, the representatives of the judiciary, etc., which affected the trade union movement significantly: for the smallest reasons, the societies were refused of registration or the existing ones were closed. (Svyatlovskiy, 1907, p. 122).

The criminal liability was established for the Temporary Rules violation. The criminal liability was provided by the same rules (sections III – IV): the arrest up to 3 months, the fine up to 300 rubles or the imprisonment for up to 1 year (O vremennykh pravilakh ob obshchestvakh i soyuzakh, 1909, pp. 206–207). It should be noted that no European trade union law at the time, unlike Russian, had punitive articles (Svyatlovskiy, 1907, p. 123).

The procedure for holding the trade union meeting was governed by the «Temporary Rules on Public Meetings» of March 4, 1906. Such statement should include the name, the first name, the patronymic name and the place of residence of the organizer or organizers (O vremennykh pravilakh o publichnykh sobraniyakh, 1909, p. 208). Thus, the law allowed the public meetings only to the individuals and not to the societies as a whole. In addition, such permission was granted if it was clearly stated in the law. The absence in the Temporary Rules of the direct indication of the trade unions right to hold meetings gave the authorities a reason to ban them. Because of the police bans, the societies often used the Delegate Meeting Institute as an interface between the board and the general meeting. Subsequently, the order was issued that forbade the general meetings on Sundays and

public holidays, and on weekdays they could only be convened from 4 till 8 o'clock. The authorities also began requiring notarization of the petitioners' signatures, authorizing only the elections meetings and the reports hearing, not allowing the constituent and general meetings (Shlosberh, 1930, pp. 51, 63).

The trade unions were constantly monitored. The searches in their premises were conducted on the smallest occasion and with the violations of a procedural law. In order to close or suspend the trade union activities the sufficient grounds were: the presence of non-members of the society at the meeting, the suspicion of organizing a strike or providing a financial assistance to the strikers. If the revolution of 1905 – 1907 was the impetus for the formation of a large number of the trade unions, then under the pressure of the police repression, their number decreased.

At the beginning of 1908 in the Russian Empire there were 300 trade unions (130,000 members), at the end of 1910 – 204 trade unions (about 38,000 members) (Tsitulskiy, 2011, pp. 68–69). However, by 1913, compared to 1905, under the pressure of the strike movement the amount of working hours decreased slightly, from an average of 10.8 to 9.8 hours for men, from 9.9 to 9.5 hours for women. (Shelymagin, 1952, p. 25).

During World War I, the reduction in the number of skilled workers affected the trade unions activities. But despite the persecution, they continued to defend the interests of the workers. In wartime, their economic situation deteriorated sharply: the government abolished a number of factory laws, working hours often exceeded 12–13 hours, the overtime work was widely used, and the safety rules were violated. All this caused the strike movement increase and the trade unions politicization (Filimonov, 2014, p. 159). The trade unions began to put forward not only socio-economic demands but also the political ones: they demanded the political freedoms guarantee, the war cessation, the social order democratization.

The February Revolution of 1917 caused the changes in all spheres of a public life. The fall of the autocracy marked the beginning of a new stage in the development of the trade union law, the new opportunities for the trade unions creation and their massive formation. However, the Provisional Government's policy on the professional organizations had many contradictions (Solominchuk, 2015, pp. 119–120).

Conclusions. Thus, for the first time, in the article there was made an in-depth analysis of the legal acts, regulating the legal status of the trade unions in the Russian Empire in 1905 – 1917. Such historical and legal consideration of the legal norms allowed to determine their positive sides, the drawbacks and the practical application perspectives.

The trade union movement in the Russian Empire was legalized under the pressure of the revolution of 1905 – 1907. The Russian legislation was less liberal to the trade union movement than the Western European countries legislation. The tsarist government, by introducing the Temporary Rules, pursued a twofold aim: on the one hand, to give the workers a minimal protection of their socio-economic rights in order to reduce a social tension, and on the other, not to allow the trade unions to become the equal organizations alongside the administration of enterprises, to take them under control and not to allow them to be politicized and to grow into a powerful social force. While in the West the activities of the trade unions were governed only by law, in Tsarist Russia they were also largely dependent on the authorities arbitrariness. The government had been constantly fighting the workers' organizations. The governors and mayors received the circulars that recommended a strict regulation and oversight of the trade union activities.

Despite the prohibitions and restrictions imposed, the Temporary Rules were a major breakthrough in ensuring the socio-economic rights of the workers, as they enshrined the employees right to establish the professional organizations. The legislation regulated the trade unions purpose and functions, the procedure for their creation and closure, the membership and the main aspects of a practical activity. The Temporary Rules contained some drawbacks that were later corrected in the government clarifications and circulars. Despite the proclaimed temporary nature, the above-mentioned legislative act was in force until 1917.

The provisions and conclusions of this article have been formulated on the basis of the governing regulations analysis, which regulated the legal status of the trade unions in the Russian Empire during 1905 – 1917. The general postulates of the trade union law have been previously considered in the historical science, but a further research will allow us to analyze the components of trade union legal status in a more detailed form and to assess them in accordance with the current approaches.

Acknowledgments. The authors express their sincere thanks to the Doctor of Historical Sciences, Professor Oleksandr Fedkov for his advice and recommendations during the preparation of the article.

Funding. The authors received no financial support for the research, authorship, and/or publication of this article.

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*The article was received on February 12, 2019.
Article recommended for publishing 27/08/2019.*