

Introduction and general characteristics of labour law in Russia

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

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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:

- Conceptual framework of labour law (hereinafter LL) and production methods.
- Interaction of LL with other law branches. Significance of non-juridical disciplines in studying of LL.
- History of formation and modern development of LL: sciences, branches (academic subject) and labour legislation.
- Concept and interest types in LL. State-law combination and estates distribution in labour field.
- Brief description of law legislation in foreign countries.

Conceptual framework is information system, because it is intended for legal information transfer, explanation of legal norms by elaboration of concept meaning, with the help of them, these norms are formulated (Golovina S.Y., 2006)

Term – (from Latin. boarder, limit) means a word with special

(scientific) shade of meaning... Concept – reflects general, basic, more essential determinations, identical to a subject (Golovina S.Y. 1997)

Interpretation of law – it is immaterial-voluntary activity in determination of original content of legal acts in order to realize and update them (Shaburov A.S., 1996)

Labour law, as any other disciplines,
Has its own ***conceptual framework***,
which includes:

terms

categories

concepts

definitions

Interpretation of law – it is immaterial-voluntary activity in determination of original content of legal acts in order to realize and update them (Shaburov A.S., 1996)

- 1) **Grammatical** (determination of different concepts or literal meaning);
 - 2) **logical** (what legislator wish to express and text meaning sets according to logical law);
 - 3) **special – juridical** (interpretation of terms due to peculiarities of legal control)
- And other means of interpretation.

- 1) **Official** (**authentic** – carries out department, which published legal act; **legal** – special jurisdiction authority);
- 2) **Non-official** (**doctrinal**, - by scientists –by lawyers, **ordinary** – every subject, **professional** - by specialists – by lawyers).

Evaluation concept – expressed in norms law clauses (order), which:

- firstly, by force of its particularity it is not concretized in any single legal act;
- secondly, it is concretized in the process of law enforcement in each separate case;
- thirdly, it gives to law enforcement authority a possibility of independent evaluation of facts with obligate abidance of those general criteria or features, which are required in present evaluation concept.

**Production methods of conceptual framework
in labour law:**

**1. by science or
scientific**

**2. legal or
regulatory**

**3. Legal or
law enforcement practice**

4. everyday practice

**1. by science or
scientific
method of concept
formation,
terms, definitions**

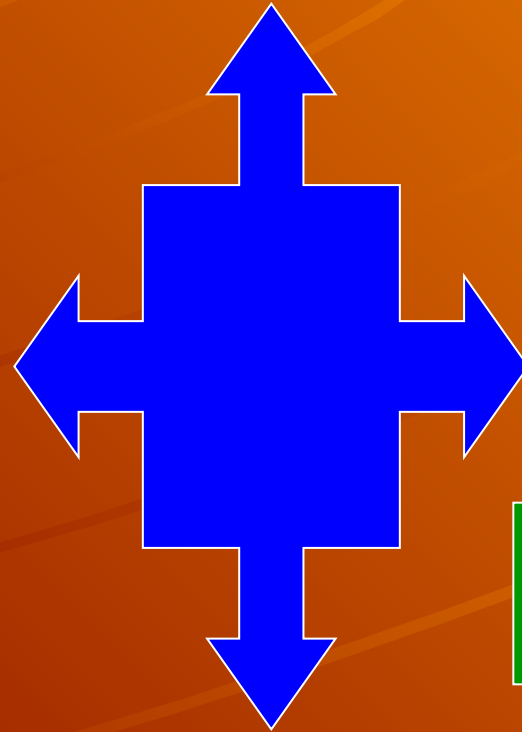
Subject of LL

Method of LL

System of LL

Sources of LL

Principles of LL



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graph TD; A["subject of LL  
(Par. 1 Labour Code of Russia)"] --> B["labour relations  
(Paragr. 15 Labour Code of Russia)"]; A --> C["directly connected with labour relations in labour sphere  
(part 2 paragr. 1 Labour Code of Russia)"]; style A fill:#008000,color:#fff; style B fill:#90EE90; style C fill:#FFDAB9;
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subject of LL
(Par. 1 Labour Code of Russia)

labour relations
(Paragr. 15 Labour Code of Russia)

**directly
connected with labour
relations in labour
sphere**
(part 2 paragr. 1 Labour Code of Russia)

- **labour organization and labour management;**
- **employment by particular employer;**
- **professional training;**
- **participation of employees and labour unions in establishment of working conditions;**
- **social partnership;**
- **financial responsibility of employee and employer in labour sphere;**
- **resolution of grievance**



Method of LL

firstly, method (from Greek *methodos* – way, research) learning system of LL

secondly, method – is a complex of legal techniques, means, control methods social-labour relations

- complex of state and κ contract;
- participation of employees in administrative management;
- unity and κ differentiation of labour regulation;
- complex of contract, recommendation κ imperative;
- participants equality in making and termination of labour contract and submission to standards of LL and rules;
- peculiarity of remedy κ labour-related arrangement.

**«gender»,
«compulsory
labour»,
«salary wage»**

Acts ILO, CIS

**«employer»,
«employee»**
(Paragraph. 20 Labour code of
Russia)

**Labour code
of Russia**

**2. Legal or regulatory
way of terms creation, concepts
of LL**

**Federal constitutional law,
Federal law,
laws of Russian regions**

**others regulatory
legal acts**

**«employment
»,
«trade union»**

**«permanent
place
of work»**

«important reasons» omission of period in court demand (article 5 PP VS of Russia № 2)

«right abuse» from the part of employee (article 27 PP VS of Russia № 2)

3. Legal or law enforcement practice

«business capacity of employee» (article 10 PP VS of Russia № 2)

«another locality», «structural department» (article 16 PP VS of Russia № 2)

4. Concepts of everyday practice

Maternity leave

Administrative leave

Partly-paid leave

**Departure
clearance**

Labour law in Russia

**Legal discipline
(formal-
dogmatic)**

Correlation

Difference

General characteristics

**Other sciences
(social-
economical,
historical and
others)**

Addition

Effectiveness

**Studying of
development**

**International
law**

**Constitutional
law**

Labour law

**Civil
law**

**Administrative
law**

**Criminal
law**

**Social security
law**

Philosophy

Psychology

History

Labour law

**Imaginative
literature**

Economics

Sociology



Branches or Educational discipline

science

labour law

History of labour law

Pre-revolutionary

soviet

modern



Several scientists consider, that labour law as branch of law arose in Russia till 1917 (Mironov V.I., 2005)

Pre-revolutionary period

Till 1917 labour law was called «Industrial (working) law». Lev Semenovich Tal – confirmed independence of this discipline.

Labour law was called «employment agreement» and it was an institute of civil legislation. Labour legislation was called factory (factoryplant) and was a subject of administrative (police) law.

In the opinion of L.S. Tal (1916, 1918):

Industrial law – complex of special standards, which define internal system of industrial enterprise and relationships between members of this enterprise.

Industrial law is inseparable mixture of standards of public and private law.

Master authority, standard agreements and employment (working) agreement – these are Private law basics of internal system in industrial enterprise.

In educational-scientific literature about LL, there is a fact, that labour law, as a law branch, was created in the Soviet period:

Labour law became an independent branch from civil law in 1918 with acceptance of the first Labour Code (Gusov K.N., Tolkunova V.N., 2002)

... due to two cross processes...from the sphere of civil-legal regulation and administrative (police) law... in 1922 (Khokhlov E.B., 1996)

History of labour legislation in Russia

A. First laws about labour May 24, 1835; June 1, 1882; June 3 1886; June 2, 1897

**B. Decree of Council of People's Commissars October 29, 1917,
Civil laws of 1918, 1922, 1971, Fundamentals 1970**

Labour code of Russian Federation (below LC RF):

- **accepted by State Duma on December 21, 2001**
- **approved by Federation Council on December 26, 2001**
- **signed by President RF on December 30, 2001;**
- **joined into force since February 1, 2002;**
- **last changes – Federal Law July 27, 2010
(join into force since January 1, 2011).**

Interest in general theoretical meaning is:

(from Latin *to have a meaning*) reason of actions of individuals, social groups, defining their social behavior

(from Latin *to participate*) attraction to smth, From material point of view advantage, benefit, self-interest

Interest in LL – it is a motivation (reason) of behaviour in labour sphere and others) and internal motives, needs of subjects in social-labour relations

**Interests in LL can be classified
From the point of view of standards in
legislation (broadly defined)
and realized by citizens in labour sphere:**

1. objective

Labour conditions

Type of activity

climate

2. subjective

age

health

education

3. individual

employee -
man,
woman

employer -
Legal
person,
natural
person

4. collective

employees
-
organization,
branch

Collective
and
management
executives

Labour code was not accepted by:
USA, Germany, Japan

Labour code is accepted by:
France, Canada

«non-CIS countries»

Labour legislation of foreign countries

«CIS countries»

accepted
new
Labour
code

Belarus,
Kyrgyzstan,
Uzbekistan

Labour
codes
were not
canceled

Ukraine,
Moldova,
Azerbaijan

Labour code was
cancelled,
Laws were
accepted

Estonia