

The law on 1000 AMD or robbery in a new format?

On December 15, 2016 the RA National Assembly adopted the law «On compensating damage caused to life or health of the servicemen while defending the Republic of Armenia» (hereinafter referred to as the Law).

Though the opposition MPs constantly claimed that voting had been done instead of the absent MPs and demanded to restore the voting process, the President of the RA National Assembly didn't implement their regulatory requirement prescribed by the law.

Thus, without taking into account the public opinion, the law was adopted hastily, and starting from January 2017 1000 AMD was charged from salaries of thousands of citizens by causing problems both for employees and employers.

There are incomplete and controversial aspects in the Law, besides, it can be considered as anti-constitutional because of the following:

1. 1000 AMD is charged from employees' wages. And what is wage? It's a person's property. It means that the compulsory deduction by 1000AMD is encroachment on a person's property.

According to Article 178 of the RA Labour Code the salary is the remuneration for works performed by an employee under law, other legal acts or an employment contract.

According to Article 60 of the RA Constitution everyone shall have the right to possess, use and dispose of legally acquired property at his or her discretion.

According to Article 17 of the Universal Declaration of Human Rights no one shall be arbitrarily deprived of his property.

Thus the compulsory deduction of 1000 AMD from an employee's wage is violation of a person's property right, as only the owner is eligible to dispose his money.

2. According to **Paragraph 3 of Article 11 of the Law** 1000 AMD is not charged from people working only by one labour contract with minimum wage. Employers pay instead of those people from their own pocket or from state or community budget.

But it is not clear whether this refers only to full-time employees or to part-time and contract workers. According to the RA law «On minimum wage» 55000 AMD is the minimum wage, but according to Article 2 of the same law 330-550AMD per hour is the rate for contract workers.

If the definition provided by the law concerning full-time employees is clear, then there are contradictions in contract workers' case and needs clarification.

3. Paragraph 3 of Article 11 of the Law is anti-constitutional also because it frees people working with one labour contract with minimum wage from the obligation of being charged with 1000 AMD. It means that a person who works with 2 or more labour contracts and receives minimum wage (from one or all contracts), has to pay the mandatory 1000 AMD from his minimum wage.

In these conditions a person's right to get minimum wage defined by the Constitution (Article 84) and the right defined by the Universal Declaration of Human Rights are violated.

4. We see inequality in the case of people getting income by civil-legal contracts as well, as, for instance, a person who gets 5000 AMD monthly income also pays the mandatory 1000 AMD, not to mention a person who gets only 1000 AMD monthly benefit, who, in fact, doesn't get cash income.

5. The next issue, which hasn't been regulated yet, is whether the subjects of family business have to pay the mandatory 1000 AMD.

It is clear that a family member employee gets income in the form of wage and will pay the 1000 AMD, but certain points regarding private entrepreneurs are incomplete. For example, a private family entrepreneur doesn't pay the accumulative social payment for himself.

By the same analogy a private family entrepreneur shouldn't pay the annual 12000 AMD, if we consider the Paragraph 7 of #3 official clarification of the family business taxation.

A quote from the clarification: there is no obligation for a private entrepreneur who is exclusively a subject of family business for paying the social payment and submitting annual income calculation conditioned by the absence of calculation object of social payment according to the RA law «On Accumulative Pension».

6. If an employer pays the 1000 AMD in the case of minimum wage (multiplying the number of employees by 1000) and it is not taxed, then in other employees' case the 1000 AMD, entering into the gross income, is taxed, and in the final result an employee is charged not only with 1000 AMD, but +244 AMD in the case of 24.4% taxation and +260 AMD in the case of 26% taxation.

In the result the study and oral inquiries made by me in 3 budgetary institutions I found out that there were instructions from higher instances (the Ministry) to increase the wages of people receiving minimum wages (which is increased at the expense of other incomes of the institutions), so that employees can pay the 1000 AMD from their wages and not from the state budget. Moreover, it will be taxed in the gross income and more money will go to the state budget by deception.

7. According to Paragraphs 2 and 3 of Article 12 of the Law if a citizen works for several employers, the 1000 AMD is charged for each workplace, and if he is a private entrepreneur as well, the 1000 AMD is charged, too.

As defined by the law, at the end of the year those employees should submit a reference for getting back the 1000 AMD charged from them from more than one workplace.

But an employee doesn't have the opportunity to manage his money in the course of the year, and secondly, the process of getting back the money will take extra time. Why can't an employee submit his documents in the beginning of the year for being charged only for one workplace? Or they can make a special note in the Law so that the deduction could be done from the main workplace.

8. We should talk about a concern that by entering the law so hastily into force and by applying the compulsory component, the authorities give a hint that there will be a war and/or we are going to have victims, as the Law is not retroactive and doesn't apply to the families of the victims of 2016 April war.

We can conclude that the main purpose of this Law is not the introduction of a special system providing compensation of damage caused to life or health of the servicemen while defending the country, but creation of legal bases for extorting additional money from working citizens.

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