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PROTECTION OF THE RIGHT TO COLLECTIVE BARGAINING IN THE EUROPEAN CONVENTION

According to the settled case-law, art. 11 of the European Convention guarantees the protection of trade union members' interests by undertaking actions typical for trade unions, which implementation should be made possible by the state. Art. 11 p. 1 of the Treaty provides trade unions with the right to be heard in order to protect the interests of its members. The member states decide what measures should be used to implement this provision in a way that does not violate the provisions of the Treaty. The originally established interpretation of art. 11 pointed out that the European Convention does not allow for special treatment of trade unions, and especially does not give them the right to conclude collective labor agreements.

It was also assumed that such right did not constitute a certain fixed element of law established by the Treaty. In the case of *Wilson, National Union of Journalists and Others v. the United Kingdom*, the European Court of Human Rights acknowledged that the right to collective bargaining is not necessary for the efficient exercise of the freedom of association, however it can be used by a trade union to defend the professional interests of its members. In the same decision the Court emphasized that a trade union must be free to strive for the protection of its members' interests so it should have right to be heard by the employer in order to protect them. The change of the interpretation line was even more clearly marked in the following case, in which the Court stated that the right to collective bargaining is essentially the constitutive element of the right to establish and join trade unions expressed in the European Convention. All employees, with regard to exceptions provided in the second paragraph of art. 11, are entitled to take advantage of this right.