



**INTERNATIONAL TRADE UNION CONFEDERATION
EUROPEAN TRADE UNION CONFEDERATION**

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Legal-SM/PERC-AL/pw

Brussels, 10 January 2020

Dear Sirs and Madam,

We write to you on behalf of the International Trade Union Confederation (ITUC), representing 200 million workers in 163 countries and territories and having 332 national affiliates, and the European Trade Union Confederation (ETUC), which is the voice of workers and represents 45 million members from 90 trade union organisations in 38 European countries, plus 10 European Trade Union Federations.

On 27 December, the Cabinet of Ministers of Ukraine submitted to the Verkhovna Rada (Ukrainian Parliament) a new draft law on labour which would strip workers of legal protections, and unions of their ability to protect them. Other draft laws have been recently introduced in the same manner, namely draft laws "On Amendments to Certain Legislative Acts of Ukraine (Concerning Some Issues of Trade Union Activity)" (Reg. No. 2681), "On Amendments to the Labour Code of Ukraine concerning Additional Grounds for Dismissal" (Reg. No. 2584) and some others. They will erode fundamental rights in breach of international standards. These legislative amendments were developed behind closed doors and without full and frank tripartite consultations with representative trade unions.

Amongst others, they provide for the following stipulations that are problematic:

(1) The unilateral termination of employment contracts by employers in breach of art. 4 of ILO Convention No.158 on Termination of Employment (ratified in 1994), which stipulates that terminations must be based on valid reasons that are either connected with the capacity or conduct of the worker or based on operational requirements. The complete discretion afforded to the employer to dismiss employees without severance pay is likely to particularly impact trade unionists and whistle-blowers.

(2) Employers may make changes to the terms of the employment contract and dismiss employees who refuse to accept changes. In practice, this means that the provisions of the employment contract are effectively only binding on the worker given that the employer may unilaterally introduce changes.

(3) The expansion and encouragement of the use of short-term and zero-hours contracts creates job and income insecurity, unpredictability of working hours and stress. The draft law allows the use of short-term contracts for up to five years, not taking into account the fact that all too often these contracts are abused, and workers are hired on consecutive short, fixed-duration contracts for work that is of a permanent nature.

(4) The drastic reduction of overtime pay from a 100 per cent premium to a 20 per cent premium, in breach of ILO Convention No.1 on Hours of Work, which requires a premium payment of at least 25 per cent. In addition, the draft amendments reduce existing limitations to overtime work.

(5) The abolition of some social guarantees and reduced protection for mothers with small children, making their dismissal even easier. Moreover, employees will have to disclose all information that may impact their employment to their employer, and pregnancy and health conditions are not excluded from this requirement.

(6) Numerous limitations to the right to freedom of association that breach ILO Convention No.87 on Freedom of Association and the Protection of the Right to Organise (ratified in 1956). This includes the limitation of workplace unions to a maximum of two in direct contradiction with the findings of the ILO Committee on Freedom of Association, which has explicitly stated that legislated limits on the number of trade unions violate the right to freedom of association. Moreover, the draft law requires the forced transfer of trade union property acquired before 1991 to the government, including property acquired with trade union funds. In addition, the minimum threshold for the establishment of trade unions has been increased from 3 to 10 workers, excluding workers employed in micro-enterprises from the right to form trade unions. The amendments also introduce “control commissions” that may observe and control trade union activity and are not solely include non-union members.

(7) Limitations on the right to obtain information for collective bargaining purposes removing the conditions that are necessary for the promotion of good-faith collective bargaining.

These are only some of the areas of the amendments that seriously breach numerous fundamental and technical Conventions of the ILO, in particular ILO Convention No.87 on Freedom of Association, ILO Convention No.98 on Collective Bargaining and ILO Convention No.144 on Tripartite Consultations.

These changes to worker protections are unacceptable for a country that espouses democratic values and European aspirations and has committed to respect EU principles by signing the Association Agreement.

The Pan-European Regional Council of the ITUC adopted a resolution condemning the proposals¹ in mid-December, calling on the government of Ukraine to withdraw the draft and seek ILO technical assistance. And just days later, the European Trade Union Confederation pledged to raise the issue with the European Commission and Parliament² on the basis that the draft law contradicts the EU-Ukraine Association Agreement. We will continue informing the ILO and the European Union about this grave

¹ https://perc.ituc-csi.org/IMG/pdf/statement_4th_perc_ga_on_ukraine_161219-2.pdf

² <https://www.etuc.org/sites/default/files/document/file/2019-12/ETUC%20Support%20to%20the%20PERC%20Statement.docx.pdf>

situation and will not hesitate to utilise existing international and regional mechanisms of workers' rights protection if the attacks on rights of workers and their unions continue.

Ukrainian unions have announced a protest campaign rejecting the draft laws and the approach of the government. We fully support this campaign and express our solidarity with all workers of Ukraine and their unions. We demand that the draft be withdrawn and any formal hearings in the Verkhovna Rada should be postponed. These legislative changes must be subject to full consultations with trade unions. There is no justification to enact hastily drafted amendments to these important laws, in particular without full tripartite negotiations. We urge the government of Ukraine to avail itself of ILO technical assistance in preparation of the Labour Code meeting international standards.

We call on the Ukrainian Government and Parliament to respect the provisions set out in the Association Agreement with the European Union, in particular regarding international (ILO) core labour standards, as well as the EU principle of social dialogue.

Sincerely yours,



Sharan Burrow
General Secretary
ITUC



Luca Visentini
General Secretary
ETUC and PERC

Cc: Mr Grigoriy Osovyi, President, FPU

Mr Mykhailo Volynets, President, KVPU