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Ukraine's new labour law could 'open Pandora's box' for workers

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Ukrainian parliament set to vote on new labour law that threatens workers with a 'rollback to the 19th century'

"With one letter [our employer] sent us away, and our dialogue turned into a monologue," says Anton Gorb, a trade union representative at Ukraine's largest private postal service, New Post.

Gorb is currently serving in Ukraine's armed forces as the country fights against the Russian invasion. But he still represents his union members' interests, and manages to find time to speak to me about how Ukraine's wartime labour legislation is affecting people in the country.

"We are not going to give up, we are trying to win something back, but our relationship with our employer can no longer be restored," Gorb says.

In March, the Ukrainian parliament passed wartime legislation that [severely curtailed](#) the ability of trade unions to represent their members, introduced 'suspension of employment' (meaning employees are not fired, but their work and wages are suspended) and gave employers the right to unilaterally suspend collective agreements.

This, Gorb explains, is what happened at New Post (Nova Poshta), once a flagship for good working relations between Ukrainian unions and management.

But beyond this temporary measure, a group of Ukrainian MPs and officials are now aiming to further 'liberalise' and 'de-Sovietise' the country's labour laws. Under a draft law, people who work in small and medium-sized firms - those which have up to 250 employees - would, in effect, be removed from the country's existing labour laws and covered by individual contracts negotiated with their employer. More than 70% of the Ukrainian workforce would be affected by this change.

Against a background of concerns that Ukrainian officials are using Russia's invasion to push through a long-awaited radical deregulation of labour laws, one expert has warned that the introduction of civil law into labour relations risks opening a "Pandora's box" for workers.

Under pressure

"We had one of the best employers in Ukraine and a good, working collective agreement," says Gorb. "But now employers have turned their backs on social dialogue. We thought it was because of the start of the war, and then it turned out that they were waiting for the adoption of the law."

The independent trade union organisation at New Post is one of the largest of its kind in Ukraine. Prior to Russia's invasion, the union had more than 11,500 members (out of about 30,000 employees), and had its first collective agreement signed back in 2016.

But in April, under Ukraine's wartime suspension of certain labour rights - which was billed as 'temporary' - New Post's management [revoked](#) 30 points of the collective agreement with the trade union.

Most of these points relate to coordination of working conditions with trade unions, but also some social guarantees, such as providing workers with uniforms, the availability of a first-aid kit at the workplace, working hours and others.

In a recent interview, the company's operations director, Yevhen Tafiychuk, [said](#) 1,500 employees had had their employment "suspended" under the wartime legislation - meaning they have not been fired, but they are not currently working or being paid.

This, Tafiychuk explained, was due to a sharp reduction in cargo turnover in the first days of the war and the closure and shelling of some of its branch offices. Some of the staff, for whom there was no work at that time, were put on reduced wages, he said. "This is an official procedure, and we paid all wages in accordance with the law," he said.

"Today, Ukraine's economy and society are under extreme pressure from the Russian invasion"

A similar situation has developed at other large companies in Ukraine. At the start of May, Ukraine's Trade Union of Metallurgists and Miners [wrote to management](#) at the ArcelorMittal plant in Kryvyi Rih, the largest steelworks in the country. The union claimed that, in April, ArcelorMittal management had suspended parts of their collective agreement regarding trade union activity, but also social welfare and benefits for employees. openDemocracy contacted ArcelorMittal for comment but had not received a response at the time of writing.

To inform people, Social Movement, a Ukrainian civic organisation, has created a '[black list of employers](#)'. This includes companies that have unilaterally suspended all or part of collective agreements, or have significantly changed working conditions in violation of Ukraine's labour laws. Almost two dozen enterprises are on the list, including the Chernobyl nuclear power plant, Ukraine's national railway company, Odesa Port and the Kyiv Metro.

Now, however, Ukrainian parliamentarians have decided to go even further and are looking to adopt a more radical reform of the country's labour laws, which would extend far beyond wartime.

'Desovietisation' plus liberalisation

The proposed new labour law, Bill 5371, was [originally registered in](#) in April 2021. But last week, Ukraine's parliament supported it for the first time - opening the way for it to be written into law.

Formally, the draft law was filed on behalf of Halyna Tretyakova, head of the parliamentary committee on social policy, and a number of other deputies from the ruling Servant of the People party. The bill was developed by a Ukrainian NGO, the [Office of Simple Solutions and Results](#), which was set up by former Georgian president Mikheil Saakashvili, together with Ukrainian employers' associations and a USAID programme.

The bill's authors [argue](#) that employment relations in Ukraine "are still regulated by the outdated Labour Code, adopted back in 1971 and developed under the conditions of the Soviet administrative-command economy".

As part of this problem, they claim, Ukraine's small and medium-sized businesses don't have satisfactory legislation for their development. The "outdated, economically inadequate methods of

state regulation of labour relations in Ukraine” impact the country’s private and public sectors.

To fix this, the draft law will introduce individual contracts for people who work at small and medium-sized businesses, and give Ukrainian employers the right to fire employees without any reason. The latter is currently strictly prohibited in the current labour legislation. It also plans to “reduce the bureaucratic burden on labour relations and business entities”.

These measures, supporters of the bill argue, should ‘de-Sovietise’ employment law in Ukraine. They refer to the “liberalisation” of these relations as “the introduction of the most flexible and free regime for regulating labour relations.”

“These innovations are beneficial to both parties, since contractual regulation can be more flexible than basic legislation,” says Hanna Lichman MP, a member of the parliamentary committee on economic development. “For example, to include certain additional options and benefits for an employee – these elements of labour relations are even more reliable than simple agreements.”

This is labour slavery

However, Ukrainian trade unions and labour organisations assess the prospects of the draft law quite differently.

Vitaliy Dudin, an expert on labour law and a representative of the Social Movement organisation, says the proposed new law is the “most radical approach to destroying the social partnership model”.

For Dudin, the most destructive part of the new legislation is the introduction of Ukraine’s civil law into employment relations. According to him, Ukraine’s civil law is based on the idea that two parties are equal, whereas the relationship between an employer and employee is not – the employer is always in a more advantageous position. “This is a rollback to the 19th century. By introducing civil law into labour relations, we can open Pandora’s box,” he says.

George Sandul, a lawyer at Labor Initiatives public organisation, also points out that an employee always has less influence than an employer – and notes that, at the international level, numerous conventions issued by the International Labor Organization (ILO) concern this issue.

“Roughly 10 million people have left their homes, with many forced to flee abroad. But even among those who remain in Ukraine, millions face losing their jobs “temporarily” or the threat of unemployment”

He says the main problem with the proposed new law is the introduction of individual contracts at small and medium-sized businesses.

“De facto, this regime assumes that literally anything can be entered into an employee’s employment contract, without reference to Ukrainian labour laws. For example, additional grounds for dismissal, liability, or even a 100-hour week,” explains Sandul.

“Also, it is the individual labour contract that becomes the basis for regulating all relations at the enterprise, which neutralises the role of collective agreements and relegates trade unions to the background.”

Ukraine’s parliamentary committee on EU integration previously [stated](#) that the proposed legislation “weakens the level of labour protection, narrows the scope of labor rights and social guarantees of employees, in comparison with the current legislation”, thereby contradicting Ukraine’s obligations

under its Association Agreement with the EU. The bill was also [strongly criticised](#) by the ILO in Ukraine.

“If this bill is voted on in the second reading, then workers will no longer have any protection against arbitrary actions upon dismissal,” [opined](#) a former minister of social policy, Andriy Reva.

The ruling party is advancing

For more than a year, the proposed bill failed to find support among legislators.

But this situation changed in May, when [supporting votes](#) were provided by the Trust political party, as well as by former members of the pro-Russian party, Opposition Platform/For Life, which was [banned](#) by Parliament this month. Perhaps the crackdown against the latter party – which now includes a [proposal to deprive these MPs of their mandates](#) – made some of its MPs more willing to accommodate the changes.

Now the Ukrainian parliament is in a hurry to prepare for a second reading under a so-called ‘accelerated procedure’, while there are enough votes to approve it. The key question is whether Ukrainian unions, in the current military environment, will be able to block this bill or achieve significant changes before the second reading takes place.

Sandul says that while Ukrainian and international trade unions led a campaign against the proposed law last year, Russia’s invasion means there can be no protests, and therefore “information campaigns are now one lever of influence on the situation”. On 18 May, the Joint Representative Office of Ukraine’s trade unions [addressed an open letter](#) to Ukrainian MPs, calling on them not to vote for bill 5371 in the second reading.

According to Lichman, “there are many ways to find a compromise” on the draft law, including proposals from trade unions ahead of the second reading of the legislation. If the situation deteriorates, she says, then trade unions could ask President Volodymyr Zelenskyi to use his right to veto new legislation. Lichman also told openDemocracy that the concerns from the EU integration parliamentary committee have been prepared for inclusion in the second reading of the proposed law.

Meanwhile, Dudin believes Ukraine’s new EU bid could become a “trump card” in the hands of trade unions. “Now human rights, including labour rights, will be monitored by the EU. Therefore, trade unions, which are morally right in this situation – their members are also at war – can demand a moratorium on such reforms in wartime conditions in the spirit of European integration,” he says.

Today, Ukraine’s economy and society are under extreme pressure from the Russian invasion. Roughly 10 million people have left their homes, with many forced to flee abroad. But even among those who remain in Ukraine, millions face losing their jobs “temporarily” or the threat of unemployment.

In this sense, these laws could worsen the already desperate situation of many Ukrainians – an unjustified test for people fighting against Russian aggression.

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