

Mr Volodymyr Zelenskyy
President of Ukraine

Oslo, 21.02.2020
Our ref. 20/869-2
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Your ref.

Dear Mr President,

Protest against a new draft law on labour

We write to you on behalf of the Norwegian Confederation of Trade Unions (LO Norway), representing more than 950.000 members.

On 27 December, the Cabinet of Ministers of Ukraine submitted to the Verkhovna Rada (Ukrainian Parliament) a new draft law on labour, without any consultations with unions, 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

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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 three to ten 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 do not solely include 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. 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 drafts be withdrawn and that 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 without full tripartite negotiations.

We call on the Ukrainian government and Parliament to respect the provisions set out in international (ILO) core labour standards and urge the government to avail itself of ILO technical assistance in preparation of the Labour Code.

Yours sincerely

LO NORWAY

A blue ink signature of Hans-Christian Gabrielsen, written in a cursive style.

Hans-Christian Gabrielsen
President

Cc:

Mr Dmytro Razumkov, Chairman, Verkhovna Rada of Ukraine.

Mr Oleksiy Honcharuk, Prime Minister of Ukraine.

Mr Tymofiy Mylovanov, Minister for Development of Economy, Trade and Agriculture of Ukraine

Ms Yulia Sokolovska, Minister of Social Policy of Ukraine