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The workers are defending Ukraine. The Ukrainian state is not defending workers' rights

Friday 3 June 2022, by [KULBACZEWSKA-FIGAT Małgorzata](#) (Date first published: 28 May 2022).

In the shadow of war, the Ukrainian government is pushing for labor reforms that had been planned for more than two decades, but - for various reasons - never came into being. And these are not the reforms that labor unions were fighting for. Perhaps the term “counter-reforms” would be more adequate: if the Ukrainian labor market was not a worker-friendly space long before the war, it is now going to get even more destabilized, deregulated and even more tailored to fit employers' expectations.

Back in March, the parliament voted and Volodymyr Zelensky signed the Bill 2136 - or the law on labor relations in the conditions of war. Officially, the law is a temporary measure seeking to help those companies which were heavily affected by the conflict and cannot keep operating on the previous scale. However, the state's help does not consist of subsidies, loans or preferential tax rates. The Ukrainian state seems to suggest that it has no resources for any of these measures. Instead, it gives the entrepreneurs a free hand to exploit workers.

- Bill 2136 gives the employer the right of “suspending the labor contract”. It means that the worker is neither fired, nor paid. In addition, the bill gives the employers a chance not to pay for work that has already been done. It will be enough if they say that due to war events they were not able to pay in time. There is no institution that could force them to pay - explains Vitaliy Dudin, expert in labor law and one of the leaders of the [Sotsialny Rukh \(Social Movement\) left-wing organization](#). - And this is not all: the employer is now also entitled to renounce any collective agreement that existed in the workplace. No justification is needed.

For Dudin, the conclusions are obvious:

in a critical situation, the Ukrainian state is making business', not the workers', interests a priority.

The workers may be the majority of the society - like in any society - but they have no significant representation in political life. Volodymyr Zelensky's party name, Servant of the People, sounds like a bitter irony. This is not the first time when the “servants” advocate extreme neoliberal policies, demand more deregulation and pay no attention to the catastrophic situation of working people.

Before the Russian invasion, millions of Ukrainian workers migrated to EU countries (and not only), knowing well that even the poorest of them - Bulgaria and Romania - offered significantly better earnings to an average worker than their homeland. Neighboring Poland was a favorite choice. Geographically close and excellently connected with Ukraine by roads and railways, with a language pretty easy to learn for Ukrainian and Russian speakers, it had a 2-3-million Ukrainian workers'

community already in 2019. While some of them worked in Poland for a couple of months and then went back to live with their families in Ukraine, others were determined to stay permanently. Even if Poland has its own serious issues with workers' rights, there is hardly a comparison to Ukraine.

- Polish and European activists fight to make working conditions better, while we are struggling to gain the most basic guarantees - Vitaliy Dudin tells me. - Low wages are virtually strangling our economy. In addition, some 20-30 percent of Ukrainian workers are employed "unofficially".

Even working in a state-owned enterprise, in a critical economy sector, does not guarantee a stable salary, allowing for or decent living. As Dudin points out, one of the professional groups that regularly faces payment delays are coal miners. It is their work, hard and unsafe, that secures the Ukrainian energy sector. Yet there was a moment before the war when the state owed them more than 4 billion Ukrainian hryvnia, or 136 000 000 dollars in unpaid salaries.

The miners were regularly organizing spontaneous protest actions, including the most desperate move - an underground protest. Another huge underground protest action took place in 2020 in Kryvy Rih, the center of iron mining of transnational importance. A group of workers of KZRK, a formerly state-owned plant consisting of four iron mines and more associated factories, [spent more than a month inside mines, demanding a pay rise](#). Before the action, their salaries did not even reach the level of 1000 euros. Their workmates and families, running a simultaneous protest in the city, brought a banner with them, saying "Dignity starts from 1000 euros". A clear hint at the Euromaidan events, called Revolution of Dignity in Ukraine - and a question: can we really speak of national dignity if people are so much underpaid for their hard work?

For Ukrainian lawmakers, apparently, there is no contradiction.

After introducing Bill 2136, they went on to work on Bill 5371. And while *zakon 2136* was considered by many workers a harsh, but indispensable measure, Bill 5371 has nothing to do with the ongoing war.

[It was drafted two years ago by the Office of Simple Decisions and Results](#), an NGO founded by Mikheil Saakashvili, with participation of USAID and an employers' union, to advise the Ukrainian government on legislation. The key idea of the bill is to introduce maximum flexibility and deregulation to small and medium enterprises (up to 250 personnel). According to the project, working and payment conditions of every employee would be determined by his/her individual work contract. A contract that the employer will be able to end in a simplified manner.

- The employers will be able to write everything in these contracts - Vitaliy Dudin says. - They can, for instance, secure the rights to call an employee to work on a free day. They can also include grounds for immediate dismissal and I do not want to imagine what will end up there. An unfriendly look? A dress-code violation? Why not, with Bill 5371 everything is possible.

The expert on labor law expects that big companies will be artificially split into smaller 250-people entities so that maximum flexibility can be used even by the biggest and strongest employers. He has no doubts that Ukrainian business exploits every opportunity to strengthen its position. - With these laws, the balance between employers and working people is destroyed - he sums up, adding that there was no balance before the war either. Not only because of the very logic of capitalist work/capital relations, where working people are always the weaker side. Also due to the fact that there is no state institution in Ukraine dedicated in particular to defending workers' rights. The questions of the labor market are the Ministry of Economy area, and the same ministry is supposed to advocate growth of entrepreneurship and employers' rights. - It is a blatant conflict of interests,

and it is resolved with more regard to business demands – Dudin comments.

Sotsialny Rukh has created [a black list of Ukrainian employers](#) that already made use of Bill 2136 options: suspended working contracts, fired people or renounced a part of collective agreement. Among them, we find ArcelorMittal Kryvyi Rih, another iron & steel giant. The activists are compiling the black list, using the information published in the media and/or coming from the workers themselves. And they are quite sure the list is incomplete.

What the unions cannot do now are street protests or strikes – this, also, was included in the Bill 2136. To stop Bill 5371, they are publishing appeals to Ukrainian lawmakers, pointing out that this legislation could actually hamper the state's European ambitions. After all, Europe, even after its own counter-reforms in different states affected by neoliberal thinking, is not even close to deregulation as advocated by Ukrainian politicians. [Bill 5371 contradicts the Charter of Fundamental Rights of the European Union, not to mention the International Labor Organization's conventions](#).

Will this kind of argumentation save Ukrainian workers from further degradation? We will find out soon, as the parliamentary majority is pressing to vote Bill 5371 as soon as possible. Vitaliy Dudin has no doubts when I ask what kind of labor laws they should have voted for instead. – The workers must be given a right to stop working when the company owes them their rightful salary. We also need protection from discrimination, mobbing, a better protection of labor union activists. Furthermore, Ukrainian law permits the unions to have a part in company management. We have forgotten this, and we should fight to have this provision put into practice. I am not against, in principle, to a state support for companies. And yes, there are companies which were indeed destroyed and cannot continue without the state's assistance. But I wish this assistance does not consist of degrading the workers, and that it comes to companies that set a good example of working standards.

Małgorzata Kulbaczewska-Figat

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