



TRADE UNION PERSPECTIVES ON THE WAR IN UKRAINE

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The Peace and Conflict Resolution Evidence Platform (PeaceRep) is a research consortium led by the University of Edinburgh Law School. Our research is rethinking peace and transition processes in the light of changing conflict dynamics in the 21st century.

PeaceRep's Ukraine programme

PeaceRep's Ukraine programme is a multi-partner initiative that provides evidence, insight, academic research and policy analysis from Ukraine and the wider region to support Ukrainian sovereignty, territorial integrity and democracy in the face of the Russian invasion. PeaceRep's Ukraine programme is led by the London School of Economics and Political Science (LSE) partnering with the Kyiv School of Economics (KSE) in Ukraine, the Leibniz Institute for East and Southeast European Studies (IOS) in Germany, the Institute of Human Sciences (IWM) in Austria and Jagiellonian University in Poland. Through our collaboration with KSE we work closely with researchers, educationalists and civic activists in Ukraine to ensure that policy solutions are grounded in robust evidence and are calibrated to support democratic outcomes.

Director's Introduction

This report highlights the experience of trade unions in the on-going Russian war against Ukraine. In Ukraine, like many other European states, trade unions are a central pillar of the social dialogue process. Prior to the full-scale invasion they had a strong track record of successfully contesting government proposals to deregulate the labour market. They are now facing a new situation marked by an active, high-intensity conventional war and associated poor economic conditions, which brings with it limited scope for undertaking advocacy on behalf of their members under conditions of martial law.

The report is based on the author's engagements with trade unionists on the ground since the beginning of the full-scale invasion of Ukraine, primarily as a volunteer activist with the UK-based advocacy organisation, Ukraine Solidarity Campaign. This included participating in a delegation of UK-based activists, researchers and parliamentarians, which was facilitated by the Ukrainian labour movement, as well as follow-up conversations and desk research, including analysing published writing of trade union representatives. This data offers insights into the unique challenges faced by trade unions who unequivocally support the war effort and are actively mobilised in military defence and humanitarian relief work. At the same time, they have raised significant concerns over the present direction of the government's social and economic policy goals on the 'home front'.

The activity of trades unions in support of Ukraine's war of self-defence offers an insight into the 'civic spirit' that has provided a critical foundation for Ukraine's successful defence to date. Despite Russia enjoying far greater economic and military capacities – even when accounting for how Ukraine has benefited from the flow of western aid – the mobilisation of the Ukrainian people has become a material force in the war-effort. This illustrates the potential for what the report refers to – following language used by the European Union – as strengthened 'social dialogue' frameworks, which draws the unions (as well as business leaders) more closely into the policy-making processes. This approach would be consistent with the model employed during the British government and by 'New Deal Democrats' during the Second World War.

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An Overview of Trade Unions in Ukraine

Prior to the 2022 Russian invasion, the International Labour Organisation (ILO) placed Ukraine as 15th in the world in terms of trade union density at 36.6%, compared to 23.4% for the UK, for example.¹ While war makes membership data relative, i.e., do workers fighting at the front or those whose workplaces have been shut by shelling or the economic crisis in Ukraine still count as members, according to official data the two main trade union associations represent around 5 million workers. However, FPU representatives estimate this number may have dropped by up to 900 000 workers, due to unemployment, displacement and casualties.

The Federation of Trade Unions in Ukraine (FPU) is the largest trade union confederation in Ukraine, with 43 affiliate trade unions and 27 regional bodies. It was established following Ukraine's independence in 1990 and it is the inheritor of Ukrainian Republican Council of Trade Unions, the Ukrainian body of the ACCTU (All-Union Central Council of Trade Unions). These were 'official' state-unions within the authoritarian system – a history that has made these trade unions controversial within Ukraine. Alongside its size, the FPU has also inherited a number of key properties,² disputes over which³ the state has been using to suppress trade union mobilisation against its policy agenda on labour reforms.⁴ FPU is a member of the International Trade Union Confederation (ITUC) and the European Trade Union Confederation (ETUC). At the 5th World Congress of ITUC Grygorii Osovyi, FPU's president, was elected to the executive committee⁵.

The Confederation of Free Trade Unions in Ukraine (KVPU or CFTU in English) is the second biggest trade union confederation, although significantly smaller than the FPU. It was founded in 1998 and lists 10 affiliates, including the Independent Trade Union of Ukrainian Miners, formed in 1989 out of the strike committees of the Donbas miners.⁶ KVPU is also a member of the ITUC and ETUC. The chairman of KVPU, Mykhailo Volynets is also an elected member of the Verkhovna Rada (Ukraine's Parliament) from the All-Ukrainian Union 'Fatherland', Yuliya Tymoshenko's party.

¹ ILOStat, International Labor Organization.

² ITUC and ETUC, 2022, "Ukraine: While workers defend the country, parliament turns against them" <https://www.ituc-csi.org/parliament-turns-against-Ukrainian-workers> (Accessed 1 December 2023).

³ BWI, 2021, "Interview with Vasyl Andreyev, PROFBUD president, Ukraine" <https://www.bwint.org/cms/interview-with-vasyl-andreyev-profbud-president-ukraine-1535> (Accessed 1 December 2023).

⁴ Guz, S., 2022, "Ukrainian government threatens confiscation of trade union property" <https://www.opendemocracy.net/en/odr/ukraine-trade-unions-property-soviet-confiscation/> (Accessed 14 November 2023).

⁵ Interfax Ukraine, 2022, "FPU delegation participated in the 5th ITUC World Congress" <https://en.interfax.com.ua/news/press-release/875658.html> (Accessed 1 October 2023).

⁶ Hromadske 2019, "Strike. Donbas Miners Recall Protests of the '90s" <https://hromadske.ua/en/posts/strike-donbas-miners-recall-protests-of-the-90s> (Accessed 1 September 2022).

Economic Situation

Ukraine's trade unions are severely restricted in their ability to represent workers due to the ongoing Russian war on Ukraine. The war has meant that a significant but difficult to quantify proportion of trade union members are engaged in active combat. At the same time, the extremely challenging economic situation has put a strain on those who remain in work, as well as the millions of internally displaced, unemployed or injured as a result of Russia's invasion. A joint assessment by the Government of Ukraine, the World Bank Group, the European Commission, and the United Nations, estimates that the cost of reconstruction and recovery in Ukraine at US \$411 billion in March 2023⁷ - a figure certain to have risen since.

The 30% drop in Ukraine's GDP has resulted in 8 million Ukrainians newly living in poverty.⁸ The official unemployment rate for 2022 was 24.5%⁹, and Ukraine's National Bank estimates unemployment will remain around 26% mark for 2023 as well.¹⁰ However, these figures tend to underestimate the true level of poverty in the country because of the large numbers of Ukrainians involved in the informal labour market and the fact that the focus on SMEs and larger enterprises - excluding much of the rural economy.¹¹ Regularising the labour market through ensuring that all workers have a proper written contract, breaking the informality that characterises much of Ukrainian labour relations, has been cited by the government as a motivation for their labour regulation reforms. But this often draws a problematic false dichotomy between contract law and collective bargaining rights.

While the economic crisis is felt across the country and across economic sectors, it is particularly biting for certain groups, especially among the over 13 million people displaced by war. By December 2022, 43% of all Ukrainian households had exhausted all savings they previously held in trying to mitigate the hardships of war. As of January 2023, the International Organisation on Migration (IOM) estimates there are 5.5 million internally displaced persons (IDP) across Ukraine, with 58% among them having been displaced for 6 months or more. 38% of IDPs report they cannot afford to pay for rent or other adequate housing through the winter, and a quarter of all IDPs only have the monthly cash allowance for IDPs as a source of income. Overall, 75% of IDPs require further financial assistance.¹²

Although welfare payments are the government's second priority after defence spending, they are nevertheless inadequate to cover the needs of households. Pensions and social spending account for around one third of the 18% to be spent on defence in 2023's budget. Rising inflation is eating into the real-terms support provided as it covered less than 40% of actual subsistence minimum in August 2022 with the effects of inflation since making this lower still.¹³

⁷ World Bank, 2023. Updated Damage and Needs Assessment: Ukraine.

⁸ World Bank Country Overview: Ukraine.

⁹ Bogdan, T, 2022. "Analysis: 2022 Economic Results for Ukraine, Prospects for 2023" <https://www.kyivpost.com/post/6264> (Accessed 1 September 2023).

¹⁰ National Bank of Ukraine, February 2023 Inflation Report.

¹¹ Dudin, V. 2020 :In Ukraine, liberalisation will not solve the shadow economy" <https://www.opendemocracy.net/en/odr/ukraine-liberalisation-will-not-solve-shadow-economy/> (Accessed 1 September 2023).

¹² International Organization for Migration (IOM), Feb 02 2023. DTM Ukraine — Internal Displacement Report — General Population Survey Round 12 (16 - 23 January 2023). IOM, Ukraine.

¹³ ACAPS, 2023. Ukraine: Impact of conflict on the Ukrainian economy: implications for humanitarian needs.

These severely negative economic conditions expose millions of Ukrainians to potential exploitation and rights abuse. According to a UN Refugee Agency, only 29% of respondents of working age are currently employed in their area of displacement, and 47% of the respondents describe their current housing conditions as worse, or much worse, than in their area of origin.¹⁴ It is perhaps not surprising that 1 in 2 Ukrainians are therefore willing to accept risky job offers either abroad or in Ukraine¹⁵, including working without official employment. Regional economic differences also matter - among the IDPs from the eastern regions there will be highly skilled workers in the mining and metallurgical industries that will struggle to find suitable positions in other parts of the country, for example.

¹⁴ https://www.unhcr.org/ua/wp-content/uploads/sites/38/2023/02/ukraine_intention_report3.pdf

¹⁵ <https://ukraine.iom.int/news/every-second-ukrainian-risks-getting-exploited-amidst-devastating-impact-war>

Response of Trade Unions to the Military and Economic Situation

Ukraine's trade unions are an integral part of the large-scale mobilisation of civil society to respond to the devastation of war. Across regions and industries, the labour movement is actively providing assistance on the ground, soliciting international support and of course members of trade unions are joining the military to defend Ukraine. Our interviews showed an unequivocal support for the war effort amongst trade unions and a willingness to work with government, NGOs, other trade unions and international partners with the aim of obtaining as much assistance as possible for those on the frontlines, as well as those displaced.

At the same time, trade unions have a sober assessment of their own limited capacity, further reduced by the economic crisis, as well as the weaponization of martial law and the current conditions to push an extreme liberalisation agenda that would have a severe impact on their ability to organise in the future. Nevertheless, the support on behalf of trade unions for Ukraine's defence and their resolve to achieve victory for the people of Ukraine could be under no doubt. As FPU President Grigorii told us: 'When a country or a people is in a difficult situation, they consolidate their efforts. So we unite. The government, the parliament, trade unions and employers must unite and consolidate efforts to win in this war.'

Trade unions' commitment to Ukraine's cause is evident domestically both through members' active participation in the military and through mobilising their extensive networks for humanitarian support. At the same time, since February 2022 Ukraine's trade unions are actively engaging through ITUC and ETUC to rally more support for their domestic efforts but also to ensure that the struggle for freedom, democracy and sovereignty is recognised as the demand of ordinary working people, as well as the government. Both FPU and KVPU are aware and consciously engaging with the question of Ukraine's eventual EU membership is vitally important to ensure that workers' rights are part of Ukraine's European future – given that under the Copenhagen criteria Ukraine must sign-up to the EU's Community Acquis, including its social and employment rights policies. They are also actively building new links with national and sectoral trade unions in countries which have strongly supported Ukraine's right to national self-defence, using this to open up space for dialogue around the role of a robust social policy and social partnership in improving Ukraine's resilience in the war.

Trade Union Activity on the 'Home Front'

Both FPU and KVPU had been supporting members who had been displaced by conflict in eastern Ukraine since 2014. The mining industry has been severely impacted by the hostilities in the eastern parts of Ukraine since 2014 and trade unions in the sector have been supporting IDPs from that initial wave of displacement, including with housing and alternative employment.¹⁶ After the occupation of parts of Donetsk and Luhansk, trade unions were banned by the occupying authorities in 2015, forcing organisers to work underground, while many workers in the trade and members of NGPU moved away. As part of a site visit to Bucha, we met with a miner originally from Donetsk who fled with his family in 2015 and settled in Bucha to rebuild a peaceful life. Through sheer luck his wife and daughters were away at the start of March 2022 and he himself narrowly avoided the occupation of the town. His house, however, was used by the occupying forces and he and his neighbours witnessed many atrocities. While the current wave of displacement dwarfs the numbers since 2014, it is worth remembering that there are many families in Ukraine who are currently losing their homes and the feeling of safety and belonging for the second time in a decade.

The escalation of the war in February 2022, however, required a much broader mobilisation of trade union networks than had been the case in the first phase of the Russian invasion. In order to better coordinate this process, the FPU set up a 'humanitarian headquarters':

*'We established a humanitarian headquarters to help the population who suffered under Russian aggression. These headquarters collaborate actively with the international labour movement and with different charity organisations in different countries.'*¹⁷

In a report from October 2022, the FPU explained that they had offered humanitarian aid of 3.9 million UAH to trade union members as a form of emergency financial support.¹⁸ The FPU's President explained that in the current situation where members are fighting on the frontlines. Others have sought safety abroad and yet others are unemployed or have lost homes or partial income. It is difficult to maintain sufficient financial reserves through members' dues in order to sustain this humanitarian work: 'Our financial potential is not high because normal affiliation dues are now kept at the primary level because our members need them - they lost their homes. We can't collect as before. So that's why we are looking for charity funds to help us in this situation.' The humanitarian headquarters is actively engaging with partners like ITUC, ETUC but also charitable organisations like Corus International to be able to enhance the support they offer. FPU have made 34 facilities available to IDPs. These include sanatoria, hotels, and dormitories.¹⁹ A grant by Corus International of \$1 million dollars²⁰ and ongoing support from the Danish Trade Union Development Agency were sought to ensure that at least some of the IDPs accommodated by the FPU can continue to receive shelter free of charge.

¹⁶ Ukraine Solidarity Campaign, 2023. "Victory over Russia is a priority but we cannot be silent about workers" <https://ukrainesolidaritycampaign.org/2023/03/04/victory-over-russia-is-a-priority-but-we-cannot-be-silent-about-workers/> (Accessed 1 September 2023).

¹⁷ Osovyi, G. 2022. Interview with A. Ivanova, 23 August 2022, Kyiv

¹⁸ Ukraine Solidarity Campaign, 2022. "Federation of Trade Unions of Ukraine, its affiliates provide assistance to victims of Russian armed aggression" <https://ukrainesolidaritycampaign.org/2022/10/09/federation-of-trade-unions-of-ukraine-its-affiliates-provide-assistance-to-victims-of-russian-armed-aggression/> (Access 14 September 2023).

¹⁹ *ibid*

²⁰ CGA Technologies, ND. <https://cgatechnologies.org.uk/projects/ukraine-cash-programming-emergency-response> (Accessed 1 December 2023).

Speaking at a TUC-held meeting at the start of the invasion, FPU President Grigorii Osovoyi made appeals for broad financial support explaining the starting position of Ukrainian unions:

*'We receive calls for all sorts of help and aid material. Those meagre funds we were able to collect within our solidarity fund to spend for strike actions and demonstrations, this money is not enough to respond to the request for help coming from all quarters.'*²¹

Representatives of both the FPU and KVPU highlight the need to respond to international funders' requirements in terms of where the aid is deployed:

*'We can't use funds from global unions for protective equipment. Every source of funding will be agreed what it covers. Usually there is some flexibility around medication and hygiene products.'*²²

To develop this work the unions have created a considerable logistical network that is able to absorb support in a variety of ways, while responding to these requirements.²³ Given the significant financial hardship that Ukraine's civilian population is experiencing all such support is welcome. Still, trade unions also have a duty to their members that they address through independent means. For example, early on in the war KVPU used its own membership funds to provide equipment for its members who had enlisted and who were lacking sufficient protective gear:

*"There was a period when the TUs had to purchase bulletproof vests and uniforms as there were none. Now it's better but we need to find generators and night vision equipment, as well as bulletproof vests. But the global funds we receive from ITUC for example we can only use it for civilians. We used our membership fees to help our members in the army - this weekend we bought two cars in the UK and we're taking them to Poland and to Ukraine to the front in Donetsk. This is all from membership fees, we can't use the charity aid."*²⁴

Another member explains the need to provide equipment for his son who has also enlisted:

'I had to help him buy some winter gear, boots and coats that can be used in winter time.'

While supplies are not as scarce as they were in the first months of the war, there are still occasional issues:

*'Lack of uniforms and boots for soldiers. There is also the problem of buying these things in Ukraine. Even if we raise money or use our membership fees, sometimes it's hard to purchase in Ukraine. Our members over 65 go abroad and bring things back. Miners in Donetsk bought 2 cars and we transferred it in.'*²⁵

FPU also use their own funds and their solidarity fund to support members in need, including those who are no longer able to work or serve:

²¹ ETUC, 2022. "Trade unions in Ukraine are providing aid to people in desperate need - let's give them our support" <https://www.tuc.org.uk/blogs/trade-unions-ukraine-are-providing-aid-people-desperate-need-lets-give-them-our-support> (Accessed 1 December 2023).

²² Volynets, M. 2022 interview with A. Ivanova, 23 August 2022, Kyiv

²³ ITUC, 2022. "Ukraine: unions' humanitarian action" <https://www.ituc-csi.org/ukraine-unions-humanitarian-action> (Accessed 1 December 2023).

²⁴ Volynets, M. 2022 interview with A. Ivanova, 23 August 2022, Kyiv

²⁵ Bryazgunova, O. interview August, 2022, Kyiv.

*'More than 170 members who worked in critical infrastructure are wounded. So we will provide 445 people with some financial support - this is a modest support, about \$150. This is a minimum wage, it is not a huge amount to rebuild a house, it's just solidarity.'*²⁶

When trade unions discuss using their own funds, this includes extreme examples of generosity on behalf of workers across sectors who fully identify with the military's defence mission. At the start of September 2022, workers in a mine on the western border of Ukraine held the first strike during war conditions, despite those being banned by martial law. The dispute was caused by accusations of corruption amidst fears that the Ministry of Energy is trying to close the mine early. Despite anxiety over the future of their jobs and potential repercussions over the strike during war, the workers nevertheless donated a month's worth of salaries to the front, where up to 50 of their colleagues had already been fighting at that point.²⁷ The mine's canteen was also baking pies to send to the front.

The current crisis also offers opportunities for young trade unionists to play an active role both domestically and internationally. Trade Union Lifeline, an initiative set up by Ivanna Khrapko, the chair of FPU's Youth Council, has mobilised significant formal and informal support for targeted humanitarian aid in some of the worst-affected regions by the war. This is in addition to the network of activities FPU already supports. Khrapko is also the head of education and international cooperation for the State Employees Union in Ukraine, representing civil servants. Numbers of enlisted members are confidential, but among the eligible young members of the FPU Khrapko estimates up to 70% may have enlisted to serve in the army.

Vasyl Andreyev, the President of the Construction and Building Material Workers Union, estimated in May 2023 that as many as 1 in 4 of the country's formally employed construction workers (some 200k in total) were currently serving in the Armed Forces of Ukraine.²⁸ These are broad estimates based on information received from trade union organisers on the ground but give an indication of the situation in mid to late 2023. With the push to recruit a further 500k conscripts to the armed forces in 2024 there will likely be an even great squeeze on trade unionised industrial labour. This could have a long-term impact on Ukraine's human capital given the skills and expertise of these workers. The tragic reality is that some will not come back alive and among those that do some will have injuries that make them unable to resume their previous employment. This underlines how Ukraine is experiencing a simultaneous supply and demand crisis, as damage to infrastructure and human capital undermines its productive capacity (supply) while the on-going war entails a significant depression in incomes (demand), posing huge challenges to its future development.

These circumstances create difficulties for trade unions who want to support those actively serving in the armed forces. Khrapko also notes that for such work, Trade Union Lifeline has to use its own resources and not donations from international humanitarian relief organisations. Still, the support network the project has built is significant, especially in Sweden, Norway and among other civil service trade unions. One trade union club in a small town in central Sweden voted to donate its entire fund to help Ukraine, for example²⁹ and the project has been recognised for international awards as well.³⁰

²⁶ Osovyi, G. 2022. Interview with A. Ivanova, 23 August 2022, Kyiv

²⁷ Farber, K. 2022. "Bad old days of corruption in Ukraine's mining sector could be back" <https://www.opendemocracy.net/en/odr/first-labour-protest-war-ukraine-mine-corruption/>

²⁸ Andreyev, V. 2023 interview 24 May, 2023, Kyiv.

²⁹ Erikson, M. 2022. "Trade Union Solidarity with Ukraine". Swedish Trade Union Confederation: Stockholm.

³⁰ Solidarity Centre, 2022. "Ukraine 'trade union lifeline' wins Anna Lindh Memorial Fund award" <https://www.solidaritycenter.org/ukraine-trade-union-lifeline-wins-anna-lindh-memorial-fund-award/> (Accessed 1 December 2023).

Khrapko also thinks the visibility of trade unionists on international platforms is really important for Ukraine's success:

*'It was great that you kept inviting us to meetings. I saw how it works in Sweden for example. When Zelenskyi had a meeting in parliament and after that our TU partners organised for us to speak as well, a friend from the nuclear union got involved and others, it makes a big difference to hear the trade unionists. And then they start changing their minds and get more involved.'*³¹

Such opportunities to speak to an international audience are gladly taken up by trade unionists as they recognise the need to advocate for continued support for their humanitarian work. But, more subtly, they are also opportunities for members to counter the narrative that the trade union movement is somehow separate to the military effort, or not an integral part of it. The international labour movement has stood in solidarity with unions in Ukraine. But they also prioritise humanitarian support for civilians in general, those who have lost jobs and livelihoods and refugee support. Some representatives from KVPU spoke of this problem directly:

*'We are grateful for the assistance now. Our problem is that international trade unions, they don't want to hear that our members are now soldiers. They didn't want to, but they have to. But international comrades don't want to hear about it.' They say 'Tell us what you need but not about military need' But I must! Because otherwise people will die.'*³²

While those in active service cannot travel across the world, trade unions work to centre the voices of members who have served, or who support their family and loved ones in active service. Pavlo Prudnikov from Atomprofspilka (Nuclear Energy and Industry Workers' Union of Ukraine) spoke at an online event to commemorate the first anniversary of the war organised by ETUC and shared his story as a wounded soldier, as well as a trade unionist:

*'Despite the fact I never served in the army, and I was a civilian and trade union activist, I thought it was my civil duty to become a soldier in the armed forces of Ukraine.'*³³

Similarly, responding to solidarity fundraising initiatives, including by Ukraine Solidarity Campaign in the UK, soldiers who are also members of the teachers trade union speak in gratitude of the importance of donations straight to the units where Ukrainian trade unionists serve, so they can benefit from the safety equipment, or the numerous uses for vehicles that the army has.³⁴ The labour movement activity forms a component of the crowdfunded model of war financing that has mobilised billions of dollars in support for the Ukrainian armed forces.

Direct aid to trade union members serving on the front is being organised internationally but does not come through the humanitarian funds of the ITUC and ETUC, meaning it needs to be raised separately. This is another reason why Ukrainian trade unions have been very proactive and savvy in building and maintaining links with individual unions, branches and politicians,³⁵ who have access to networks and institutions that can assist

³¹ Khrapko, I. 2022 interview with A. Ivanova, 24 August 2022, Kyiv

³² Volynets, M. 2022 interview with A. Ivanova, 23 August 2022, Kyiv

³³ ETUC 2022. "We work whatever the cost": Ukrainian trade unionists tell of life on frontline" <https://www.etuc.org/en/pressrelease/we-work-whatever-cost-ukrainian-trade-unionists-tell-life-frontline> (Accessed 1 December 2023).

³⁴ Ukraine Solidarity Campaign, 2023. "The People of Ukraine are fighting, they cannot win without international support!" <https://ukrainesolidaritycampaign.org/2023/03/26/the-people-of-ukraine-are-fighting-they-cannot-win-without-international-support/> (Accessed 14 October 2023).

³⁵ Ukraine Solidarity Campaign, 2022. "Labour Movement Aid Delivered to Ukrainian Resistance" <https://ukrainesolidaritycampaign.org/2022/12/22/labour-movement-aid-delivered-to-ukrainian-resistance/> (Accessed 1 October 2023).

their fundraising efforts. Given the scale of displacement and the number of refugees who have fled Ukraine, members of the Ukrainian unions can now be found across Europe and they continue their involvement in these networks through their advocacy and solidarity appeals.³⁶ Individual unions and the federations are making use of all available means to put their case and rally support. These

relationships have formed for a diverse range of reasons, including historical links (such as the relationship between Ukrainian and British unions that goes back to the 1980s), kinship and friendship ties, the shared preference of some unions for less bureaucratic forms of organising³⁷, or the common goal of supporting young trade unionists and building them up for active leadership (such as the Trade Union Lifeline project for example).

Both KVPU and FPU raise the concerns of those who are injured or die as a result of Russian attacks while performing their job duties. Transport workers, teachers, and civil servants have continued to work under occupation, shelling and experienced a significant worsened in their working conditions and incomes (due to inflation). Data on injured or killed workers is inconclusive but both unions give multiple examples:

*'We talk a lot about our civil servants. They have to stay at work. Their workplace is actually a target, it's dangerous. In Mykolaiv, we lost 15 members, civil servants. Our government gives their families 250k help.'*³⁸

*'Official data of killed workers at their workplaces is 150 people. But we know it's at least 200 just in the rail worker union. There's different reporting but we know it's more. More than 500 were injured. 23 workers in Mykolaiv were killed in one attack.'*³⁹

In summer 2022, plans for better financial support for those injured or killed on the job were being discussed but the proposed bill was not passed until the end of March 2023. Workers who are injured resulting in a disability now receive between 200,000 and 800,000 UAH (4380- 17521 GBP), while the families of those killed will receive 1 million UAH (around 22 thousand GBP). Trade unions report big losses, although official data is difficult to collect and confidential. The KVPU describes how many of their members have lost their lives:

*'The miners are serving in the army - in the south, the east, the north.[...] we decided to delay the celebration [of Miners' Day] because 6 miners were killed in the last week in this one enterprise. We have many killed in battle. And we have many for whom we don't know. And we have prisoners of war. Approximately 9000 soldiers were killed – but [there is] not clear trade union data.'*⁴⁰

*'For example, our leaders and members are very active so they decided to volunteer. In one of our mines, most of them volunteered. First our reps, then the membership. They didn't have equipment and uniforms but we provided it for them.'*⁴¹

'Railway workers are protected from conscription but they still volunteer.'

³⁶ Ukraine Solidarity Campaign, 2023. "Labour Movement Stands by Ukraine" <https://ukrainesolidaritycampaign.org/2023/02/27/labour-movement-stands-by-ukraine/> (Accessed 1 October 2023).

³⁷ Labour Solidarity, 2022. "A new trade union convoy to Ukraine" <https://laboursolidarity.org/en/n/2353/a-new-trade-union-convoy-to-ukraine> (Accessed 14 October 2022).

³⁸ Khrapko, I. 2022 interview with A. Ivanova, 24 August 2022, Kyiv

³⁹ Bryazgunova, O. 2022 interview with A. Ivanova, 25 August 2022, Kyiv

⁴⁰ Volynets, M. 2022 interview with A. Ivanova, 23 August 2022, Kyiv

⁴¹ Tuley, P. 2022 interview with A. Ivanova, 23 August 2022, Kyiv

During the fighting in Kyiv in the early days of the invasion, trade union members were again active: ‘Tram workers were making barricades.’⁴² The KVPU trade union has reported countless members killed in action on social media since the full scale invasion on their Twitter feed.

Trade union members in the occupied territories face an extremely difficult situation. There are no official channels of communication between trade unions and their branches under occupation in order to not further endanger them. Instead, aid is provided to hospitals and other key sites of social services where it is expected most who need help will be turning to. There are also reports of trade unionists being detained as if they were ‘prisoners of war’. They then encounter the problem that the Ukrainian side has no Russian civilians to exchange for these unlawfully detained individuals, leaving them in a desperate situation:

‘POW exchange is difficult when the prisoners are civilians. We don’t have Russian civilians to exchange.’⁴³

Despite these enormous challenges there is a palpable sense of shared purpose. Trade unions clearly see a common goal and are beginning to work more closely together. They see this as an existential moment for the country but also the labour movement. As Pavlo Holota, deputy head for Volhynia and Lviv region of the NGPU (Independent Trade Union of Mineworkers of Ukraine), says:

‘Prior to the full-scale invasion we had some disagreements but after the full-scale invasion of 24 February, we all work for the victory of Ukraine!’⁴⁴

While significant internal disagreements may persist, both the established trade unions and the newer independent ones report similar challenges and have similar strategy to communicate their key messages: the need for financial support to assist on the frontlines, as well as the need for political backing to help in dealing with a government that appears decidedly hostile to the labour movement. At the same time, the primary goal remains achieving victory for Ukraine, and all representatives of unions we spoke to were understanding of the difficult economic situation Ukrainian authorities are facing:

‘The government just doesn’t have money at all.’⁴⁵

‘It’s only disabled people, pensioners, IDPs etc [that receive financial aid]. Authorities would provide more if they had it.’⁴⁶

⁴² Tuley, P. 2022 interview with A. Ivanova, 23 August 2022, Kyiv

⁴³ Bryazgunova, O. 2022 interview with A. Ivanova, 26 August 2022, Kyiv

⁴⁴ Ukraine Solidarity Campaign, 2023. ‘Victory over Russia is a priority but we cannot be silent about workers’ <https://ukrainsolidaritycampaign.org/2023/03/04/victory-over-russia-is-a-priority-but-we-cannot-be-silent-about-workers/> (Accessed 1 September 2023).

⁴⁵ Khrapko, I. 2022 interview with A. Ivanova, 24 August 2022, Kyiv

⁴⁶ Volynets, M. 2022 interview with A. Ivanova, 23 August 2022, Kyiv

Ukraine's Labour Market Reforms and its Trade Union Critics

The goodwill of organised labour towards the government is fraying due to the Government of Ukraine's pursuit of labour market deregulation following the full-scale invasion. Tensions have emerged in relation to the legislative reforms that the Ukrainian government has introduced in 2022 which significantly reduced the legal obligations of employers to engage in collective bargaining. Trade unions are deeply concerned that reforms introduced under as 'emergency measures' will become permanent, especially as the Government of Ukraine had initially proposed these reforms prior to the full-scale invasion.

The conditions of martial law make mass protests and strikes illegal. It also makes such gatherings irresponsible and unsafe, regardless of the legal context. Nevertheless, trade unions are mobilising 'soft power' – i.e., persuasion and advocacy, both in Ukraine and internationally – in order to make clear the opposition to the government's labour agenda.

Ukraine's Labour Code dates back to 1971, when the country was still part of the Soviet Union but was significantly amended following independence. Given the informality (specifically, the widespread use of verbal rather than written contracts and the impact that this has on tax collection) that beset employer-employee relations in Ukraine few argue that the labour market is not in need of considerable reform. An attempt at re-writing the Code was initiated in 2015 and a new draft was proposed in 2019. This is the clear predecessor of the pieces of legislation that were adopted during the full-scale Russian invasion. While the trade unions supported by organisations like the European Union and the International Labour Organisation are not against reform they have strongly criticised the Government's agenda.

The 1971 Labour Code prioritises employee protections. It provides an exhaustive list of conditions under which an employee could be dismissed. It stipulates minimum guarantees on working conditions, working hours and salary. It also governs the rules of collective bargaining and the involvement of trade unions, as well as the legal recourse that employees have in case of employment disputes. The 2019 reform consist of a host of proposed bills, most of which have now been adopted. These include draft 2708 which would have limited trade union and state involvement in matters of employment and created a number of areas which were outside the scope of collective bargaining and simply a matter of civil law between the individual employee and employer. In reality, while formal contracts are important to protect employees' rights, individuals have limited leverage over employers in negotiations due to the unequal power relations that exist between worker and boss – a fact that underpins all employment protection legislation and the principle of collective bargaining. The draft included new types of temporary and fixed-term contracts, student and seasonal contracts. It also sought to introduce zero-hour contracts. Crucially, it allowed for the possibility of an employee's dismissal with no stated grounds, provided they have been given enough notice.

In order to minimise the involvement of trade unions, the proposed law 2681 removed the right to strike across sectors or regions, and sought to limit trade union

representation in workplaces to only two.⁴⁷ Law 2681 also dealt with trade union property, a question that has been simmering since Ukraine's independence and that is causing significant disquiet within Ukraine's unions and the international labour movement as well.

The Ukrainian government presented the reforms as a solution to the problem of a large proportion of the population engaged in the informal economy with little protection and at the detriment of the tax base. However, the focus on 'competition' versus strengthened enforcement of existing regulations is a political choice as the potential impact on the grey economy was not calculated or demonstrated. Indeed, back in 2018 the ILO released a report showing that Ukraine was the top country in Europe in terms of the take up of platform economy jobs⁴⁸ with up to two-thirds of those workers registered with the authorities as self-employed. However, without strengthened enforcement, legislative measures will not do anything to encourage employers to formally hire workers. The ILO report also showed that while regulation in the sector does exist it tends to be provided by the platforms themselves with the workers at a clear disadvantage in their ability to negotiate better conditions. This makes the rationale to formalise this inequality into the labour code itself highly questionable.

Furthermore, a so-called race to the bottom on workers' rights and protections has failed to produce the results sought by the Ukrainian governments in other similar economies. For example, when employer social contributions were reduced by 50% in Ukraine in 2015⁴⁹ to make officially hiring employees cheaper and thus more attractive, there was no resulting significant boost in officially employed workers - with the range of informal economy estimated to remain at between 21% to 30%.⁵⁰ Ukrainian trade unions, as well as international bodies such as the ITUC, the ETUC and the European Public Service Union condemned the legislation and the lack of dialogue with trade unions. 16 UN agencies wrote a joint position paper on the labour code reforms, calling for effective social dialogue and respecting of the ILO conventions that Ukraine had already ratified, as well as the EU Association Agreement.⁵¹

At a February 2020 hearing of the Committee on Economic, Social and Cultural Rights (CESCR), a body of 18 independent experts that monitors implementation of the International Covenant on Economic, Social and Cultural Rights, a representative of the Ministry of Social Policy stated that 'workers have too many rights'⁵² and that the reforms were needed to reflect the changing economy. This appears to confirm the view that the reforms aim not only to simplify legislation but form part of a conscious programme of liberalisation in the labour market. Reflecting this the government discussed the new labour code in terms of creating business opportunities,⁵³ not dealing with the informal economy through regularisation.

Trade unions launched protests, mobilised international solidarity and enlisted independent experts in analysing the proposed legislation. In addition to the withdrawal

⁴⁷ PSI, 2020. "Ukraine Government Slammed at UN for Regressive Labour Law Proposals" <https://publicservices.international/resources/news/ukraine-government-slammed-at-un-for-regressive-labour-law-proposals?id=10595&lang=en> (Accessed 14 October 2023).

⁴⁸ Aleksynska, M., Bastrakova, A., Kharchenko, N., 2018. "Work on Digital Labour Platforms in Ukraine". International Labour Organization: Geneva.

⁴⁹ Ibid.

⁵⁰ Commons.UA, 2015 "Неформальна зайнятість населення України: кількісний та якісний виміри" <https://commons.com.ua/ru/neformalna-zajnyatist-naselennya/> (Accessed 1 December 2023).

⁵¹ United Nations Ukraine, 2020. "UN Position Paper on Labor Code" <https://ukraine.un.org/en/95575-un-position-paper-labor-code?fbclid=IwAR0TcyRu-EbcKkOHqRoXtcU7iUSE-9AUql2dDL2Km2GeDYm03WF1naHM1r4> (Accessed 1 December 2023).

⁵² PSI 2020, op cit.

⁵³ Biz.nv.ua, 2019, "Милованов про пріоритети: Боротьба з тіньовою економікою — не самоціль" <https://biz.nv.ua/ukr/economics/milovanov-o-prioritetah-borba-s-tenevoy-ekonomikoy-ne-samoce-l-50041438.html> (Accessed 1 December 2023).

of the proposed draft 2708, representatives of the labour movement requested that effective tripartite dialogue is reinstated and the proposals already submitted by trade unions are considered instead. Indeed, Ukraine's trade unions have sought to actively participate in all plans for labour reforms and have put forward constructive proposals, as well as objections, which shows their willingness to shape reforms. It is the scope and aggressive lowering of labour protections that are the object of firm resistance, not the idea of reform itself. In March 2020 the Covid-19 crisis hit and a government reshuffle saw the proposed legislation shelved. But the reprise was only temporary. The Parliamentary Committee on Social Policy recommended the same policy package, including now-rebranded as draft law No. 5388 on deregulation of labour relations and draft law No. 5371 for a vote in Verkhovna Rada, prompting a protracted battle with trade unions and international institutions. Amendments were essentially identical to the proposals from 2019 and drew the concern of labour law and human rights experts, including the Special Rapporteur on the rights to freedom of peaceful assembly and of association, who believes that 'the draft law No. 2681[...] might be incompatible with Ukraine's obligations under international human rights law and standards. In particular, they could jeopardize the legitimate exercise of the right to freedom of association in the workplace⁵⁴.'

Ukraine's own Committee on European Integration stated that:

'The draft Law in the proposed version weakens the level of labour protection, narrows the scope of rights and guarantees of employee representatives in comparison with the current national legislation, leads to a weakening of the legal mechanism for protecting the rights and legitimate interests of employees, which does not meet the obligations of Ukraine in accordance with the Agreement on association, the European Social Charter (revised) and ILO conventions No. 87, 135, 158'.⁵⁵

And the Committee on Anti-Corruption Policy found that the bill does not meet the requirements of anti-corruption legislation.⁵⁶ Human Rights Watch also warned that the proposals contravene a long list of treaties Ukraine is signed up to, including the European Convention on Human Rights (ECHR), the European Social Charter (ESC), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR).⁵⁷

Throughout 2020 and 2021 trade unions, both national and international ones, mobilised in opposition to the reforms. At a joint press conference, leaders of FPU, KVPU and other trade unions called on workers to come out on a national protest in October 2021 on World Day of Decent Work.⁵⁸ During a meeting of the Verkhovna Rada Committee on Integration into the EU deputy chair of FPU Alexander Shubin once again re-iterated the proposals were 'discussed only with representatives of small and medium sized enterprises without the participation of trade unions⁵⁹.' This corresponds with the Special Rapporteur's assessment regarding the potential for human rights violations in the form of restricting freedom of assembly. Moreover, Shubin pointed out that the ability of employers to dismiss workers without justification essentially

⁵⁴ Voule, C. N., 2020. Mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, United Nations: Geneva.

⁵⁵ Committee on European Integration, Rada, 2020.

⁵⁶ Committee on Anti-Corruption Policy, Rada, 2020.

⁵⁷ Human Rights Watch, 2020. "Ukraine: Draft Law Threatens Trade Union Rights" <https://www.hrw.org/news/2020/07/29/ukraine-draft-law-threatens-trade-union-rights> (Accessed 1 December 2023).

⁵⁸ FPSU, 2021. "ПРОФСПІЛКИ ВИХОДЯТЬ НА ПРОТЕСТ" <https://www.fpsu.org.ua/materialy/21209-profspilki-vikhodyat-na-protest-3.html> (Accessed 1 December 2023)/

⁵⁹ Regarding the Draft Law of Ukraine "On Amendments to Certain Legislative Acts regarding Simplification of Labour Relations Regulation for Small and Medium Business as well as Alleviation of Administrative Burden on Business" (No 5371)

abolished workers' protections *tout court*, including their right to form and join trade unions and to strike for better conditions, as employees will live under the constant threat of arbitrary dismissal, even if they are members of trade unions.

In a letter from September 2021, EPSU warned that despite the multiple channels through which concerns have been raised they were ignored, and that 'the incompatibility of the provisions of these drafts with the international labour standards has not been addressed'.⁶⁰

⁶⁰<https://www.epsu.org/sites/default/files/article/files/EPSU%20letter%20of%20concern%20re%20ongoing%20regressive%20labour%20legislation%20reform%20in%20Ukraine.pdf>

Passing the Labour Reform during the all-out-war with Russia

Labour reforms were likely to be pursued by the Ukrainian government in 2022 regardless of the escalation of the war. However, Russia's full-scale invasion provided the conditions to neutralise active opposition on behalf of the labour movement due to martial law provisions. At the same time, trade unions have continued to fully support the war effort and actively participate in Ukraine's defence. This means that their current priority remains full liberation of Ukraine, but the unions do continue to discuss the long-term negative impact of these reforms.

In July 2022, draft 5371 was passed in Parliament and on 17 August it was ratified by President Zelensky. Thanks to the significant national and international pressure mobilised by Ukrainian trade unions there is a provision in the text that the law will only be effective for the duration of martial law. The law permits differential treatment of employees who are part of an enterprise of less than 250 workers by removing them from the labour code regulations and allowing conditions to be negotiated in individual contracts only. Collective agreements over working hours or pay no longer apply for up to 70% of the workforce and the ability of trade unions to represent workers in cases of dismissal is severely limited. This comes on the back of other legislation passed in 2022, including Law 5161 that permanently introduces zero-hours contracts and allows employers to dismiss workers during their active service.

One of the prominent supporters of *Law 5371* is Halyna Tretyakova, the head of the Committee for Social Policy who is also behind a controversial reform of the social insurance fund. Under the auspices of a so-called 'decommunisation of the social insurance system'⁶¹ Tretyakova sees this reform as a 'first step to private insurance'. Trade unions are once again pointing towards a pattern that reveals the government's longer-term agenda for liberalisation and deregulation of the economy. Ironically, at least aspects of this agenda appear to be moving away from the EU system that Ukraine is so keen to itself to and ultimately seeks to join.⁶² Given the considerable support across Ukraine for a closer relationship with the EU and eventual membership, the FPU's Deputy Head Volodymyr Saenko has discussed Tretyakova's reforms by drawing attention to this contradiction:

*'What kind of "bright future" are the deputies led by Mrs. Tretyakova leading us to - a civilised European society where human rights are in the first place, [or] is it back to the totalitarian wild times of the Russian Empire, where lawless slave labour is cultivated?'*⁶³

When some of the reforms were originally proposed in 2015 and 2019, the arguments tended to focus on the need for a simplified and up-to-date labour code that better reflects the current world of work. They were proposed as a vehicle to ease the administrative burden on employers, which would in turn deal with the significant problem of the informal economy.

⁶¹ Ukrinform.ua, 2023. "Розвиток державних фондів соціального страхування: проблеми та перспективи" <https://www.ukrinform.ua/rubric-preshall/2863510-rozvitok-derzavnih-fondiv-socialnogo-strahuvanna-problemi-ta-perspektivi.html> (Accessed 1 December 2023).

⁶² Farber, K., and Rowley, T., 2023. "Exclusive: EU concerned by Ukraine's controversial labour reforms" <https://www.opendemocracy.net/en/odr/ukraine-european-union-labour-law-reform/> (Accessed 1 December 2023).

⁶³ epravda.com.ua, 2022. "Без лікарняних та декретних" <https://www.epravda.com.ua/columns/2022/08/9/690174/> (Accessed 1 October 2022).

In wartime, the same proposals were put forward to deal with a very different crisis. As a result of Russia's war on Ukraine, unemployment is extremely high and millions are already at risk of exploitation having lost their homes and previous income. There is

little logic behind removing workers' protections to 'stimulate' business. As Joseph Stiglitz has argued, drawing on data from the OECD, reducing workers' bargaining power has been a key factor in driving inequality, which has, in turn, 'a negative and statistically significant effect on medium-term growth'.⁶⁴ In the real existing Ukrainian economy, with a severe war-induced recession and risk of full-scale depression, the barriers to business investment are not labour costs (given it is plentiful and cheap) but the extremely volatile economic environment.⁶⁵ In a war-situation these reforms risk normalising gross violations of workers' rights, paving the way for a future economy where labour relations are firmly codified as beyond the remit of regulation either through the state or institutionalised collective bargaining. Indeed, in an interview Tretyakova has implied that this is the government's vision for a 'post-industrial' Ukraine - where individuals do not need the benefits of trade union negotiated terms and conditions, nor the protection of the state in cases where employer engages in abuses or exploitative practices.

In discussing the proposed changes, Tretyakova describes work as 'no longer a labour obligation, but as self-expression, creativity, life in action.' Promoting this hyper individualised narrative regarding employment is also at odds with the incredibly difficult economic situation that the majority of the population is currently experiencing. She presents an economy where there will be individual competition, constant selection on behalf of employers and flexibility for staff to be dismissed as fundamental to the rebuilding of Ukraine. This appears to confirm the suspicions of the trade unions that once voted through, these reforms are here to stay.

Grigorii Osovyi argues that contrary to what the Ministry may be briefing, the unions are not against any reform. In fact, there have been proposals for a new labour code with the support of the trade unions submitted to Parliament, but they are not backed by Servant of the People and have not received significant attention from policy makers:

'We understand and we insist the Government needs to develop a new labour code, which includes individual, collective and strike relations, as well as public control and supervision.'

The labour movement in Ukraine is clearly not ready to give up on the principles of social dialogue. The FPU highlights the capacity that the federation has built in terms of legal and policy expertise. This means it can meaningfully contribute to the policy making process and cooperate with stakeholders in order to respond to the deteriorating economic conditions. For example, when some legislative changes were happening very rapidly they 'understood it had to happen. 2 months later we suggested some change to this law and it was accepted and introduced.' They also recognise that the effective functioning of the tripartite system (i.e., employers, unions and government) should be a priority for both the EU and Ukraine in entering discussions over membership. Ukrainian unions see themselves as integral to the European social model, and resist the characterisation by some government officials that they represent an outdated system of the Soviet past. Instead they highlight the opportunities they have taken up to speak to EU representatives about labour reforms and social dialogue:

'We fought for 15 months against these bills but now it's forbidden because of martial law. When we were in Brussels we met with EU commissioner Schmidt and we asked for some

⁶⁴ Stiglitz, J.E. (2015), 8. Inequality and Economic Growth. The Political Quarterly, 86: 146.

⁶⁵ Cooper, L. (2022). Market economics in an all-out-war? Assessing economic and political risks to the Ukrainian war effort. Conflict and Civicness Research Group, The London School of Economics.

solidarity in our campaign but unfortunately these bills were adopted and signed by the President.’⁶⁶

He believes the passing of the laws is not the end of it, however. Campaigning continues, despite the limited recourse to action trade unions currently have within Ukraine. A central element of this approach is the mobilisation of international allies to push Ukraine and the EU to make stronger commitments to upholding labour rights. Multiple agencies have voiced concerns over the legislative changes and direction of travel in Ukraine when it comes to upholding ILO conventions and standards. None have been particularly forceful, however, making it relatively easy for the authorities in Kyiv to dismiss.

Jan Willem Goudriaan, the General Secretary of the European Federation of Public Service Unions, has described the EU’s engagement with the matter as ‘perfunctory at best’,⁶⁷ while others among Ukraine’s allies and partners have been supporting the government on its path towards a liberalised labour market. Polling, however, has consistently shown that Ukrainians are in favour of strong social protections, including labour protections under a social democratic model, rather than the neoliberal direction pursued by the government.

A 2022 Council of Europe report on social rights in Ukraine during war concluded that:

‘The introduced amendments mostly resulted in deterioration of the employment conditions.’⁶⁸

Speaking at a conference at the London School of Economics in March 2023, Oksana Holota from KVPU who is now a refugee in Doncaster but remains actively supportive of the confederation through her legal work, summarised the challenge that the reforms present for the labour movement: ‘They want to destroy the trade union movement, thus leaving workers unprotected. They want to deny workers the right to social justice’.⁶⁹ The chair of the KVPU in Kyiv voiced a similar concern that this is an existential fight for a functioning trade union movement. In discussing how trade unions can prepare their members for the coming changes without recourse to big protests or strikes, he conceded:

‘We don’t know how to prepare our members because in some new laws there are provisions that employers can dismiss employees without reason or explanations.[...] How can we protect people if we don’t have any tools? Why would people join us? Just to pay membership dues?’⁷⁰

⁶⁶ Volynets, M. 2022 interview with A. Ivanova, 23 August 2022, Kyiv

⁶⁷ Farber, K., and Rowley, T., 2023, op cit.

⁶⁸ Smusz-Kulesza, M., Fedorova, A., and Moysa, B., 2022. “Social Rights in Ukraine in Times of War; Report of the Needs Assessment”, Council of Europe: Strasbourg.

⁶⁹ Holota, O., 2023. “Defend trade unions – expel Russian forces” <https://www.chartist.org.uk/defend-trade-unions-expel-russian-forces/> (Accessed 1 December 2023).

⁷⁰ Volynets, M. 2022 interview with A. Ivanova, 23 August 2022, Kyiv

The Question of Post Soviet Trade Union Property

The question of the status and influence of trade unions has always loomed large in the Ukrainian post-independence political debate. The transfer of property from the Ukrainian Republican Council of Trade Unions to its successor FPU has been a matter of significant disagreement between the Federation and the state, as well as between the Federation and independent trade unions.

The number of properties concerned is not clear. Some journalists report that the original transfer was of 350 properties, including hotels, sanatoria, camping sites and training centres. The unions have been accused of embezzlement and illegal privatisation. There have been multiple investigations over the years, while the FPU maintains that the majority of properties have been transferred back to the state. The legal status of the property has remained an unresolved question. In 2006, for example, the Ukrainian Security Service (SBU), which is the main law enforcement and security intelligence agency could not confirm the nature of a suspected crime and could not investigate further as the Ministry of Justice would not pronounce the real estate as state property or not. In the early 1990s several votes in Parliament approved a law to transfer properties whose ownership is disputed under the temporary protection of a national State Property Fund. However, the transfers never took place.

In July 2022, the authorities announced an investigation into the illegal selling off of 80 properties and the transfer of facilities to ARMA, the national agency for managing the proceeds of illegal activity with income directed back to the state budget. For its part, FPU has submitted multiple signals to the ILO over violations by public authorities relating to the right of trade unions to independently conduct their affairs. It points out that 'in accordance with the civil legislation of Ukraine, the FPU is a bona fide beneficiary of the property as an owner with fair intentions that has been owning the assets for more than ten years, acquired the property on the basis of a legal contract and has no reason to consider this property as state-owned'.⁷¹ In 1997, Ukraine's Higher Arbitration Court ruled in favour of FPU as the legal owner of inherited properties. ILO's recommendations from 2020 on the matter of property ownership involve dialogue between trade unions and the government:

*'As regards the question of ownership of the property currently in the possession of the FPU that was the property of the unions of the former USSR active in Ukraine, the Committee notes the creation of a working group to discuss the possible ways to regulate this issue and invites the Government to engage in consultations with the trade union organizations in order to find a mutually agreeable solution. It requests the Government to provide information on the development of the situation and, in particular, on any agreement which may be reached in this respect.'*⁷²

In 2020, when proposals were put forward in a legislative draft, the matter was also a cause for concern for the Special Rapporteur on the rights to freedom of peaceful assembly:

'The final provisions of the draft law No. 2681 would require trade unions to transfer the property that was in their possession as of 24 August 1991 (when Ukraine declared its independence) to your Excellency's Government. The motivation behind this provision would be that all such property belonged to the USSR, and as such, is state property which belongs to the successor entity. According to the information received, much trade union property

⁷¹ International Labour Organization, 2020. Report in which the committee requests to be kept informed of development - Report No 392, October 2020.

⁷² Ibid.

has been acquired by member dues and was not state property at the time of the independence of Ukraine. Further, the property has been in constant possession of trade unions for the nearly 30 years since independence. I would like to emphasize that the protection of trade union property and more generally to resources of associations is one of the elements that are essential for the normal exercise of trade union rights and its confiscation could be considered a significant violation of the right to freedom of association. Access to resources is important, not only to the existence of associations, but also to the enjoyment of other human rights by those benefiting from the work of an association (A/HRC/23/39 para. 9).⁷³

A settlement along the lines of the consensus recommended by ILO has not been reached. The irony that the state now wants to obtain FPU's properties in order to use them as IDP shelters is not lost on trade unions. They argue that the FPU's properties have already been offering shelter to those fleeing the war, and that they have been pursuing multiple external funding streams in order to sustain these efforts. The practice of union-run leisure and rehabilitation facilities may seem outdated and there are discussions to be had about maximising the benefits of such places for as many working people as possible, but such debates should occur with the participation of the unions through the social dialogue process.

⁷³ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25408>

Ukraine's Reconstruction: On Course for a Future Collision?

Ukraine's priority is winning the war to prevent further loss of life and war crimes, defend its democracy and rule of law system, and stop the appalling economic and social damage unleashed by the Russian invasion. This is clearly the perspective of trade unions, as well as the government. However, planning for the future is something both sides also must address. Discussions on Ukraine's reconstruction and visions for the future reveal contending perspectives – even though these do not have a clear outlet in the circumstances of the war. There is a concern among the trade unions that the current frameworks for reconstruction have come from the President's Office without a clear mechanism for wider scrutiny, debate and input into the policy-making process. This is broadly their criticism of the plans adopted at Lugano 2022, as part of the Ukraine Recovery Conference process. Nonetheless, the FPU emphasise the need for a united approach to in these discussions and the war effort:

*'To rebuild the country will need the support of all constituents of society. We have such a message and we are ready to participate in this process. You know the plans for Ukraine's reconstruction have not been discussed in civil society. So the team of the government who brought these plans to Lugano, they didn't discuss them during development. So they are being discussed with different countries but not inside Ukraine.'*⁷⁴

Similarly, the KVPU's Oksana Holota has argued:

*'We believe that only through social dialogue between the government, business, civil society and the trade unions, and respect for civil society and unions, can the goals of social justice in Ukraine be realised.'*⁷⁵

The Ukraine Recovery Plan prepared by the National Recovery Council and presented at Lugano highlights the lessening of the state's participation in social dialogue as a task to be achieved towards adopting 'new innovative development trends' for the economy.⁷⁶ This dispute over labour rights domestically will also be a test for Ukraine's international partners. The Rome Declaration of 2017 committed all 27 EU leaders to a 'social Europe' with a key role for social partners, including the trade unions. Respect for labour rights and working conditions in Ukraine are codified into both the 2014 Association Agreement with the EU and the FTA deal with the UK. If carried through into the post-war period the Ukrainian government's labour reforms are likely to breach the Charter of Fundamental Rights of the European Union, in particular Article 28 that includes the right to engage in collective bargaining and to negotiate collective agreements. The 2022 EU Directive on the Framework for Adequate Minimum Wages also created a legal obligation of states to promote collective bargaining and to negotiate with trade unions in setting minimum wage rates. So, the Ukrainian government appears to be pursuing policies which breach these aspects of the EU Acquis.

Trade unions themselves and their international representative bodies such as the ITUC and ETUC have publicly objected and sent strong letters of warning to Ukrainian authorities that their actions are incompatible with the chosen path towards EU integration. They have also urged EU representatives and institutions to speak out on the matter to ensure trade unions are not side-lined in the process of reconstruction.⁷⁷ There

⁷⁴ Osovyi, G. 2022. Interview with A. Ivanova, 23 August 2022, Kyiv

⁷⁵ Holota, O., 2023. Op cit.

⁷⁶ Government of Ukraine, 2022. "Ukraine Recovery Plan [Lugano]".

⁷⁷ ETUC, 2022. "Joint ETUC-PERC-ITUC letter on Ukraine sent to EU leaders"

<https://etuc.org/en/document/joint-etuc-perc-ituc-letter-ukraine-sent-eu-leaders> (Accessed 1 December 2023).

is also some evidence that European institutions have raised concerns and continue to monitor the situation with labour reforms in Ukraine. In 2021, EU officials were briefed ahead of a high-level meeting to press the importance of social dialogue to the Ukrainian authorities. A joint Canada-ILO project also released a technical note with specific concerns over some of the proposed amendments that have since been adopted into law.⁷⁸

The challenge ahead for Ukraine's labour movement and its international allies is to maintain the unity of purpose to ensure victory on the military front while also presenting a credible socioeconomic policy that ensures economic security and wellbeing. Ukraine faces a difficult reconstruction phase that will require a similar level of cooperation between different stakeholders to that which we have witnessed in response to Russia's war of aggression.

However, as FPU's chair rightly points out:

*'One thing is clear - those who are in the army now will feel the impact later, as they're currently in service. But we have some forecasts that those who are now in the army will likely protest these conditions strongly. They'll come back from service to worse working conditions.'*⁷⁹

Ukrainians who suffer at the front, those who have been internally displaced and those abroad have sacrificed too much to be offered a European future that trades away their rights and protections. Reconstruction will also be a test to the strength of feeling among the general population in the EU and beyond in support of Ukrainians. Trade unions are clearly aware of the symbolic importance of EU membership for people in Ukraine. To secure the stronger social protections and rights necessary for a just recovery they will need to ensure that their allies in the EU and other partner countries such as the UK are vocally supportive of the war effort and Ukraine's path of integration, as well as actively engaged in lobbying their own governments to resist further market liberalisation reforms that undermine social cohesion.

⁷⁸ ILO and Government of Canada, 2021. "Draft Law on Amendments to Certain Legislative Acts Concerning Simplification of Labour Relations in the Sphere of Small and Medium Business and Reduction of Administrative Burdens on Entrepreneurial Activity".

⁷⁹ Osovyi, G. 2022. Interview with A. Ivanova, 23 August 2022, Kyiv

Concluding Recommendations

The Ukrainian trade unions have an important role to play in maintaining broad societal support for the sacrifices that the Government of Ukraine is asking citizens to make in order to protect the country's sovereignty, democracy and territorial integrity. Dialogue regarding both the on-going war-effort – and the restructuring of the economy it entails to the demands of fighting the war – and the vision for future reconstruction is key to ensure Ukraine's long-term equitable development. Despite the contraction in the size of the labour market through external migration – as well as the rise of unemployment – the Ukrainian unions remain very important components of civil society, which enjoy a genuinely mass base across the country.

In this context the report makes the following recommendations:

- Pursue agreements with the trade unions at the national level that are not narrowly constricted to social and employment policy but involve consultation over the strategic development of the Ukrainian war-economy and the country's resilience.
- Maintain a commitment to collective bargaining as part of the cornerstone fabric of employee-employer relations. In light with the EU Acquis – and so as part of the membership accession process - ensure trade union consultation on minimum wage legislation and develop an action plan for improving access to collective bargaining.
- Continue on-going efforts to formalise contractual relations in the labour market – with written contracts the norm – but ensure that this does not extend precarious working through 'fake' forms of self-employment. In sectors where such 'fake' forms of self-employment and 'zero hour' contracts have proliferated in recent years, develop an action plan to address this problem and stop a 'race to the bottom.'
- Recognise that maintaining social protections for all is not separate from the war-effort but a critical part of the resilience that has underpinned Ukraine's successes in the war. In the longer-term this also forms part of an inclusive approach to post-war reconstruction that ensures the 'peace dividend' when it comes is shared by all.
- Anti-corruption efforts that address historical injustices in relation to trade union property should be undertaken through consultation with labour movement organisations and stakeholders that ensures their legitimacy. If trade union property is expropriated only to then be sold off to private individuals this could: (a) reduce the social infrastructure available for humanitarian relief, for example in relation to IDPs; (b) undermine the rule of law at a time when Ukraine is looking to strengthen compliance through the EU membership process; and (c) negatively impact support for the war effort if a perception of 'one rule for us, another for them' develops.
- Ensure that – unlike in London 2023 – there is a strong presence of Ukrainian trade unions and labour movement activists at the Berlin 2024 Ukraine Recovery Conference. Use this to secure trade union support for Ukraine's economic strategy.
- Ukraine faces potentially disastrous 'human capital' losses that are not fully accounted for in current estimates of the costs of reconstruction. The tragic reality is that some of the skilled industrial workers currently fighting at the front will not come back alive or come back with injuries meaning that they are unable to work. In this context it is imperative that Ukraine (a) invests in skills, training and education; and (b) avoids implementing austerity measures that, while they may lead to nominal improvements in debt to GDP ratios, actually undermine the productive capacities necessary for long-term and sustainable economic growth in the future.

About PeaceRep

PeaceRep is a research consortium based at The University of Edinburgh. Our research is re-thinking peace and transition processes in the light of changing conflict dynamics, changing demands of inclusion, and changes in patterns of global intervention in conflict and peace/mediation/transition management processes.

PeaceRep: The Peace and Conflict Resolution Evidence Platform

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