Ukraine: attack on dismissal rights pushed under cover of martial law

(30 May 2022) Legislation to reduce workers’ protection against dismissal is back on the agenda. Despite being rejected by the trade unions in the autumn of 2021, Bill 5371 has been introduced under the cover of martial law.

A technical assessment of the legislation by the Ukrainian parliament last year criticised the bill for:

• inconsistencies between certain articles of the document, as well as violations of Conventions (95, 135, 158) and Recommendation 85 of the International Labour Organisation;
• excessive individualization of labour relations, which will lead to non-transparency and discrimination in employment; and
• mutual contradiction of certain articles of the bill, which violates the constitutional principle of the rule of law.
The bill is designed to protect the interests of employers – both large and small – by providing for the possibility of dismissing people without the consent of the union. Although the Bill covers companies with less than 250 employees, there is concern that larger employers will try to exploit its provisions by restructuring into smaller units.

In order to increase the probability of adopting a certain bill in Ukraine, it is accompanied by an Explanatory Note. The main reasons given in the Explanatory Note of bill 5371, which could be written by a graduate of the 2-week business course, are the following:

- The current legislation is outdated. This despite the fact that legislation was supplemented and updated almost every year from 1991 to 2022.
- Labour legislation is extremely Soviet and bureaucratic. But modernising the legislation by proposing to repeal the ILO Recommendations and Conventions, to violate the articles of the European Social Charter and the Association Agreements with the EU, looks more like the authors of the bill prefer the tsarist era.
- The difficulty of complying with the labour law stimulates "shadow employment". But simply- proposing to legalize the illegal forms of human exploitation cannot be the answer.
- It is proposed to overcome the reduction of employment by expanding the grounds for dismissal of employees by the employer.

This bill was part of a package of legislation introduced in autumn last year that led to widespread protests from the Ukrainian trade union movement. The measures were then postponed, following a scandal, revealed by EPSU, over the British government's promotion of these anti-union and anti-labour reforms.

The problem now is that the legislation has been brought back when Ukrainians' right to protest is severely limited by martial law and most workers are involved in the armed defence of the country or are working in various ways to help internally displaced persons or the armed forces. Business lobbyists and their supporters in the parliament have decided that it is time to deprive employees of their labour guarantees.
In the third week of the Russian invasion of Ukraine, law 2136 on the organisation of labour relations in martial law was hastily adopted. It has created unnecessary social tensions and, albeit temporarily - for the period of martial law - freed the hands of business to violate workers' rights. The proposed bill 5371 has been developed by NGOs that do not represent workers nor employers, that don’t participate in social dialogue and are essentially ideological lobbying organisations. Real representatives of workers see in this bill only the danger of increasing the competitiveness of unscrupulous employers, as well as an anti-European initiative.

EPSU has sent a letter of protest to the speaker of the Ukrainian Parliament. We also alerted the European Commission. We stand with the Ukrainian unions in their defence of trade unions rights and social dialogue.

Ukraine

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