

UKRAINE

Trade Union Monitor

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The Ukrainian trade union movement continues to operate in extremely difficult conditions caused by the Russian aggression and consequent limitation of rights. Meeting the population's basic social and humanitarian needs has become a tough task, while campaigning for aligning working conditions with European standards looks almost impossible. In the past two years, employee associations have focused their activities mainly on supporting Ukraine's defenders and the victims of armed aggression. Despite being a loyal ally of the state in the fight against the invaders, a majority of unions are constantly subjected to legal and political pressure. The lack of social dialogue has aggravated the workforce crisis and hinders the development of socially acceptable recovery plans.

POLITICAL, ECONOMIC AND SOCIAL FRAMEWORK

The trade union movement in Ukraine is represented by the Federation of Trade Unions of Ukraine (FPU) and the Confederation of Free Trade Unions of Ukraine (KVPU), as well as myriad smaller associations. The conditions under which they operate are determined by the state of the labour market, in which relations between employees and employers are far from harmonious. Negative socio-economic phenomena are often directly related to the consequences of political decisions made without proper social dialogue.

The employment sphere is characterised by contradictory trends and paradoxes.¹ On one hand, Ukraine has high actual unemployment (about 20 per cent) and a declining employment rate (up to 45 per cent), but on the other hand, the

level of registered unemployment has reached a record low, and about 80 per cent of employers are complaining about a lack of labour.² Understandably, Russia's full-scale armed aggression has led to the disappearance of millions of jobs, but the number of vacancies has increased to pre-war levels because of increased business activity in regions far from the front.³ But positive trends in unemployment should be viewed critically, as statistics are distorted by policymakers. The number of people officially recognised as unemployed declined to 110,000 people as of 1 March 2024, and the number of applicants for vacancies is also falling. For comparison, as of 1 March 2021, at the height of the COVID-19 pandemic, there were 490,000 registered unemployed in Ukraine.⁴ Unfortunately, this situation is by no means a consequence of the state's effective fight against unemployment. Rather, it is a result of the deterioration of unemployment benefits.⁵

In the case of men, the risk of being quickly drafted to military service also influences their reluctance to register at the employment centre.

In reality, the Ukrainian labour situation is characterised by huge unemployment, but at the same time strong demand for workers. This is a signal of the dysfunctionality of the employment regulation model. The desire to save money on unemployment benefits brought short-term benefits to

¹ Kalashnyk, P. (2023): The paradox of the wartime economy. The labor market in Ukraine is a major crisis of personnel and unemployment at the same time. How business finds solutions. *Forbes Ukraine*. Available at: <https://forbes.ua/money/paradoks-ekonomiki-voennogo-chasu-rinok-pratsi-v-ukraini-tse-velika-kriza-kadriv-ta-bezrobittya-odnochasno-yak-biznes-znakhodit-rishennya-08122023-17756>.

² Reshetnyak, V. (2024): Salaries, vacancies, AI: What the labor market will be like by the end of this year. *NV Business*. Available at: <https://biz.nv.ua/ukr/experts/zarplati-v-ukrajini-u-2024-kogo-i-de-shukayut-ta-chi-dopomagaye-ai-rezultati-doslidzhennya-50398723.html>.

³ More jobs and more money: in May, the labor market crossed the 90,000 vacancies mark. *Work.ua*. 2023. Available at: <https://www.work.ua/articles/analytics/3103/>.

⁴ State Employment Center (2021) Labour market situation and activities of the State Employment Service in January-February 2021. Available at: https://dcz.gov.ua/sites/default/files/infocfiles/sytuaciya_na_rp_ta_diyalnist_dsz_robocha_syla_2021_rik.pdf

⁵ A number of restrictions: how unemployment benefits will change. *Sotsportal*. 2022. Available at: <https://socportal.info/ua/news/ryad-ogranichenii-kak-izmenyatsya-vyplaty-po-bezrobotitce/>

the budget, but resulted in the reluctance of citizens to interact with the State Employment Service and undermined the role of this agency. Another problem is that part of those who are recognised as employees might not receive a salary because of the suspension of labour contracts during wartime.

It should be noted that employers have a strong need for qualified workers in sectors traditionally likely to unionise. Analysis shows that 9 out of the 10 most in demand professions are those for which vocational education institutions provide training.⁶ While in 2023 the economy grew by 5.7 per cent of GDP, in 2024 it is projected to grow at a lower rate (3.6 per cent), primarily due to problems finding workers.⁷ Employers are worried by the fact that Ukraine has lost about 30 per cent of its labour potential (5.5 million working age people) due to migration and mobilisation.⁸ But so far, the problem of staff shortages has not led to an increase in wages: the average monthly salary at the end of last year was about 19,000 UAH, or 455 euros. This is almost five times less than the EU average,⁹ which may be a reason for the outflow of people abroad. Workers are underpaid and in practice even suffering from wage theft: according to official data alone, in February 2024, the debt of 444 employers-debtors totalled more than UAH 3 billion.¹⁰

However, despite the gradual escalation of the staff shortage problem from an obstacle for some businesses to a threat to national security, Ukraine continues to restrict employees' rights, which may further discourage them from entering into employment. On 15 March 2022, one of the most controversial legislative acts of the post-independence era was adopted, the Law on the Organisation of Labour Relations under Martial Law No. 2136 (Law No. 2136). It significantly weakened the guarantees for remuneration and rest provided for in the Labour Code of Ukraine (Labour Code). It also allowed employers to dismiss trade union members and suspend certain provisions of collective bargaining agreements without the consent of trade union

bodies, which laid the groundwork for conflicts between the social partners.

At first glance, these factors seem to have created favourable conditions for the development of the trade union movement, creating conditions for full employment or expanding incentives to take up work. As things stand, however, trade unions face a number of factors that prevent them from implementing a recruitment strategy and boosting their bargaining power.

1) Institutional weakness of trade unions

The inflexibility of trade union structures, the limited use of digital technologies and the outflow of the most active members to the army have undermined their ability to react promptly in a crisis environment. According to the FPU, as of the beginning of 2024, the Federation's membership amounted to 2.74 million people, of whom only 1.9 million were in employment. This means that, compared with the beginning of 2022, the FPU has lost about 700,000 members. In public discourse, trade unionists regularly come off worse in relation to business people and government officials. Focusing on criticising legislative initiatives that are unfavourable to them, trade unions do not offer their own programmes to overcome poverty, staff shortages and unemployment. However, the position of large trade unions prevents the authorities from imposing openly (economic) liberal reform scenarios. Faced with serious common challenges and realising their weaknesses, the FPU and the KVPU have managed to consolidate their position on many issues.

2) Disruption of the economy as a result of the war

Ukraine has partly managed to adapt its economy to the new challenges. Russian attacks have affected workers' daily lives in most parts of Ukraine: regular air raids have forced many businesses to shut down, and many workers have lost their lives – in 2023, at least 196 people were killed at work by the invaders. These risks make working in logistics, energy, transportation and industry a real challenge. The expansion of the public administration and defence sectors, as well as the intensification of machine building, do not generate enough decent and secure jobs. A relative positive is the stabilisation of the sectors of the economy that are focused on meeting the needs of the population (trade, construction, and banking services). However, even if the current growth rate is maintained, Ukraine's real GDP will reach its pre-war level only in 2030.¹¹ The problem of structural primitivisation of the economy – since independence, high-tech industries tend to be replaced by services, agriculture and low-tech manufacturing – is only exacerbated by the lack of adequate industrial policies that would successfully combine protectionism and competitiveness. Hopes of achieving sustainable development by boosting raw material exports have been dashed by the blocking of borders. Ukraine's undisguised problem is the critical dependence of the budget and economy on external

6 Since the beginning of the invasion, the most commonly recruited occupations have been: (1) driver of motor vehicles; (2) nurse (male nurse); (3) loader; (4) auxiliary worker; (5) boiler operator; (6) tractor driver in agricultural (forestry) production; (7) food retailer; (8) seamstress; (9) stacker/packer; (10) doctor. Sudakov, M. and Lisohor, L. (2023): Labor market of Ukraine 2022–2023: state, trends and prospects. State Employment Service of Ukraine, Federation of Employers of Ukraine, Ministry of Education and Science of Ukraine, European Bank for Reconstruction and Development, Solidarity Fund PL. 2023. 168 c. C.10-15. Available at: https://solidarityfund.org.ua/wp-content/uploads/2023/04/ebrd_ukraine-lm-1.pdf.

7 National Bank of Ukraine (2024): Inflation Report, January 2024. Available at: <https://bank.gov.ua/ua/news/all/inflyatsiyniy-zvit-sichen-2024-roku>.

8 Miroshnychenko, O. (2023): How business can overcome the staff shortage. *Economic Truth*. Available at: <https://www.epravda.com.ua/columns/2023/11/7/706288/>.

9 Earnings and wages in Europe – Statistics & facts. *Statista*. 2024. Available at: <https://www.statista.com/topics/11909/earnings-and-wages-in-europe/#topicOverview>.

10 State Labor Service of Ukraine (2023): Monitoring of wage arrears. Available at: <https://dsp.gov.ua/mzpz2023/>.

11 European Parliament (2024): Two years of war: The state of the Ukrainian economy in 10 charts. Available at: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/747858/IPOL_BRI\(2024\)747858_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/747858/IPOL_BRI(2024)747858_EN.pdf)

financing, the amount of which is recognised as insufficient.¹² The level of the shadow economy, which amounts to 30 per cent of GDP, also undermines growth prospects. This vulnerable state of the economy is not conducive to collective bargaining for better working conditions.

3) Political environment unfriendly to trade unions

A number of legal restrictions prevent trade unions from effectively protecting their membership under martial law. On one hand, the government is pursuing a policy of employment deregulation, which also reduces trade union leverage. On the other hand, trade unions cannot influence employers due to war-related restrictions on mass gatherings. The situation is further complicated by the fact that the authorities are directly trying to exclude existing trade unions from social dialogue by discrediting them as outdated organisations that are rooted in the industrial era, or by using criminal proceedings against some officials to show unions to be corrupt structures.

Thus, unions avoid confrontation with the state, focusing on their humanitarian functions. During 2023–2024, however, civil society became much more active. This was reflected in the organisation of protests by students, doctors, and veterans. But the largest trade unions did not call for protests in the streets. It can be assumed that in the context of the invasion, the expectations of ordinary trade union members have changed regarding the support that their organisations can provide. In particular, there is a growing need for financial assistance to solve everyday problems, compensation for lost income, provision of necessary equipment, and temporary shelter. But it should also be borne in mind that trade unions are unprepared for a conflict with the state, which may use an expanded arsenal of means of influence under martial law to protect law and order or the interests of employers.

TRADE UNIONS IN UKRAINE – FACTS AND FIGURES

HISTORICAL ASPECTS

After Ukraine's independence and at the beginning of the transformation process, Ukrprofrada, the Ukrainian branch of the Soviet trade union federation, was a monolithic trade union centre with 26.6 million members. In addition to almost all employees and students, the umbrella organisation also included the managements of ministries, government bodies and state-owned companies. Thus, trade unions in Ukraine, as in every other post-Soviet country, were part of state structures, an extended arm of the managements and social and cultural departments of state-owned organisations and companies.

A year after independence, Ukrprofrada declared itself independent not only of its Soviet predecessor but also of the state and founded the Federation of Trade Unions of Ukraine (FPU). The latter also took over the real estate and properties of the predecessor organisation and thus became one of the richest collective property owners in Ukraine. Despite efforts to reform these structures since independence, no real transformation has succeeded to date.

In addition to the FPU, independent trade unions emerged after the collapse of the Soviet Union that have their roots in the strike movement of miners and transport workers, but now also include other sectors. After extensive strikes in 1994–1998, the Independent Union of Miners and some other new unions merged to form the Confederation of Free Trade Unions of Ukraine (KVPU). They are much smaller than the FPU, but see themselves originally as representatives of employee interests and are characterised by a strong ability to deal with labour conflicts.

TRADE UNION LANDSCAPE

The largest trade union umbrella organisation is the Federation of Trade Unions of Ukraine (FPU), the legal successor to the Soviet Council of Trade Unions. The FPU includes 71 member organisations, of which 46 are all-Ukrainian trade unions and 25 are territorial trade unions. The total trade union membership as of 1 January 2024 was 2,738,693, of whom 1,903,572 (69.5 per cent) are active working members of trade unions.

The FPU's organisational structure consists of 31,838 primary organisations, 150 united organisations, 370 city organisations (except Kyiv), and 612 district, 622 territorial and 489 regional organisations. The FPU admits that for the period from 1 January 2021 to 1 January 2024, the number of members (–1.284 million people) and primary trade union organisations (–14,938 organisations) was reduced by a third.

The most influential branch unions within the FPU, which also have the highest membership are: the Trade Union of Metallurgists and Miners of Ukraine, with around 133,700 members (compared with 187,370 members in 2020, and 208,200 in 2019); the Trade Union of Housing and Communal State Employees with 140,800 members; the Trade Union of Education and Science Workers with 1,080,000 members (compared with 1,200,000 members in 2022), and the Trade Union of Health Workers, with around 368,800 members (478,869 members in 2020).

The second largest trade union umbrella organisation is the Confederation of Free Trade Unions of Ukraine (KVPU) with 165,804 members (in 2020 it had 169,600). The KVPU has its roots in the miners' strikes of the 1990s, an important factor in Ukraine's independence movement. The vital core of the KVPU is still the influential Independent Miners' Union (NPGU), but the education and health sectors are also relatively well represented in this small umbrella organisation. Smaller unions not related to any industry or region are also members of the KVPU.

¹² Blinov, O. (2024): Will GDP grow in 2024, what will happen to inflation and the exchange rate? *Forbes*. Available at: <https://forbes.ua/money/ekonomika-ukraini-u-2024-rotsi-chogo-ochikuvati-08012024-18370>

Table 1
Main trade unions confederations in Ukraine

Trade Union Confederation	Chair and Vice Chair	Members	International memberships
Federation of Trade Unions of Ukraine, FPU	Chair: Hryhorii Osovii Deputy: Oleksandr Shubin, Volodymyr Sayenko, Yevhen Drapyatii, Vasyl Andreyev	2.7 million (1.1.2024)	ITUC, ETUC
Confederation of Free Trade Unions of Ukraine, KVPU	Chair: Mykhailo Volynets Deputy: Volodymyr Kozelskii, Natalia Levytska, Mykola Koliuchii, Oleh Panasenko, Petro Tulei, Volodymyr Fundovni	165 804 (1.1.2022)	ITUC, ETUC (since December 2022)

Table 2
Main sector federations and individual trade unions in Ukraine

Sector federation / trade union	Confederation	Chair and Vice Chair	Members	International memberships
Trade Union of Metallurgists and Miners of Ukraine (PMGU)	FPU	Chair: Oleksandr Rjabko Deputy: Valeryi Gavrylenko	133 700 (01.01.2024)	IndustriAll
Trade Union of Workers of the Coal Industry of Ukraine (PRUPU)	FPU	Chair: Andriy Zymin	43 419 (01.01.2023)	IndustriAll
Independent Trade Union of Mining Workers of Ukraine, NPGU	KVPU	Chair: Mykhailo Volynets Deputy: Natalia Levytska	45 332 (01.01.2019, latest data available)	IndustriAll
Trade Union of Agricultural Industry Workers of Ukraine	FPU	Chair: Switlana Samosud Deputy: Olga Lopata	81 218 (01.01.2023)	IUF, EFFAT
Trade Union of Housing and Communal Services of Ukraine (Trade Union of Housing and Communal State Employees of Ukraine)	FPU	Chair: Oleksiy Romanyuk Deputy: Anatoliy Kulesha	140 800 (01.01.2024)	PSI, EPSU
Trade Union of Railway and Transport Building Workers of Ukraine	Federation of Transport Workers' Trade Unions of Ukraine, FPTU	Chair: Oleksiy Semerun Deputy: Oleh Grygoruyk	257 935 (01.01.2024)	ITF, ETF
Trade Union of Education and Science of Ukraine	FPU	Chair: Heorhii Trukhanov Deputy: Ljubov Garbarenko, Serhi Romanjuk	1 080 000 (01.01.2024)	EI, ETUCE
Trade Union of Healthcare Workers of Ukraine	FPU	Chair: Viktoriya Koval Deputy: Iryna Shvets	368 800 (01.01.2024)	PSI, EPSU
Trade Union of Employees of State Institutions of Ukraine	FPU	Chair: Yurii Pizhuk	61 133 (01.01.2023)	PSI, EPSU
The Association of Autonomous Trade Unions of Ukraine (OVAP)	None	Chair: Anatolii Shyrokov	152 653 (1.1.2019)	PSI, EPSU
Association of All-Ukrainian Trade Unions and Ukrainian Trade Union Associations »Unity«	None	Chair: Anatoli Onischuk	151 544 (1.1.2019)	PSI, EPSU

At present, the KVPU brings together eight branch unions: the Independent Trade Union of Miners of Ukraine (NPGU); the All-Ukrainian Trade Union ‘Protection of Justice’; the Free Trade Union of Railway Workers (VPZU); the Free Trade Union of Education and Science (VPONU); the Free Trade Union of Medical Workers (VPMPU); the Free Trade Union of Entrepreneurs (VPPU); the Association of Motor Carriers of Ukraine; and the Free Trade Union of Able-Bodied and Disabled People. In addition, the KVPU has within its structure the Committee on Women’s Rights and Gender Equality and the Youth Committee.

In the process of EU accession and granting of candidate status for EU membership to Ukraine, the KVPU as well as the FPU also became members of the European Trade Union Confederation (ETUC) at the end of 2022.

The KVPU is financed by fees from member organisations and donations from citizens, companies, institutions and organisations at home and abroad.

In Ukraine, there are also about 30 trade unions that are not affiliated to any umbrella organisation, such as the Trade Union of Railway and Transport Building Workers, which also has Soviet roots. Because of its important role and internal organisational strength it has so far decided against membership of an umbrella organisation. However, the union is a member of the International Transport Federation (ITF).

With the outbreak of the Russian war on Ukraine, however, the two traditionally conflicting umbrella organisations seem to have found some common ground and both are actively engaged in providing voluntary aid for their members and for citizens of Ukraine in general, by delivering food and non-food products to people in need, providing shelter to war refugees (in particular in FPU properties), crowdfunding and other immediate aid. The KVPU and FPU also have a similar negative position regarding changes in labour legislation that would lead to a deterioration in workers’ and unions’ rights and have called on the government to drop draft anti-union laws.

Since independence, the FPU has lost over 70 per cent of its members, who have not joined any other unions. While almost all workers were still organised at the beginning of independence, today only about 40 per cent are organised in the formal sector. Leaving aside the significant informal sector, the degree of organisation in Ukraine is still higher than in many other countries, however. The unions are still the largest civil society organisation in the country and theoretically have the potential to mobilise their members and thereby influence social and industrial policy.

LEGAL/Framework CONDITIONS OF TRADE UNIONS

Ukrainian trade unions enjoy a wide range of rights and guarantees to protect labour rights and safeguard their members’ socio-economic interests, although certain excep-

tions introduced in connection with martial law limit the effectiveness of their work. The current legal framework guarantees trade unions the opportunity to establish organisations, monitor compliance with members’ rights in the workplace, enter into collective bargaining, defend rights in court, as well as interact with authorities to resolve certain problematic issues. Most of the fundamental rights prescribed in the International Labour Organization’s Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), as well as the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) are enforceable. Trade unions can carry out any activity, with the exceptions established by the Decree of the President of Ukraine on the introduction of martial law in Ukraine, the Law on the legal regime of martial law 2561, and the Law on the organization of labour relations in conditions of martial law 2136.

In particular, strikes, mass gatherings and actions are prohibited under martial law (Article 19 of Law 2561). Employers are not obliged to reach agreement with trade unions on the dismissal of trade union members, except for members of elected trade union bodies (Article 5 of Law 2136).

Under martial law, trade unions can exercise their rights, defined by the Ukrainian Labour Code, the Law on Trade Unions, as well as other legislative acts. These include the right to:

- 1) participate in collective bargaining with the aim of concluding collective agreements and industry agreements (but certain provisions of collective agreements may be suspended in accordance with Article 11 of Law 2136);
- 2) initiate collective labour disputes (but without the right to strike);
- 3) participate in negotiations on employer decisions on issues of working hours and wages, participate in consultations together with the employer in order to minimise mass dismissals, as well as initiate consultations on other issues in the manner specified by the Law on Social Dialogue in Ukraine;
- 4) carry out public supervision and control over compliance with labour legislation, submit appeals and requests to the employer and to the authorities;
- 5) bring lawsuits before the court and applications to the bodies of the State Service of Ukraine on labour issues (although the powers of labour inspectorates to monitor compliance with labour and occupational safety legislation are extremely limited).¹³

According to the website of the FPU, in 2023, 704 violations of trade union rights were identified (1095 in 2022). The

¹³ Information for trade unions on the progress of the implementation of the General Agreement for 2019–2021. Joint representative body of representative All-ukrainian Associations of Trade Unions at the national level. Available at: <https://spo.fpsu.org.ua/wp-content/uploads/2024/03/dodatok-1-1.pdf> (p.176)

main ones were: failure to transfer funds to primary trade union organisations for cultural, sports and recreational activities – 535 cases (compared with 992 in 2022); failure of employers to transfer trade union dues withheld from employees' salaries to the account of primary trade union organisations – 69 cases (compared with 54 in 2022); failure to provide information to trade unions or their associations on issues related to labour and socio-economic rights and legitimate interests of their members – 44 cases.¹⁴

However, the biggest legal challenge facing trade unions has little to do with their protective function. The most pressing issue is the ownership of property inherited by the FPU from the Soviet era. The government believes that all of it should be transferred to the state, although draft laws No. 6420 and No. 6421, which would eliminate contradictions in interpretation of the legal nature of the property of civic organisations, have not been finally adopted. A number of parallel processes have been launched to prove unfair disposal of property by 'trade union bosses'. In several criminal cases law enforcement agencies equate the property of trade unions with state property. The most important legal proceedings involving individual trade unionists or the trade unions in general are the following:

1. The Sayenko case. In accordance with court decisions, the Main Investigation Department of the State Bureau of Investigation (MID SBI) has been conducting a pre-trial investigation in criminal proceedings since 20 August 2019. The suspect in these proceedings is Volodymyr Sayenko, Deputy Chair of the FPU and Chair of the Supervisory Board of the trade union-owned tour operator Ukrprofozdorovnytsia PJSC. He is suspected of embezzling state property in specially large amounts by abusing his position as an official (Article 191(5) of the Criminal Code of Ukraine). In the opinion of investigators, assets of Ukrprofozdorovnytsia PrJSC and Ukrproftur PrJSC are state property.¹⁵ The process has been lengthy; the suspect has been behind bars since December 2022. At that time, Mr Sayenko was suspended from the position of Deputy Chair of the FPU and put under arrest with the possibility of bail of more than UAH 45.42 million.¹⁶ In addition, Mr Sayenko is a defendant in criminal proceedings dated 7 September 2022. In this instance, he is suspected of the illegal sale of state property, namely a balneotherapy centre. In this proceeding, he was arrested with the possibility of bail in the amount of UAH 113.3 million.¹⁷

2. The Melnyk case. The case of the former leader of the Kyiv trade unions, Valentyn Melnyk, is also illustrative.¹⁸ On the basis of the approved plea agreement concluded between the Specialised Environmental Prosecutor's Office of the Kyiv City Prosecutor's Office, Mr Melnyk was found guilty and sentenced to a fine.¹⁹ This case concerned the sale of real estate on Trukhaniv Island (Kyiv) using forged documents.

3. The Strilets case. The criminal case against the head of the private joint stock company Ukrproftur, Serhiy Strilets, is ongoing. The accusation is based on the receiving of an illegal benefit for the conclusion of a lease agreement for premises on the territory of the Druzhba hotel (Kyiv). In 2023, a court acquitted Strilets due to gross violations by the police during covert investigative activities, including video surveillance.²⁰ Prosecutors are appealing the verdict, however.

4. Parliamentary investigation. The work of the parliamentary Temporary Investigation Commission on state property that can be used in the interests of internally displaced persons ended in a predictably negative way for the FPU. The commission was headed by MP Galina Tretyakova, who has repeatedly made negative statements about the largest trade unions. The PIC concluded that the agreement of 18.11.1990, which provides for the right of ownership, use and disposal of trade union property, between the Federation of Trade Unions of Ukraine and the General Confederation of Trade Unions of the USSR, was forged. This decision was based on the conclusions of an expert investigation, which states that the agreement was drawn up in the font Times New Roman, which allegedly began to be used only in 1992, whereas in fact the font was developed as long ago as 1932. On this basis, the PIC alleges that the Federation misappropriated and misused state property in the form of sanatoriums and other recreational facilities.²¹ At the same time, the explanations of the head of the FPU, Hryhoriy Osoviy, were not taken into account due to their alleged 'incomprehensibility'.

¹⁴ Federation of Trade Unions of Ukraine (2024): Information on violations of trade union rights in 2023. Available at: <https://www.fpsu.org.ua/napryamki-diyalnosti/pravovij-zakhist/25607-informatsiia-pro-porushennia-prav-profspilok-u-2023-rotsi.html>.

¹⁵ Decision of the Kyiv Court of Appeal of 25.01.2024 in case No. 757/32274/23. Available at: <https://reyestr.court.gov.ua/Review/116711018>

¹⁶ Ruling of the Kyiv Court of Appeal of 13.03.2024 in case No. 757/643/24-k. Available at: <https://reyestr.court.gov.ua/Review/117792741>

¹⁷ Ruling of the Holosivskyi District Court of Kyiv dated 01.02.2024 in case No. 757/54978/23-k. Available at: <https://reyestr.court.gov.ua/Review/116831689>

¹⁸ Since 9 January 2024, Inna Linchevska has been acting head of the Kyiv City Council of Trade Unions.

¹⁹ Judgment of the Dniprovskyi District Court of Kyiv of 11.12.2023 in case No. 755/7905/23. Available at: <https://reyestr.court.gov.ua/Review/115575159>

²⁰ Criminal proceedings No. 1202100000000934 of 22.07.2021 concerned the accusation of committing a crime under Part 4 of Art. 368-3 of the Criminal Code of Ukraine (bribery of an official of a legal entity under private law). See the verdict of the Dniprovskyi District Court of Kyiv of 12.07.2023 in case No. 757/15969/22-k. Available at: <https://reyestr.court.gov.ua/Review/112133941>

²¹ On the report of the Temporary Investigation Commission of the Verkhovna Rada on possible violations of Ukrainian law with regard to the receipt, distribution, transportation, storage, use for the intended purpose of humanitarian and other assistance, as well as inefficient use of state property that can be used for temporary accommodation for internally displaced persons and other needs of the state. Resolution of the Verkhovna Rada of Ukraine of 21.09.2023 No. 3395-IX. Available at: <https://zakon.rada.gov.ua/laws/show/3395-20#Text>.

5. Seizure of trade union property. Some 80 property complexes owned by the Federation with a total value of about UAH 7 billion were transferred to the Asset Recovery and Management Agency (ARMA). This agency is currently seeking managers for trade union buildings in Kyiv²² and Lviv²³ that have been seized as part of criminal proceedings. It is no secret that Olena Duma, appointed head of ARMA in 2023, together with former MP Serhiy Kaplin, who is in conflict with the FPU leadership, heads the Confederation of Trade Unions of Ukraine,²⁴ a rival trade union body established in 2017. It seems that the Agency is acting as a tool in the competition between different trade union organisations.

TRADE UNIONS AND THEIR CORE TASKS

The main tasks of trade unions are to maintain the welfare of the working population, provide all necessary protection for defenders and help victims of the armed aggression of the Russian Federation and stop attacks on labour guarantees.²⁵ During the period of martial law, Article 14 of Law No. 2136 imposes on trade unions the obligation to contribute to the defence capability of the state as much as possible within the framework of their activities and to ensure public control over the minimum labour guarantees provided for by this Law.

In its report for 2023, the Federation of Trade Unions of Ukraine assessed the past year fairly positively, noting the increase in the minimum monthly wage and the minimum unemployment benefit. It also notes the introduction of draft law No. 9510 to the Verkhovna Rada, which provides for the creation of a wage guarantee fund and introduces additional sanctions on employers for delaying wages. Trade unions have agreed on 1600 draft legal acts.²⁶ In general, it can be concluded that the FPU has chosen the tactic of constructive interaction with the authorities through consultations and

coordination procedures. However, only a small share of their amendments is taken into account in the lawmaking process. Determining the vector of reforms remains the prerogative of the government and parliament.

Despite the good intentions enshrined in the legislation, social dialogue as a tool for policymaking and the collective endeavours of trade unions, employers and the government is absent in Ukraine. The National Tripartite Social and Economic Council has not been launched in Ukraine, although this issue is increasingly in the focus of attention of European-level social partner organisations.²⁷

For a long time, social dialogue in Ukraine has been conducted through collective agreements. In 2023, new sectoral agreements in the cultural sector were concluded for 2023–2028,²⁸ in road transport for 2024–2026,²⁹ and in agriculture for 2023–2025.³⁰ However, many companies are outside the scope of sectoral agreements, and the procedure for extending such sectoral (intersectoral) agreements adopted in 2022 will only function after martial law is lifted.³¹ And while general, territorial and branch collective agreements were usually declarative in nature, collective agreements concluded at the enterprise level had a major impact on employees' welfare. However, the realities of martial law have led to a decline in the role of collective bargaining.

Even before the full-scale invasion in Ukraine (2015–2021), the number of collective agreements was falling.³² During 2022–2024, employers actively suspended certain provisions of collective agreements unilaterally on the basis of Article 11 of Law No. 2136, and trade unions failed to counteract this. As the FPU presidium noted in October 2023, there are

²² Asset Recovery and Management Agency (2023): Search for a manager: real estate in Kyiv (House of Trade Unions). Available at: https://arma.gov.ua/asset_management/view/poshuk-upravatelya-obekt-neruhomogo-mayna-u-kyevi-budinok-pro-fspilok?fbclid=IwAR288uutofjB9OGu0KhGlbRS4h-Me713L-d9fy0bqQICRgeAlFozlZSXEEA.

²³ Asset Recovery and Management Agency (2024): Competitive selection of managers announced: real estate in Lviv. Available at: https://arma.gov.ua/asset_management/view/ogolosheno-konkursniy-vidbir-upraviteliv-neruhome-mayno-u-lvovi.

²⁴ Serhiy Kaplin is elected Secretary General of the Confederation of Trade Unions of Ukraine, Poltava region, 2023. URL: <https://poltava.to/news/73279/>

²⁵ See the resolution of the FPU Presidium on priority tasks of the FTUU in opposition to legislative initiatives of the authorities that restrict the rights of workers and trade unions under martial law, dated 29 September 2022. Available at: https://zakon.rada.gov.ua/rada/show/v11_1580-22#Text

²⁶ Federation of Trade Unions of Ukraine (2023): Summarizing the activities of the FEU in 2023: countering challenges and threats during martial law. Available at: <https://www.fpsu.org.ua/256-holovna-novyina/25500-pidsumkova-informatsiia-pro-dialnist-fpu-u-2023-rotsi-protydiia-vykykam-i-zahrozam-pid-chas-voiennoho-stanu.html>

²⁷ Ukrainian League of Industrialists and Entrepreneurs (2023): Social dialogue under martial law is very important – the mission of European social partners in Ukraine. Available at: <https://uspp.ua/news/ostanni-novyny/2019/sotsialnyi-dialoh-v-umovakh-voiennoho-stanu-duzhe-vazhlyvyi-misiia-ievropeiskykh-sotsialnykh-partneriv-v-ukraini>

²⁸ Federation of Trade Unions of Ukraine (2023): A new sectoral agreement in the field of culture is registered. Available at: <https://tinyurl.com/2wc9dm2h>

²⁹ Federation of Transport Employers of Ukraine (2023): On New Year's Eve, the Sectoral Agreement in the field of road transport for 2024–2026 was signed. Available at: <https://frtkur.org/naperedodni-novogo-roku-pidpysano-galuzevu-ugodu-u-sferi-avtomobilnogo-transportu-na-2024-2026-roky/>

³⁰ Federation of Trade Unions of Ukraine (2023): A sectoral agreement was signed in the agricultural sector, which, among other things, provides for improved remuneration conditions for employees. Available at: <https://www.fpsu.org.ua/materialy/24696-profspilka-apk-pidpysano-haluzevu-uhodu-iakoiu-peredbacheno-pokrashchennia-umov-oplaty-pratsi-dlia-ahrariiv-2.html>

³¹ Clause 4 of the Resolution of the Cabinet of Ministers of Ukraine 'Some Issues regarding Extension of the Sectoral (Intersectoral) Agreement, Some of Its Provisions' of 13 September 2022, No. 1022. Available at: <https://zakon.rada.gov.ua/laws/show/1022-2022-%D0%BF#Text>

³² Strepko, V.L. (2023): On the extension of the effect of sectoral agreements, Legal Scientific Electronic Journal. № 8/2023. C. 238-241. URL: http://www.lsej.org.ua/8_2023/54.pdf

no accurate data on the coverage of collective agreements since the beginning of martial law. The pace of concluding new collective agreements and updating their content lags behind the pre-war period, and employers' difficult financial situation does not allow us to expect this process to revive.

The problems concerning the collective agreement of one of the largest logistics companies, Nova Poshta LLC, which employs tens of thousands of employees, was resolved in favour of the employees. At the end of 2023, 21 of the 28 clauses of the collective agreement, which provide a number of additional benefits for the company's employees throughout Ukraine and which the employer suspended in April 2022, were renewed.³³ The All-Ukrainian Professional Union of Employees of Nova Poshta LLC negotiated for a year to get the employer to reconsider their decision and agree to reinstate the provisions from October 2023. Such cases inspire faith that trade unions must be listened to, and that the social protection of employees and business profitability are compatible. Another approach is demonstrated by the trade unions that are members of the KVPU: they have resorted to judicial appeals against the deprivation of their benefits provided for in collective agreements. Members of the Free Trade Union of Railway Workers succeeded in the court of first instance to cancel the decision of JSC Ukrzaliznytsia to suspend the provisions of the collective agreement.³⁴

Some trade unions have demonstrated that it is even possible to achieve better working conditions. At Dnipro Metallurgical Plant, the local organisation of the Trade Union of Metallurgists and Miners initiated a collective labour dispute demanding higher wages. Under martial law, this dispute could not end in a legal strike, but the employer decided to make concessions to the employees anyway.³⁵ Negotiations between the administration of PJSC ArcelorMittal Kryvyi Rih and the trade unions at this enterprise on the conclusion of a new collective agreement for the period 2024–2026 ended with a compromise, although in 2022 there had been a certain tension because of the suspension of dozens of clauses of the old collective agreement. The new contract includes a number of innovations caused by the realities of martial law, such as the payment of compensation to workers in the event of the destruction of their housing.³⁶

³³ Collective Bargaining Agreement clauses restored: what does it mean for Nova Poshta employees? YouTube, 2023. Available at: <https://www.youtube.com/watch?v=ot0xMhxrj0>

³⁴ Decision of the Saksahansk District Court of Kryvyi Rih, Dnipro Region, dated 06.10.2023 in case No. 214/4662/22. Available at: <https://reyestr.court.gov.ua/Review/114373928>

³⁵ Trade Union of Metallurgists and Miners of Ukraine (2024): Labor dispute resolved: DMZ employees will receive higher salaries starting March 1. Available at: <http://pmguinfo.dp.ua/novosti-pmgu/7437-trudovij-spir-virishenij-pratsivniki-dmz-z-1-bereznyya-otrimuvatimut-pidvishchenu-zarplatu>.

³⁶ Approval of the draft Collective Agreement. Primary Trade union organization of PMMU at PJSC 'AMKR', 2024. Available at: <https://tinyurl.com/3dapc8r9>

TRADE UNIONS AND THEIR (POLITICAL) WEIGHT

Prior to the invasion, trade unions in Ukraine were almost the only significant socio-political player that managed to slow down the process of labour market deregulation.³⁷ However, the introduction of restrictions on civil liberties during martial law allowed the government to push through reforms that were unacceptable from a trade union perspective. The support of international trade unions helped to balance the situation. Trade union relations with Ukrainian politicians remain weak and ad hoc, so it is difficult to talk of a full-fledged influence on the agenda. In the current parliament, MPs, regardless of factional affiliation, tend to be economic liberals, so it is difficult for trade unions to find allies there, and the ban on elections during martial law is not likely to change the picture in the near future.

The interests of the Federation of Trade Unions of Ukraine are represented in the Verkhovna Rada by non-factional MP Serhiy Rudyk, while the Confederation of Free Trade Unions is represented by its leader Mykhailo Volynets, who is also a member of the opposition Batkivshchyna faction, led by Yulia Tymoshenko. During the invasion, both parliamentarians failed to get any of the laws they introduced related to labour or trade union rights adopted. The fate of the bill they jointly submitted to abolish the requirement to include information on trade union membership in the register of insured persons remains uncertain.³⁸

Monitoring of open sources shows that there is no consensus within Batkivshchyna on the labour rights: the majority of the faction voted in favour of the controversial draft law No. 8313 at the end of 2023, which changed the regulation on vacations in favour of employers.³⁹ A defeat for trade unions was the abolition of guaranteed payment for leave for trade union training at the expense of the employer lasting up to six days per year. Trade union members can take advantage of this leave only at the expense of the trade unions, but they have much less financial capacity due to the dramatic decline in their funds.

At the beginning of January 2024, the Ministry of the Economy presented the draft Labour Code of Ukraine (hereinafter: draft Labour Code). Its main direction is the flexibilisation and individualisation of labour relations in Ukraine, expanding the rights of employers and severely limiting the

³⁷ Ivanova, A. (2024): Trade Union Perspectives and the War on Ukraine. Conflict & Civiness Research Group. Available at: <https://peacerep.org/wp-content/uploads/2024/02/Trade-Union-Perspectives-on-the-War-in-Ukraine-DIGITAL.pdf>.

³⁸ Draft Law on Amendments to the Law of Ukraine on Collection and Accounting of the Single Contribution for Obligatory State Social Insurance (regarding the abolition of the requirement to include information on trade union membership in the register of insured persons). Verkhovna Rada. Available at: <https://itd.rada.gov.ua/billInfo/Bills/Card/43025>.

³⁹ Draft Law on Amendments to Certain Legislative Acts of Ukraine on the Regulation of Vacation Leave and Use, as well as Other Issues. Verkhovna Rada. Available at: <https://itd.rada.gov.ua/billInfo/Bills/Card/41072>.

options for collective representation of workers' interests. The trade unions reacted to this document critically and insist on its substantial revision. It seems that the rich experience of regulating labour relations in the EU has been ignored by the Ukrainian government, because the Draft LC provides for a much lower level of protection of workers' rights than is established by the labour law legislation of the Member States.

If the Draft Labour Code is approved by the Ukrainian parliament, employers will receive a lot of additional legal opportunities, including the right: (i) to issue local regulations that contain labour law provisions and allow expansion of employees' duties (Article 22); (ii) to introduce without any justification new working conditions within a week (Article 54); (iii) to dismiss an employee for refusing to conclude a non-disclosure agreement (Article 41), for reasons of an 'economic nature' even without a reduction in staff (Article 66) or for a single gross violation of the employment contract (Article 68); (iv) to suspend the employee without salary for the period of consultation with the trade union regarding the dismissal of the employee (Article 73); and (v) to apply a lockout in response to a strike organised by employees (Article 235).

The trade unions managed to prevent this draft law from being submitted to the parliament thanks to the support of employers' associations, which confirmed that the government was developing important reforms separately from the social partners.

The fact that in August 2023 Natalia Zemlyanska, head of the All-Ukrainian Trade Union of Manufacturers, Entrepreneurs and Migrant Workers, was elected chair of the board of the Compulsory State Social Insurance Fund for Unemployment can be considered a tactical victory for the trade unions. Acquisition of such status by the leader of one of the FPU member organisations opens up opportunities to promote trade union proposals in relation to active labour market measures and provision of services to the unemployed.⁴⁰

The full-scale war has created the preconditions for socio-political consolidation and coordination of interests, but this is not evident in the area of tripartite agreements between the social partners. It has become commonplace for the Ukrainian authorities to ignore trade unions when developing plans for reconstruction, modernisation and European integration. For example, the Ukraine Facility Programme Implementation Plan, which contains a chapter on human capital, mentions trade unions only once.⁴¹ In any case, the ongoing process of preparing Ukraine for EU membership and the attention of international trade unions to the prob-

lems of their Ukrainian counterparts may provide impetus to correct shortcomings in the area of social dialogue and help ensure that trade unions fulfil the functions that are assigned to them in a democratic society.

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⁴⁰ Natalia Zemlyanskaya, Chair of the Board of the Foundation, State Employment Centre, 2023. Available at: <https://www.dcz.gov.ua/storinka/zemlyanska-nataliya-gennadiyivna-golova-pravlinnya-fondu>.

⁴¹ Ministry of Economy of Ukraine (2024): Ukraine Plan. Available at: <https://www.me.gov.ua/Documents/Detail?lang=uk-UA&id=19d12f3c-0c48-4bc8-92c4-53d0846b2cbb&title=UkrainePlan>.