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EUROPEAN SOCIAL CHARTER

Comments by the Confederation of Free Trade Unions of
Ukraine (KVPU) on
Thematic groups 2: health, social security and social
protection related to Ukraine

Comments registered by the Secretariat
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CYCLE 2021



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To:
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CC: Mr. Henrik Kristensen,
Deputy Head European Social Charter Department,
henrik.kristensen@coe.int

Dear members of the Department of the European Social Charter,

On behalf of the members of the Confederation of Free Trade Unions of Ukraine, which is a representative at the national level trade union center, I would like to express my respect and take the opportunity to provide comments on implementation of Article 3 of the European Social Charter in Ukraine.

We would like to draw your attention to the fact that the general condition of the production environment has not been improved qualitatively. The number of full-time employees employed in hazardous working conditions by certain types of economic activity has not decreased in recent years. In 2015, this number of employees was 898.7 thousand people (28.9% of the registered number of full-time employees); in 2017 - 838.6 thousand people (28.4% of the registered number of full-time employees); in 2019 - 834.4 thousand people (29.6% of the registered number of full-time employees).

It should be noted that the level of occupational injuries has a stable level and severances. In 2015, 4,260 employees were injured (375 - fatal cases); in 2016 - 4,428 employees (400 - fatal cases); in 2017 - 4,313 employees (366 - fatal cases); in 2018 - 4,126 employees (409 - fatal cases); in 2019 - 3,876 employees (422 fatal cases); in 2020¹ - 6,646 employees (393 fatal cases)².

It should be noted that the number of days of incapacity for work per 1 injured person in 2020 decreased to 27.3 compared to 2019 - 52.3. But this level of 27 days is evidence that official statistics do not reflect the real state of occupational injuries. This indicator indicates that serious

¹ The increase is linked to the COVID-19 cases in medical and other workers, whose work is related to the performance of professional duties in conditions of increased risk of infection, and which are investigated as cases of acute occupational disease data 2020 "Injuries at work in Ukraine in 2020" (www.ukrstat.gov.ua/)

² Data from the statistical collection of the State Statistic Service of Ukraine "Labor of Ukraine in 2019" (surveys are conducted once every 2 years): http://www.ukrstat.gov.ua/druk/publicat/kat_u/2020/zb/08/zb_Pracia2019.pdf

injuries were recorded, and accidents with minor consequences (microtraumas) are not included in official reports.

The severity of the consequences of occupational injuries is also confirmed by the number of disabilities. In 2020, 487 injured workers were diagnosed with disabilities.

It should also be noted that a significant number of victims of accidents at work are socially vulnerable, as such cases are not officially linked with work. In total, in 2020 the number of such cases is 8,043 (814 fatal cases).

Also we would like to draw attention to the fact that the Law of Ukraine of November 3, 2016 No. 1726-VIII amended the article 2 of the Law of Ukraine "On the Basic Principles of State Supervision (Control) in the Sphere of Economic Activity", in particular, it removed the provision, which regulated the non-proliferation of this Law to relations establishing during the implementation of measures of state supervision and control over the observance of legislation on labour and employment of the population. It is determined that such measures of state supervision (control) are carried out in the manner established by this Law, taking into account the specifics defined by the laws in the relevant fields and international agreements.

The introduction of such amendments to the Law of Ukraine "On the Basic Principles of State Supervision (Control) in the Sphere of Economic Activity" ignored the key principles of the ILO Conventions No. 81 and No. 129, which resulted in the loss of the essential tools of effective supervision such as:

- The right of inspection to come to inspect any enterprise without hindrance at any time of the day;

- In the case of an inspection, inspectors report their presence to the employer or his representative, unless they acknowledge that such notification will not affect the effectiveness of control;

- With respect to the absolute confidentiality of the source of any complaint brought to the attention of labour inspectors regarding shortcomings or violations of the law as well as to refrain from reporting to the employer or his representative that an inspection was conducted in connection with the receipt of such a complaint;

- Labour inspectors are empowered to take measures to eliminate the defects found in the construction works, equipment or methods of work at the enterprises, and in the case of a direct threat to the health or safety of workers to take measures that are subject to immediate enforcement;

- Inspections at enterprises are carried out as often and as thoroughly as it is necessary to ensure the effective application of the relevant rules.

In particular, the factors hindering the implementation of state supervision (control) over the legal use of hired labour by citizens, foreigners and stateless persons are the next legislative provisions on:

- Preliminary notification of the time of a visit to the enterprise, subject to inspection;

- The inspection must be carried out necessarily in the presence of the manager or his deputy, or an authorized person of the business entity;

- The inspection must be carried out during working hours of the business entity, established by the rules of the internal labour regulations.

We would like to note that the lack of improvement in working conditions is the reason for workers' protests. For example, in 2020, from September 18 to October 16 (43 days), miners of four mine of the PJSC "Kryvyi Rih Iron Ore Plant" and trade unions protested underground, demanding decent wages and improvement of working conditions. Members of the Independent Trade Union of Miners of Ukraine (NPGU) had to protest demanding proper funding for labor protection measures at state-owned coal enterprises in 2020 and 2021.

We would be grateful if the European Committee of Social Rights would consider these comments of the KVPU.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read "М. Волиць", is enclosed in a light blue rectangular box.

Mykhailo Volynets

Chairman of the Confederation of Free Trade Unions of Ukraine