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Vasyl KOSTRYTSIA,

Tetiana BURLAI,

Viktoriiia BLYZNIUK

**THE DEFORMATIONS OF THE INSTITUTION OF SOCIAL DIALOGUE
IN UKRAINE AS A FACTOR OF SOCIAL DESOLIDARIZATION¹**

It is shown that the effect of solidarity significantly enhances the mobilization potential of society, being applied at all levels of social organization, including the family, territorial community, and the business environment. The authors emphasize that the new social reality in Ukraine, which is being formed in the context of a full-scale Russian invasion, as well as the risk of loss of state integrity and statehood as such, determines the need to lay the basic principles of solidarity based on the coherence of actions of all subjects of social organization in the basis of the ideology of national state-building. The authors reveal the social phenomenon of solidarization as a result of reaching joint agreements and making consolidated decisions on the formation and implementation of the State socio-economic policy, which

Vasyl Kostrytsia (kostrytsya2@gmail.com), Member of the National Academy of Social Insurance (USA); Deputy Head of the Association of Employers' Organizations of Ukraine

Tetiana Burlai (btv2008@ukr.net), Doctor of Science (Economics), Associate Prof.; Senior Researcher at the Department of Economic Theory, Institute for Economics and Forecasting of the NAS of Ukraine. ORCID: <https://orcid.org/0000-0003-4530-9151>

Viktoriiia Blyzniuk (vikosa72@gmail.com), Doctor of Science (Economics), Senior Research Fellow; Head of the Department of Socioeconomics of Labor, Institute for Economics and Forecasting of the NAS of Ukraine. ORCID: <https://orcid.org/0000-0003-2265-4614>

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allowed establishing its close connection with the process of social dialogue. The relevance of the societal dimension of the functioning of the national system of tripartite social partnership in the context of military shocks is substantiated. Within the framework of institutional and comparative methodology, the modern role of tripartite social partnership and the impact of the institution of social dialogue in Ukraine on the processes of its social solidarity in the (pre)war period are revealed. It is proved that social dialogue plays a leading role in addressing issues related to achieving the criteria of decent work, ensuring social guarantees, promoting international labour standards, regulating non-standard forms of employment, ensuring equality in the field of labour, as well as digital and "green" transitions. It is established that the imbalance of interests of the parties to social dialogue in Ukraine is characterized by insufficient protection and lack of guarantees of decent work for employees, on the one hand, and the unmet needs of Ukrainian business for qualified and highly productive labour, on the other. It is emphasized that one of the consequences of this imbalance is the desolidating phenomenon of labour poverty. The authors identify and statistically substantiate the main deformations of the institution of social dialogue in Ukraine, which were formed in the pre-war period. On the basis of specific examples from the period of martial law in Ukraine, the contribution to social solidarity of domestic employers' associations and trade unions is shown. Considering social dialogue as an institutional component of the social contract, the article establishes that the deformed system of social dialogue in Ukraine causes the erosion of its social contract – the framework for solidarity of citizens. It is shown that maintaining a high level of solidarity among the population of Ukraine is important in the context of its official status as an EU candidate country in June 2022. The article summarizes recommendations for solving the problems of social dialogue in Ukraine in the post-war period of reconstructive recovery of the Ukrainian economy, based on modern international approaches and practices. The authors propose relevant directions for the development of tripartite social partnership, taking into account current trends in the digitalization of the economy and society, as well as the spread of new non-standard forms of employment, including platform employment.

Key words: postwar reconstruction of Ukraine, social cohesion, solidarity social potential, institutional capacity, employment, social partnership.

Global experience confirms that social dialogue remains an effective tool for upholding the principles of decent work, inclusive development and

social cohesion in the social and labour sphere. The new social reality in Ukraine, which is being formed in the context of the full-scale Russian invasion, which has been going on for three years now, the devastating impact of military shocks and the risk of losing state integrity and statehood as such, and the change in the prioritization of public spending, determines the need to put the basic principles of solidarity based on the coherence of actions of all actors in the social organization at the heart of the ideology of national state-building. In this context, solidarity is closely correlated with the notion of social cohesion, which defines two main dimensions: the sense of belonging to a community and the relationships between its members within the community itself, and derives from democratic efforts to establish social equilibrium, economic dynamism and national identity with the goals of establishing a system of justice, maintaining economic growth momentum and avoiding social divisions (*Manca, 2014*).

The effect of solidarity significantly enhances the mobilization potential of society, being applied at all levels of social organization, including the family, territorial community, and business environment. Solidarity as a result of reaching joint agreements, making coordinated decisions on the formation and implementation of state economic and social policy is closely related to the process of social dialogue.

Social dialogue plays a leading role in addressing such pressing issues as achieving decent work criteria, ensuring social guarantees, promoting international labour standards, regulating non-standard forms of employment, ensuring equality in the workplace, and gradually transitioning to an environmentally friendly economy. In the context of a protracted war and aggravation of the problems of ensuring labour and social rights, personal and state social security, social solidarity and social dialogue are of particular importance. International standards of social dialogue and the best legal practices of the EU countries in this area play the role of target guidelines for legal support of this process and the formation of new institutional forms in Ukraine.

The issue of the effectiveness of social dialogue and social responsibility has always been among the scientific interests of Ukrainian researchers. Thus, noting that the platform of social dialogue reaches a formal or informal, public or tacit agreement between its parties on mutual obligations, A. Kolot (*2013*) argues that this allows consolidated achievement of coordinated economic, social and environmental dynamics of development, and counteracting new challenges and threats associated with ongoing globalization. In the study by I. Sakharuk (*2020*), social dialogue is substan-

tiated as an economic, social and legal phenomenon, as well as a permanent basis for the implementation of the concept of decent work. The prospects for the development of social dialogue in Ukraine in the context of the digitalization of the national economy are revealed in the work of O. Poplavska (2019). Also, Ukrainian experts objectively point out that during the COVID-19 pandemic, everyone clearly realized that the process of transforming the world of work into a new system is an integral feature of modernity. It transforms social institutions and initiates chain reactions in many other areas of human life. In turn, this actualizes the need to modernize social dialogue in Ukraine as a means of effectively overcoming the negative effects of cascading crises (Marshavin et al., 2022).

In addition, the works of Ukrainian scholars have repeatedly explored such pressing and acute issues as the devaluation of labour, the emergence of the phenomenon of the working poor, social irresponsibility of employers, employees, and government agencies and authorities (Novikova et al., 2022); internal and external sources that form hybrid risks in the social and labour sphere (Blyzniuk, Yatsenko, 2023); the relationship between labour productivity and the level of well-being of the Ukrainian population (Shumska et al., 2023); ensuring the personnel potential of the post-war recovery of Ukrainian industry (Pankova, Kasperovich, 2024). Foreign and domestic experts are comprehensively studying the sustainability of the social security system in Ukraine in the context of war. The researchers emphasize that this sustainability is, among other things, related to the introduction of modern digital technologies to ensure physical and technological access to social benefits, as well as patriotism and social solidarity of Ukrainians (Fultz, Kostrytsia, 2023).

At the same time, the issues related to the societal dimension of the functioning of the national system of tripartite social partnership in the context of military shocks remain insufficiently studied.

Taking into account everything mentioned above, the **purpose** of the article is to reveal the current role of the tripartite social partnership and the impact of the institution of social dialogue in Ukraine on the processes of its social solidarity in the (pre)war period.

Main results of the research. One of the clear "fault lines" of social solidarity in Ukraine is caused by the institutional failure to build an efficient and effective national system of social dialogue, which, within the framework of the tripartite model, regulates interaction in the field of social and labour relations between three parties - trade unions (representatives of employees' interests), employers and the state. As defined by the Law "On

Social Dialogue in Ukraine" of December 23, 2010, No. 2862, tripartite social dialogue by the partners should be conducted, among other things, with the aim of "social stability in society". However, in practice, its institutional deformity becomes a conflictogenic factor of social partnership and potentially stimulates social unrest due to the impossibility of solving urgent problems in the sphere of employment and the national labour market on its basis. The imbalance of interests of the parties to social dialogue in Ukraine is characterized by insufficient protection and lack of guarantees of decent work for employees, on the one hand, and the unmet needs of Ukrainian business for qualified and highly productive labour force, on the other hand.

Social dialogue has been on the global and pan-European agenda for many years. There is no doubt that it will remain a priority in the future, given that key messages on the tripartite contribution (social dialogue) will be presented at the World Social Summit, which will be held in 2025 under the auspices of the United Nations and entitled "Second World Summit for Social Development". The tripartite Governing Body of the International Labour Office gave the relevant instructions to draft these key messages in June this year².

For Ukraine, which officially started negotiations on accession to the European Union on June 25, 2024, it is essential to adapt to the requirements, norms and rules of the EU social dialogue institution. The decisive role of the tripartite partners in the social market economy of the united Europe, with their legislative powers in the field of EU social policy, is enshrined in the Articles 151–156 of the Treaty on the Functioning of the European Union. Taking into account everything mentioned above, the European Commission consults with the social partners at the European level on legislative proposals for the development of social partnership.

The key platform for strategic decision-making on supporting social dialogue at the EU level is the annual Tripartite Social Summit, which is attended by the leaders of the EU governing institutions and European social partners and co-chaired by the Presidents of the European Council and the European Commission, which generates relevant initiatives. In particular, in January 2023, the Commission presented an initiative for a Recommendation to the EU Council on further strengthening and developing so-

² International Labour Organization (ILO) (2024, June 13). *Report of the Working Party on the New Social Contract for Our Common Agenda*. GB.351/INS/5. URL: <https://www.ilo.org/resource/conference-paper/gb/351/report-working-party-new-social-contract-our-common-agenda>

cial dialogue through specific actions at the national and EU levels, which expands the possibilities of social dialogue to adapt to new trends in the labour market amid the transition to a digital and climate-neutral economy and the emergence of new forms of employment. The document noted that European "Social partners also play a key role in tackling the far-reaching impacts of the Russian war of aggression against Ukraine, by facilitating labour market integration of displaced people from Ukraine, as well as other refugees and migrants, and finding sustainable solutions to adjusting wages and collective agreements in response to the cost-of-living crisis and high levels of inflation."³. The relevant EU Council Recommendation⁴ was adopted on June 12, 2023.

In the above institutional context, at the end of January 2024, *Tripartite Declaration for a Thriving European Social Dialogue* was signed at Val Duchesse Social Partners Summit (Belgium) as a renewed commitment to strengthen social dialogue at the EU level, which aims to consolidate efforts to address key challenges in the economies and labour markets of the participating countries. The Declaration also initiates the process of preparing a *Pact for European social dialogue* and its conclusion to the beginning of the year 2025⁵.

The relevance of further development of the institution of social dialogue by the European Union was also emphasized at the High-Level Conference on the European Pillar of Social Rights, held in April 2024 in La Hulpe (Belgium)⁶. During the event, the leaders of the European Parliament, the European Commission, the European Trade Union Confederation, as well as other social partners and civil society organizations in the EU reaffirmed their "*commitment to a strong and resilient Social Europe*"

³ European Commission (2023, January 25). *Strengthening social dialogue in the European Union: harnessing its full potential for managing fair transitions*. COM (2023) 40 final. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A40%3AFIN>

⁴ Council of the EU (2023). *Council Recommendation of 12 June 2023 on strengthening social dialogue in the European Union*. C/2023/1389. URL: <https://eur-lex.europa.eu/eli/C/2023/1389/oj>

⁵ European Commission (2024, January 31). *EU and social partners in Val Duchesse commit to strengthening social dialogue to tackle labour challenges*. URL: <https://ec.europa.eu/social/main.jsp?langId=en&catId=1632&furtherNews=yes&newsId=10749>

⁶ European Commission (2024, April 16). *EU Renews Commitment to a Strong and Resilient Social Europe at Conference in La Hulpe*. <https://ec.europa.eu/social/main.jsp?langId=en&catId=89&furtherNews=yes&newsId=10825#navItem-2>

and adopted the La Hulte Declaration on the Future of the European Pillar of Social Rights, which includes social dialogue as a key component.

***Social dialogue as a strategic policy vector
of the International Labour Organization (ILO)***

Based on its mandate, the ILO considers the institution of social dialogue as a cornerstone in the formation of social partnership and an effective mechanism for addressing pressing economic and social issues, overcoming crises, promoting good governance and stimulating socio-economic progress. As defined by the ILO, content-wise, structurally and institutionally, social dialogue includes:

- negotiation, consultation and information exchange between and among governments, employers' and workers' organizations;
- collective bargaining between employers / employers' organizations and workers' organizations;
- dispute prevention and resolution; and
- other approaches such as workplace cooperation, international framework agreements and social dialogue in the context of regional economic communities.

In addition, according to the International Labour Organization, the scope and quality of social dialogue directly affect social peace, stability, and the overall governance of labour markets and economies⁷.

On the basis of the national social partnership, social dialogue contributes to the cohesion of society and the realization of its objective demand for social justice, in particular, in terms of decent work opportunities, labour income, and social protection guaranteed to citizens at all stages of the human life cycle – from birth to old age. According to the ILO Declaration on Social Justice for a Fair Globalization adopted in 2008, social dialogue plays a key role in implementing the concept of decent work, which aims to ensure adequate working conditions and social protection, decent wages, a harmonious combination of work and personal life, etc. on the basis of equality and social justice (Sakharuk, 2020). This explains the increased attention to the topic of social dialogue by the leading institutions of the global governance hierarchy.

An illustrative example is the official establishment by the Governing Body of the International Labour Office in November 2023 of the *Global*

⁷ ILO (n.d.). *Social Dialogue and Tripartism*. URL: <https://www.ilo.org/topics/social-dialogue-and-tripartism>

Coalition for Social Justice, an international platform for political commitment, investment and specific actions, with "Strengthening Social Dialogue Institutions" as one of its six thematic priorities⁸. The Inaugural Forum of the Global Coalition for Social Justice, held on June 13, 2024, during the 112th session of the International Labour Conference in Geneva, held a special high-level thematic dialogue on "Promoting Social Dialogue for Shared Prosperity"⁹, which examined how joint efforts of social partners can lead to inclusive growth, ensure equitable access to opportunities and promote sustainable development.

This year's ILO report "The role of social dialogue and its institutions in combating inequalities in the world of work"¹⁰ emphasizes the undeniable fact that in the modern world inequality is complex and multidimensional, negatively impacting economic growth and seriously undermining social cohesion. At the same time, social dialogue, both trilateral (the parties are representatives of employees, employers and bodies of executive power or local self-government), and bilateral (the parties are representatives of employees and employers) is generally recognized as an essential condition for the success of the state's policy to overcome various forms of inequality in society. First of all, it is necessary *to overcome the most characteristic manifestations of inequality in the field of employment*, including: distribution of labour income; differences in productivity of enterprises; gender discrimination; degree of informality (shadowing) of the economy and labour market; gaps in social protection coverage; contractual relations between social partners (collective agreements and contracts, etc.). To this end, social dialogue should be based on transparent, accessible and trust-based interaction between all parties, with resources provided to support capacity building of the social partners.

This potential should be developed at the national, sectoral and corporate levels. In particular, experts have proven that in a crisis economy,

⁸ ILO (2024). *Global Coalition for Social Justice. Thematic Priorities*. URL: <https://social-justice-coalition.ilo.org/about>

⁹ ILO (2024, June 14). *World leaders call for urgent action to advance social justice at the Inaugural Forum of the Global Coalition for Social Justice*. URL: <https://www.ilo.org/resource/news/ilc/112/world-leaders-call-urgent-action-advance-social-justice-inaugural-forum>

¹⁰ ILO (2024). *The role of social dialogue and its institutions in combating inequalities in the world of work*. Background report for the ILO-AICESIS Joint International Conference (23–24 November 2023, Athens, Greece). URL: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_dialogue/@dialogue/documents/publication/wcms_901614.pdf

social partnership is not only one of the most important determinants of the formation of the social and psychological climate of the production environment and the configuration of social and labour relations at enterprises, but also an effective tool for reducing existing imbalances in these relations (Portna et al., 2021).

The institution of social dialogue in Ukraine and its deformations

Today, Ukraine has the necessary legal framework for the development of a national system of social dialogue, but its application remains controversial and ineffective.

During the Soviet era, Ukraine ratified a number of ILO Conventions that were crucial for the institutionalization of social dialogue, namely: the Freedom of Association and Protection of the Right to Organise Convention (No. 87); the Right to Organise and Collective Bargaining Convention (No. 98); the Workers' Representatives Convention (No. 135); the Tripartite Consultation (International Labour Standards) Convention (No. 144); and the Collective Bargaining Convention (No. 154). In 2016, Ukraine also ratified the Social Security (Minimum Standards) Convention (No. 102), which makes it possible to approach international social security standards through social dialogue.

However, for a number of reasons, including the obvious weakness of the domestic institutional environment, Ukraine's implementation of these international standards in practice remains insufficient to build a full-fledged, highly effective institution of social dialogue. According to the ILO's expert assessment, Ukraine's legislation and practice in the field of social dialogue are characterized by numerous contradictions and gaps, and the significant "overregulation" of labour relations by national legislation does not provide either employers or employees in Ukraine with adequate opportunities for the independent exercise of their labour rights and obligations at the level of enterprises, organizations and firms (Mihes, 2023).

In our opinion, it is the deformations of the national institution of social dialogue that largely determine the processes of desolidarization in Ukrainian society. This applies to both pre-war and partly wartime. And in the period of post-war reconstruction of the country, it can hinder the unity of Ukrainians, and therefore the urgent task is to eliminate these deformations, primarily with the help of public policy instruments.

Today, among the characteristic features of the deformed national system of tripartite social dialogue are the following:

- frequent violations of the social and labour rights and interests of working Ukrainians (*as of the beginning of February 2022, total wage arrears reached UAH 3.1 billion¹¹; this figure is likely to increase significantly due to the shock effects of the war*);
- poor coverage of employees by collective bargaining agreements (*in 2021, only 5.1 million employees, or 38.8% of the total number of employees, were covered by such agreements in Ukraine*). The share of Ukrainian employees covered by collective bargaining agreements in the total number of employed persons has been decreasing over the years. According to the State Statistics Service for 2015, 2020 and 2021, there is a significant differentiation in the level of coverage of employees by collective agreements in Ukraine¹². The highest level of coverage is characteristic of such economic sectors as education, healthcare and social assistance, and industry. The least covered by collective bargaining agreements are employees in such sectors as temporary accommodation and catering, wholesale and retail trade, the repair of motor vehicles and motorcycles, agriculture, forestry and fisheries, real estate transactions, and construction. It is worth noting that these economic activities are also characterized by a high level of informal employment, with the exception of temporary accommodation and catering, transport, warehousing, postal and courier activities. The decline in collective bargaining coverage moves Ukraine away from the social benchmarks of decent work, adequate guarantees and protection of employment, and leads to poor protection of workers' rights.

Adopted in October 2022, the EU Directive on the adequate minimum wage in the European Union¹³ stipulates that member states should strive to achieve 80% collective bargaining coverage. According to the OECD, in 2019–2021, only 8 out of 27 EU countries exceeded this threshold (Italy, Austria, France, Belgium, Finland, Sweden, Denmark, and Spain), while in Bulgaria, Greece, Poland, Hungary, Romania, Slovakia, and the Baltic countries, the respective figures

¹¹ Hereinafter, unless otherwise indicated, data from the State Statistics Service of Ukraine. URL: <https://www.ukrstat.gov.ua/> are used.

¹² State Statistics Service of Ukraine (2022). Labor of Ukraine – 2021. Statistical collection. P. 178. URL: <https://www.ukrstat.gov.ua/>

¹³ Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union. URL: <https://eur-lex.europa.eu/eli/dir/2022/2041/oj>

ranged from 10% to 30%¹⁴. The adoption of the Directive forced the relevant EU states to develop national action plans to increase the level of coverage of employees by collective bargaining agreements.

- an extremely high level of informal, in other words, "shadow" employment (*in pre-war 2021, more than 3 million people or 19.5% of the total employed population aged 15 and older*), in which a person has virtually no social guarantees and pension prospects;
- the continued dysfunctionality of the National Tripartite Social and Economic Council (NTSEC), which is now absolute.

Currently, the NTSEC website states: "During 2018–2021, the National Council did not actually fulfill its tasks and functions ... due to the absence of the Chairman of the National Council"¹⁵. The resumption of the NTSEC's work by reappointing its Co-Chairs was recorded in the minutes of the meeting of December 23, 2021, but since that date and until now, meetings have not been held again, as a new NTSEC Chairman has not yet been appointed (as of the end of July 2024);

- insufficiently effective management of the mandatory state social insurance funds¹⁶ – all of them have been budgetarily unbalanced in recent years.

¹⁴ OECD (2023). *Collective bargaining coverage. A detailed methodological note*. P. 19–20. URL:

<https://www.oecd.org/els/emp/Detailed%20methodological%20note%20on%20collective%20bargaining%20coverage.pdf>

¹⁵ The National Tripartite Social and Economic Council. *The establishment and development of social dialogue in Ukraine*. URL: <https://ntser.gov.ua/> [in Ukrainian].

¹⁶ As of the end of 2014, there were 4 domestic state social insurance funds: the Pension Fund of Ukraine (PFU); Compulsory State Social Insurance Fund of Ukraine in case of unemployment; Social Insurance Fund against industrial accidents and occupational diseases of Ukraine; Social Insurance Fund for temporary disability. The last two mentioned funds, in accordance with the Law of Ukraine "On Amendments to Some Legislative Acts of Ukraine Regarding the Reform of the Compulsory State Social Insurance and the Legalization of the wage fund" dated 12.28.2014 No. 77, were reorganized by forming a single Social Insurance Fund of Ukraine, which came into force in April 2015. In accordance with the Law of Ukraine dated 21.09.2020 No. 2620 and Resolution of the Cabinet of Ministers of Ukraine dated 27.12.2022 No. 1442, during January–April 2023, the Social Insurance Fund of Ukraine was liquidated, and its functions were transferred to the PFU. Thus, as of July 2024, the current state social insurance funds are the Pension Fund of Ukraine and the Compulsory State Social Insurance Fund of Ukraine in case of unemployment.

In particular, the total debt of payers on mandatory payments and contributions to the Pension Fund of Ukraine as of April 1, 2024 reached UAH 50.3 billion, including the debt on the payment of a single contribution – UAH 20.6 billion¹⁷. In the budget of the Compulsory State Social Insurance Fund of Ukraine in case of unemployment, in 2021, total expenditures exceeded revenues in the form of insurance contributions by UAH 3.9 billion¹⁸, in 2023 – by UAH 0.9 billion¹⁹, in 2024 – by UAH 2.0 billion²⁰.

- low effectiveness of reforming the domestic system of mandatory state social insurance, which began with the adoption at the end of 2014 of the Law of Ukraine " On Amendments to Some Legislative Acts of Ukraine Regarding the Reform of the Compulsory State Social Insurance and the Legalization of the wage fund".

The fact that one of the key recommendations of the ILO regarding the relevant reform measures of Ukraine still remains unfulfilled is a sign of the inhibition of the institutional development of the national system of social dialogue: "... In restructuring the social insurance funds, the Government should ensure that the social partners continue to play a key role in the management and decision-making process of the social insurance funds and maintain the autonomy of the funds" (ILO, 2016). Overcoming the specified and other barriers to modernization of the national system of compulsory state social insurance is becoming more and more important under the influence of factors of a defense-security, demo-economic, and epidemiological nature. Therefore, the

¹⁷ Pension Fund of Ukraine (2024, May 28). *The report on the work of the Pension Fund of Ukraine in the first quarter of 2024*. URL: <https://www.pfu.gov.ua/> [in Ukrainian].

¹⁸ Resolution of the Board of the Compulsory State Social Insurance Fund of Ukraine in case of unemployment dated 17.12.2021 No. 36 "On approval of the draft budget of the Compulsory State Social Insurance Fund of Ukraine in case of unemployment for 2021". URL: https://old.dcz.gov.ua/sites/default/files/postanova_no_36.pdf [in Ukrainian].

¹⁹ Resolution of the Cabinet of Ministers of Ukraine "On Approving the Budget of the Compulsory State Social Insurance Fund of Ukraine in case of unemployment for 2023" dated January 31, 2023 No. 85. URL: <https://zakon.rada.gov.ua/laws/show/85-2023-%D0%BF#Text> [in Ukrainian].

²⁰ Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Budget of the Compulsory State Social Insurance Fund of Ukraine in case of unemployment for 2024" dated January 30, 2024 No. 98. URL: <https://zakon.rada.gov.ua/laws/show/98-2024-%D0%BF#Text> [in Ukrainian].

adaptation of the best international approaches, practices and recommendations in this direction is important for the post-war socio-economic recovery of Ukraine. In particular, the work done by the US National Academy of Social Insurance on the current modernization of the US federal unemployment insurance system, which is carried out taking into account the gaps identified during the COVID-19 pandemic, including those related to massive technological failures, a cumbersome administrative structure, poorly equipped for timely and targeted unemployment benefits, as well as significant differences among states in the amount of unemployment benefits, and also the duration, and affordability of benefits to recipients (NASI, 2024).

- regular official comments by the EU governing institutions, including the European Commission and the European Parliament, on the need to radically improve the state of social dialogue in Ukraine, taking into account its obligations under the Association Agreement with the EU ratified in 2014;
- outdated basic labour legislation – the current Labour Code of Ukraine was adopted in 1971, although it has been amended a number of times since then – and almost a decade of unsuccessful attempts to adopt a new version.

At the end of 2015, the scandalous draft Labour Code of Ukraine (Reg. No. 1658 of 27.12.2014) was adopted in the first reading, which, given the extreme narrowing of the scope of social and labour rights of workers and the powers of trade unions, was called a "labour slavery project"²¹ by the Federation of Trade Unions of Ukraine. This project is still being heavily criticized by international and European trade unions. In January 2024, another draft of the Labour Code of Ukraine, developed by the Ministry of Economy, was published. However, already at the discussion stage, the draft law was strongly rejected by the Joint Rep-

²¹ The Federation of Trade Unions of Ukraine (2017, June 26). *Freeing ourselves from labour "slavery"*. URL: <https://www.fpsu.org.ua/pro-fpu/profspilkovi-vidznaki/197-obgovoryuemo-trudovij-kodeks-ukrajini/12510-zvilnyaemos-vid-trudovogo-rabstva-2> [in Ukrainian].

representative Body of Trade Unions²², and the Joint Representative Body of the Employers' Side at the national level stated that this draft "... requires significant revision, both structural and substantive, and adaptation to EU legislation"²³.

Thus, for a long time in Ukraine, due to the institutionally deformed system of social dialogue, contradictions and imbalanced interests of its parties have been unresolved. One of the consequences of this imbalance is the *socially threatening and desolidating phenomenon of labour poverty* (according to the Pension Fund of Ukraine, in December 2022, 18.8% of employees in Ukraine received wages below the minimum wage, and in December 2023 – 13.2%)²⁴.

The impact of Russia's full-scale military invasion on the state of social dialogue in Ukraine

The war continues to have a significant negative impact on all participants in the tripartite social partnership at the national level. This is, in particular, evidenced by the Rapid Damage and Needs Assessment for February 2022 – December 2023, jointly prepared by the UN, the World Bank, the European Commission and the Government of Ukraine. According to this report, as of the end of 2023, the war had caused Ukraine direct losses of \$152.5 billion and indirect losses of almost \$500 billion²⁵.

The first year of the Russian invasion was extremely difficult for businesses operating in Ukraine. According to the State Statistics Service, in 2022, the total number of operating Ukrainian companies in manufacturing, trade, and services decreased by 108.9 thousand, or almost a third. The situation today remains very difficult, although during the war in Ukraine, which has been going on for more than two years, employers, including thanks to the initially quite significant support from the state, have been

²² The joint representative body of representative all-Ukrainian trade unions at the national level (2024). *The Draft Labour Code of Ukraine (78)*. URL: <https://spo.fpsu.org.ua/laws/proekt-trudovogo-kodeksu-ukrayiny-78/> [in Ukrainian].

²³ The Association of Organizations of Employers of Ukraine (2024, January 24). *The heads of the JRB of Trade Unions and Employers discussed the draft of the new Labour Code*. URL: <https://ooru.org.ua/media/news/kerivnyky-spo-obiednan-profspilok-i-robotodavtsiv-obhovoryly-proiekt-novoho-trudovoho-kodeksu> [in Ukrainian].

²⁴ Pension Fund of Ukraine (2024, May 06). *Report on the work and budget execution of the Pension Fund of Ukraine in 2023*. URL: <https://www.pfu.gov.ua/> [in Ukrainian].

²⁵ World Bank (2024, February). *Ukraine – Third Rapid Damage and Needs Assessment (RDNA3): February 2022 – December 2023*. URL: <http://documents.worldbank.org/curated/en/099021324115085807/P1801741bea12c012189ca16d95d8c2556a>

able to adapt to the impact of military shocks to some extent and continue to operate under martial law. Big business has suffered the most, in particular, large metallurgical, energy, chemical, and coal mining enterprises have been destroyed, seriously damaged, or are currently located in the temporarily occupied territories as a result of the hostilities.

Regarding the impact of the war on micro, small and medium-sized enterprises in Ukraine, according to a special study conducted by UNDP in Ukraine, as of the end of 2023, almost 91% of these enterprises have resumed their operations since the beginning of the war and are gradually returning to pre-war capacity utilization levels – on average, this figure was 53.4% as of that date²⁶.

Perhaps the most severe consequences of the ongoing full-scale war are related to the loss of Ukraine's human capital. In particular, this is manifested in a significant reduction of the labour force due to irreversible human losses, forced migration abroad, and rapid growth of structural unemployment in Ukraine's economy. There is still no reliable estimate of such a reduction, and the figures of foreign and domestic experts differ significantly. According to ILO estimates, in 2022, employment in Ukraine decreased by 15.5 percentage points, which is equivalent to 2.4 million jobs lost²⁷. Taking into account the previous macroeconomic forecasts – stagnation of business activity due to the hostilities, which continue to seriously limit the potential of the Ukrainian economy and its labour market – the ILO left its estimate for 2023 for employment in Ukraine almost at the level of the previous year, assuming that under the conservative scenario, employment growth will be only 0.5 percentage points, which corresponds to an increase of only 70 thousand jobs.

At the same time, according to the Prime Minister of Ukraine, 3.5 million jobs were lost in the country during the first two years of the war²⁸. Meanwhile, according to the joint estimate of the Ministry of Finance and

²⁶ UNDP in Ukraine (2024, February 20). *Assessment of the Impact of the War on Micro-, Small- and Medium-Sized Enterprises in Ukraine*. Kyiv, United Nations Development Programme in Ukraine. URL:

<https://www.undp.org/ukraine/publications/assessment-wars-impact-micro-small-and-medium-enterprises-ukraine?fbclid=IwAR2UqHzWnyVtRONMul7NZPGRsxYTre4Wdi0LVsxYzNCDaDTyVPeyl3cFEUg>

²⁷ ILO (2023, May 26). *Second Supplementary Report: Report on developments in the application of the resolution concerning the Russian Federation's aggression against Ukraine from the perspective of the mandate of the International Labour Organization*. GB.348/INS/5/2. URL: <https://www.ilo.org/resource/gb/348/second-supplementary-report-report-developments-application-resolution>

²⁸ The Trade Union of Metallurgists and Miners of Ukraine (2024, February 22). *Ukraine lost 3.5 million jobs due to war – Shmyhal*. URL: <http://pmguinfo.dp.ua/ukraina/7428-ukrajina-cherez-vijnu-vtratila-3-5-mln-robochikh-mists-shmigal> [in Ukrainian].

the Ministry of Economy of Ukraine, published in June 2024, the labour force in Ukraine decreased by 2.1 million people, or 12%, to 15.2 million during the war. However, this estimate does not appear to be sufficiently reliable and substantiated, given that the authors failed to indicate the period for which the calculations were made and to provide at least a general outline of their methodology. The forecast assumption of these ministries that "returning refugees will increase the labour force to 16.0–16.4 million people in 2026"²⁹ also seems too optimistic, given the current number, age and gender structure of Ukrainian asylum seekers abroad, as well as the acute problems of rebuilding destroyed housing and social infrastructure, adapting to significant structural changes in employment in Ukraine, etc.

***The contribution to social solidarity in difficult times of war:
the Federation of Employers of Ukraine***

A special and institutionally significant contribution to maintaining social dialogue during the wartime period was the creation of a new national platform for broad cooperation based on social partnership. At the beginning of the war, the Ukrainian League of Industrialists and Entrepreneurs and the Association of Organizations of Employers of Ukraine (AOEU) created a permanent Anti-Crisis Council, which involved representatives of ministries, specialized parliamentary committees, trade unions, academic and banking institutions, and more than a hundred leading business associations, large and medium-sized companies.

The activities of the Anti-Crisis Council have strengthened the institutional capacity of the tripartite social dialogue, defending in practice, including on international platforms, the interests of Ukraine's business in times of war. It has also expanded its opportunities for corporate social responsibility, including voluntary assistance to the Ukrainian armed forces and humanitarian support for war veterans and their families, internally displaced persons, and civilians affected by hostilities.

In addition, the Anti-Crisis Council has expanded the range of urgent issues to support specific sectors of the economy, including the defense industry complex (DIC), metallurgy, energy, light industry, transportation, and others. The key issues were the preservation and development of labour potential in Ukraine under martial law and post-war recovery, as well as the whole range of issues related to preparations for EU accession. For

²⁹ Ministry of Finance of Ukraine, Ministry of Economy of Ukraine (2024, June). *The report on the priorities of economic policy aimed at ensuring economic growth*. P. 9. URL: <https://reformmatrix.mof.gov.ua/wp-content/uploads/2024/06/bila-kniga-ukr-fin.pdf> [in Ukrainian].

example, the agenda of the last few meetings of the Anti-Crisis Council included issues of intensifying the participation of the Ukrainian business community in the development of the DIC; increasing the level of coordination between public authorities and local military administrations in determining the balance between the capabilities of the energy infrastructure and the need to ensure the economic activity of complex industries; finding a balance between mobilization and reservation of specialists; filling the All-Ukrainian Economic Platform "Made in Ukraine" created in February 2024 with specific tasks and action plans for industries; improving Ukraine's investment climate, the insurance of affordable loans to domestic producers. All-Ukrainian Economic Platform "Made in Ukraine" with specific tasks and action plans for industries; improving the domestic investment climate, insuring military risks, and scaling up programs of affordable lending to domestic producers by commercial banks.

According to scholars, in fact, during the 23 months of full-scale war, the Anti-Crisis Headquarters (*Antykryzovyy Shtab*) performed the institutional functions of the Council for Support of Entrepreneurship under Martial Law, established by the Decree of the President of Ukraine of January 26, 2024, No. 30/2024 (*Burlay, 2024*). Today, the Anti-Crisis Headquarters continues to fulfill its mission of systemic protection and support of domestic business on the basis of corporate security and social responsibility, achieving important results for the Ukrainian economy.

Other employers' organizations in the country also provide good practical examples of strengthening social solidarity of Ukrainians during the wartime period. For example, the AOEU, with the active participation of the All-Ukrainian Association of Healthcare Employers, representatives of central executive authorities, scientific institutions, as well as associations of organizations of employers and trade unions in Ukraine at all levels of social dialogue, is implementing programs on safety, health and psychosocial rehabilitation in the workplace in 2023–2024. This is a highly sought-after public contribution to the preservation and development of the labour potential of Ukraine, where the war has created a huge need for psychosocial support for the population and, in particular, employees in labour collectives, including veterans of the Russian-Ukrainian war, who are (re)integrating into the national labour market³⁰.

Since April 2024, the Association of Organizations of Employers of Ukraine, with the support of the ILO, has been implementing a pilot project

³⁰ The Association of Organizations of Employers of Ukraine (2024, January 19). *A healthy employee is a successful business*. URL: <https://ooru.org.ua/media/position/zdorovyi-pratsivnyk-uspishnyi-biznes> [in Ukrainian].

in Lviv region, where a corporate kindergarten is being fully equipped on the basis of the Novorozdil City Hospital. This is part of the ILO's all-Ukrainian project "*Ensuring women's participation in the labour market through the expansion of preschool education and childcare services in selected regions of Ukraine*", the implementation of which is extremely relevant in a situation where many kindergartens are not operating at full capacity due to constant air raids and lack of bomb shelters, or are overloaded due to internally displaced persons³¹. In such cases, a flexible and socially effective solution may be to organize opportunities for proper care of young children at the workplaces of parents or guardians.

One of the socially significant contributions of the Federation of Employers of Ukraine (FEU) is the organization of occupational safety and health trainings specifically adapted to the conditions of martial law in Ukraine. Since January of this year, the FEU, in partnership with the State Employment Service of Ukraine, has been conducting trainings for employees of domestic companies to simulate real actions in a certain space and conditions. Specifically, employees are taught approaches to occupational safety and health in the workplace when performing work: in confined spaces; in operating electrical installations with a voltage of more than 1000 V; at height, including industrial climbing skills; gas hazardous work; forestry work, etc³².

The Federation of Employers of Ukraine also made a significant institutional contribution to solidarity and strengthening the inclusiveness of Ukrainian society, which in March 2024 launched the National Network "Razom" (<https://pwd.employers.org.ua/en>), which brings together Ukraine's business structures and public organizations to promote the employment of persons with disabilities in Ukraine. This institutional network was created by the FEU on the basis of the principles underlying the activities of *ILO Global Business and Disability Network*, which unites more than 40 countries. With the assistance of the Federation of Employers of Ukraine, the National Network "Razom" will closely cooperate with the ILO Global Network, in particular, in adapting the best international practices on the realization of the right to work of persons with disabilities to Ukrainian realities, including by providing employers with compensation for the costs

³¹ The Association of Organizations of Employers of Ukraine (April 16, 2024). *A pilot project of the AOEU and the ILO to organize a network of corporate kindergartens was launched*. URL: <https://ooru.org.ua/media/news/startuvav-pilotnyi-proiekt-ooru-ta-mop-po-orhanizatsii-merezhi-korporatyvnykh-dytiachykh-sadkiv> [in Ukrainian].

³² The Federation of Employers of Ukraine (2024, January 29). *Trainings on occupational safety and health*. URL: <https://fru.ua/ua/media-center/announcements/navchannia/treningi-z-pitan-bezpeki-ta-gigieni-pratsi> [in Ukrainian].

of arranging "smart" workplaces for persons with disabilities, providing such persons with social support, sign language interpretation, etc³³.

***The contribution to social solidarity in difficult times of war:
the unification of Ukrainian trade unions***

During the period of martial law, Ukrainian trade unions demonstrated their solidarity with the entire society in practice. Thus, from the very beginning of the war, they used their internal and borrowed resources, including tourist, health resort and children's recreational facilities, to assist in the accommodation and living conditions of internally displaced persons, and mobilized financial and material (humanitarian) assistance to affected Ukrainians from the International Trade Union Confederation (ITUC), the European Trade Union Confederation, many national trade union associations in Europe, and the International Labour Organization. Trade unions have also provided humanitarian and legal support to people and families living in the combat zone and frontline areas, and continue to do so today. In addition, domestic trade unions have significantly increased their activity at the international level, demanding the exclusion of Russian trade unions that officially support the war against Ukraine from international trade union associations. Consolidated efforts of the Federation of Trade Unions of Ukraine and the Confederation of Free Trade Unions of Ukraine allowed to enlist the support of affiliated organizations of the ITUC from many countries of the world, as a result of which this international organization suspended the membership of the Federation of Independent Trade Unions of Russia³⁴.

Recognizing the humanitarian work of all-Ukrainian trade unions, the ILO supported two of them – the Federation of Trade Unions of Ukraine and the Confederation of Free Trade Unions of Ukraine – by funding project activities in the first half of 2024 aimed at strengthening their capacity to provide legal services and promoting the rights of Ukrainian workers under martial law³⁵.

³³ The Confederation of Employers of Ukraine (2024, March 28). *The founding meeting of the members of the National Network "Razom" was held*. URL: <https://employers.org.ua/news/id2612> [in Ukrainian].

³⁴ International Trade Union Confederation (2022, May 24). *ITUC General Council adopts World Congress framework and admits new affiliates*. URL: <https://www.ituc-csi.org/ituc-general-council-adopts-world-congress-framework>

³⁵ ILO (2024, June 15). *Decision concerning the developments in the application of the resolution concerning the Russian Federation's aggression against Ukraine*. GB.351/INS/7/Decision. URL: <https://www.ilo.org/resource/record-decisions/gb/351/decision-concerning-developments-application-resolution-concerning-russian>

It is also worth noting that since the beginning of the war, the ILO has been proactive in supporting the national social dialogue in Ukraine. As early as March 2022, the Governing Body of the International Labour Office, at the request of the Ukrainian Government, trade unions and the Association of Organizations of Employers of Ukraine, adopted a Resolution concerning the Russian Federation's aggression against Ukraine from the perspective of the mandate of the International Labour Organization³⁶. In order to monitor the implementation of the Resolution, the newly elected (for the period 2024–2027) Governing Body of the International Labour Office in June 2024 adopted a Decision concerning the developments in the application of the resolution concerning the Russian Federation's against Ukraine³⁷. It is noteworthy that the vast majority of the Decision's points directly relate to the support of social dialogue and tripartite social partners in Ukraine, namely, the Governing Body of the International Labour Office:

- *reiterated its most profound concern at the continuing aggression by the Russian Federation, aided by the Belarusian Government, against Ukraine and at the impact that this aggression is having on the tripartite constituents – workers, employers and the democratically elected Government – in Ukraine, and on the world of work beyond Ukraine;*

- *urged the Russian Federation again to immediately and unconditionally cease its aggression and withdraw its troops from Ukraine;*

- *urged once again the Russian Federation to meet all the obligations following from its ratification of ILO Conventions, including the Maritime Labour Convention, 2006, as amended (MLC, 2006), in particular in relation to the repatriation of seafarers and access to medical care; the Radiation Protection Convention, 1960 (No. 115), in relation to the exposure of workers to ionizing radiations in the course of their work; and the Forced Labour Convention, 1930 (No. 29), and its accompanying Protocol of 2014, and to ensure the full*

³⁶ ILO (2022, March 18). *Resolution concerning the Russian Federation's aggression against Ukraine from the perspective of the mandate of the International Labour Organization (ILO)*. GB.344/Resolution. URL: <https://www.ilo.org/resource/gb/344/resolution-concerning-russian-federations-aggression-against-ukraine>

³⁷ ILO (2024, June 15). *Decision concerning the developments in the application of the resolution concerning the Russian Federation's aggression against Ukraine*. GB.351/INS/7/Decision. URL: <https://www.ilo.org/resource/record-decisions/gb/351/decision-concerning-developments-application-resolution-concerning-russian>

protection provided by these instruments to all workers currently performing work under its control;

○ reiterated its unwavering support for the tripartite constituents in Ukraine, requested the Director-General to continue to respond to the constituents' needs in Ukraine and to expand the ILO's resource mobilization efforts, including in forthcoming international donor conferences on recovery and reconstruction;

○ requested the Director-General to continue to enhance resource mobilization efforts for other affected countries across Eastern Europe and Central Asia;

○ requested the Director-General to continue to monitor the impact on the world of work of the Russian Federation's aggression against Ukraine and to report to the Governing Body at its 352nd Session (October–November 2024) on developments in the light of the resolution, including the ILO's continued engagement with the relevant United Nations bodies involved in monitoring human rights violations and the situation of maritime and nuclear workers³⁸.

In this Decision, through the prism of supporting the national social dialogue, the aspects of strengthening the tripartite partners, the call of the Governing Body of the International Labour Office to Russia to implement the ratified ILO Conventions in the temporarily occupied territories of Ukraine, as well as the motivation of Ukrainian tripartite participants to file complaints about Russia's violations of ILO Conventions are particularly significant.

Social dialogue as an institutional component of the social contract

The deformed system of social dialogue in Ukraine causes the erosion of its social contract, the framework for solidarity among citizens.

The ILO has traditionally viewed social dialogue as the basis for so-called "social agreements" or "social contracts" that are factors of social cohesion, economic resilience and political stability. Today, in the context of growing global turbulence and multiple cascading crises, this institution objectively points to the need for states to update social contracts, including

³⁸ ILO (2024, June 15). *Decision concerning the developments in the application of the resolution concerning the Russian Federation's aggression against Ukraine*. GB.351/INS/7/Decision. URL: <https://www.ilo.org/resource/record-decisions/gb/351/decision-concerning-developments-application-resolution-concerning-russian>

through the use of national social dialogue mechanisms. Thus, in May 2024, the Director-General of the Governing Body of the International Labour Office presented a strategic report "Towards a renewed social contract", which states: "... All societies share a common foundation: a timeless and universal yearning for social justice, freedom, dignity, economic security and equal opportunity. Through these contracts, societies strive to strike a balance between individual and collective responsibilities. Achieving this objective is not without its challenges. Power imbalances and divergent interests can complicate efforts to balance the elements that make up the social contract."³⁹. The report also emphasizes that in these times of crisis, a renewal of the social contract is necessary, as it will help to meet the growing demand for social justice in almost all societies.

Thus, the ILO clearly recognizes social dialogue, which allows for the formation of commitments between tripartite labour partners, as a necessary precondition for renewing the social contract and promoting social justice.

It is institutionally significant that this discourse is practically supported by the Government and national business associations in Ukraine. In February 2024, they signed a joint statement on building effective cooperation between business and government as an urgent issue of Ukraine's national security in the context of a full-scale war. The signatories declared that effective cooperation requires "the development of a new social contract between entrepreneurs and the state, in particular in jointly counteracting and preventing illegal pressure on entrepreneurs, transparent taxation and fair taxation, and the introduction of mechanisms for the development of Ukrainian manufacturers", and identified the following priority areas for cooperation:

- *developing practical solutions to reduce pressure on entrepreneurs from law enforcement and regulatory authorities;*
- *"reboot" of the Bureau of Economic Security;*
- *defining criteria for classifying businesses as "white" and a list of benefits for such businesses;*
- *creating a platform for government agencies to receive feedback from entrepreneurs;*

³⁹ ILO (2024, May 17). *Towards a renewed social contract*. Report of the Director-General on the International Labour Conference, 112th Session, 2024. ILC.112/Report I(B). Geneva: International Labour Office. URL: <https://www.ilo.org/resource/conference-paper/towards-renewed-social-contract-report-director-general>

- *the development of solutions to improve and digitalize the system of booking and business trips for employees*⁴⁰.

It should be noted that only consistent practical steps in these areas will be a measure of the effectiveness of the declared intentions to form a new social contract between national business and the Government of Ukraine.

***The problems of social dialogue in Ukraine:
The EU and International Institutions' vision***

Maintaining a high level of solidarity among the population of Ukraine is extremely important in the context of its European integration prospects and the country's official status as an EU candidate in June 2022. According to European experts, maintaining transnational solidarity in the European Union depends to a large extent on overcoming territorial splits in the unity of Europeans and strengthening the solidarity of citizens at the level of member states (*Kriesi et al.*, 2024).

In recent years, both before the large-scale Russian invasion in February 2022 and three years later, international and European institutions have expressed serious concerns about the progress of social reforms and the implementation of Ukraine's state social policy. In particular, the European Parliament's resolution of February 11, 2021, on the implementation of the EU–Ukraine Association Agreement stated that "... *the implementation of the AA/DCFTA*⁴¹ *in the social sphere remains dissatisfactory; whereas Ukraine has ratified the main international instruments, but continues to fail to implement them*", the national model of tripartite consultations remains largely dysfunctional, and the Ukrainian government should prioritize the implementation of international labour standards, EU legislation and practices in the areas of social policy, employment and labour, as well as rules for collective bargaining, support for social dialogue, addressing gender inequality, and labour law reforms⁴².

⁴⁰ Ministry of Economy of Ukraine (2024, February 26). *A new social contract between business and the Government - a matter of national security of Ukraine, a joint statement of the Government and business*. URL: <https://www.me.gov.ua/News/Detail?lang=uk-UA&id=4cf247be-8aa1-4a50-b8df-955ba5273fdd&title=NoviiSuspilniiDogovirMizhBiznesom> [in Ukrainian].

⁴¹ AA/DCFTA – the Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, including a Deep and Comprehensive Free Trade Agreement.

⁴² European Parliament (2021, February 11). *European Parliament resolution of 11 February 2021 on the implementation of the EU Association Agreement with Ukraine (2019/2202(INI))*. P. 8, 27. URL: https://www.europarl.europa.eu/doceo/document/TA-9-2021-0050_EN.pdf

In providing a documentary opinion on Ukraine's application for EU membership in June 2022, the European Commission emphasized that "... *ambitious structural reforms to remove corruption, reduce the State footprint and the persistent influence of oligarchs, strengthen private property rights and enhance labour market flexibility need to continue in Ukraine to improve the functioning of its market economy.*"⁴³.

In a special analytical report presented in early February 2023 during the 24th EU–Ukraine Summit, the European Commission assessed the overall progress of our country's European integration and concluded that "... *Ukraine is at an early stage of preparation in the field of social policy and employment. It still needs to address significant shortcomings in its labour legislation. Approximation with the EU acquis on health and safety at work is limited. Undeclared work and wage arrears need to be addressed. There is also a need to improve social dialogue. Ukraine's legislation is not aligned with EU gender equality legislation and needs further alignment with EU legislation on non-discrimination in employment. The labour inspections system needs to be improved.*"⁴⁴.

In the context of international support, it is very significant and important that a delegation from the ITUC made a solidarity visit to Ukraine in late May 2024. Assessing the development of social dialogue in the country, the delegation stated that "... *The ITUC regrets and has voiced strong objections against the Ukrainian government's exploitation of martial law to impose policies that undermine basic worker and trade union rights. These changes include undermining collective bargaining, fewer protections in the hiring and firing process, and disruption to social dialogue processes. ... Workers' rights must be prioritised. The government should look at the work of the ILO to embed fair labour practices into the foundation of Ukraine's post-war recovery to establish a resilient, fair and equitable labour market.*"⁴⁵.

It is worth noting that all of the above-mentioned critical assessments of social dialogue in Ukraine by international and European institutions remain relevant today and require appropriate action by the tripartite participants in the national social partnership.

⁴³ European Commission (2022, June 17). *Commission Opinion on Ukraine's application for membership of the European Union*. COM(2022) 407 final. P. 20. URL: https://neighbourhood-enlargement.ec.europa.eu/document/download/c8316380-6cb6-4ffd-8a84-d2874003b288_en?filename=Ukraine%20Opinion%20and%20Annex.pdf

⁴⁴ European Commission (2023, February 01). *Analytical Report following the Communication from the Commission to the European Parliament, the European Council and the Council Commission Opinion on Ukraine's application for membership of the European Union*. P. 36–39. URL: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-02/SWD_2023_30_Ukraine.pdf

⁴⁵ International Trade Union Confederation (2024, May 21). *Ukraine: ITUC solidarity visit*. URL: <https://www.ituc-csi.org/ukraine-ituc-solidarity-visit?lang=en>

**Recommendations for solving the problems
of social dialogue in Ukraine**

The above indicates that serious shortcomings and problems in the national sphere of social dialogue remain, despite Ukraine's European integration commitments and opportunities. Therefore, in the period after the end of the war and the gradual recovery of the Ukrainian economy and society, overcoming these shortcomings and solving the above-mentioned problems of national social partnership will require the implementation of an adequate state policy, in particular, formed on the basis of modern international approaches and practices. First of all, the Comprehensive and integrated ILO strategy to reduce and prevent inequalities in the world of work, adopted for the period 2022–2027, which regulates, among other things, the following social priorities and policy measures for national governments and other participants in social dialogue⁴⁶:

○ *universal and adequate social protection of the population – requires ensuring that every citizen has access to a system of comprehensive, adequate and sustainable social protection throughout his life;*

○ *adequate protection of all workers and fair distribution of the results of economic growth – requires the guarantee of social and labor rights for all workers regardless of their employment status in the formal and informal economy; an adequate minimum wage established on a legislative or contractual basis in accordance with the ILO Convention No. 131; increasing the effectiveness and inclusiveness of national labor market institutions, including relevant inspection services, etc.;*

○ *equality for all, including gender, non-discrimination and social inclusion – requires solving the problems of unfair pay, gender, ethnic, age discrimination, social rejection, etc.;*

○ *employment creation – involves an active policy on the labor market and in other areas, stimulating employment growth, overcoming gaps in labor productivity levels between enterprises, increasing investments in digital infrastructure and skills, etc.;*

⁴⁶ ILO (2022, October 06). *Follow-up to the resolution concerning inequalities and the world of work (2021). Comprehensive and integrated ILO strategy to reduce and prevent inequalities in the world of work.* GB.346/INS/5. URL:

https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_857745.pdf

- *reducing informal employment – requires solving the problems of shadowing the economy and labor markets, restoring and improving their institutions;*
- *equal access to quality education and professional training – includes a lifelong learning system, as well as access from early childhood to quality public services.*

It also seems relevant for Ukraine to improve labour legislation in line with EU requirements with a focus on employee protection. Taking into account the legislative experience of foreign countries, it is advisable to supplement the Labour Code of Ukraine with a separate chapter on Social Dialogue in the Workplace or to include such a chapter in the new Labour Code of the country, which would set out the basic provisions on social dialogue in the workplace. The legal issues of control over the implementation of decisions and agreements reached, as well as liability for violation of legislation on social dialogue (the Article 19 of the Law of Ukraine "On Social Dialogue in Ukraine") should be regulated. This requires:

- *to provide a legislative definition of the concept of "violation of legislation on social dialogue";*
- *to supplement the current document with provisions on how and within what timeframe the implementation of decisions and agreements is ensured, and what responsibility should be incurred in case of their failure;*
- *to regulate the procedure for bringing the social dialogue subjects to responsibility in case of failure to fulfill the decisions made or agreements reached within the framework of social dialogue at the respective levels.*

We fully share the approach that legislators should pay special attention not to comprehensive liberalization in the regulation of labour relations, which narrows the social and labor rights of employees, but to the regulation, in particular, of occupational safety and health in the workplace (taking into account the Resolution of the International Labour Conference of 2022⁴⁷, as well as its Recommendation of 2023⁴⁸ on the inclusion of a safe

⁴⁷ ILO (2022, June 10). *Resolution on the inclusion of a safe and healthy working environment in the ILO's framework of fundamental principles and rights at work*. ILC.110/Resolution I. International Labour Conference, 110th Session, 2022. URL: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_848632.pdf

⁴⁸ ILO (2023, June 12). *Recommendation concerning amendments to standards consequential to the recognition of a safe and healthy working environment as a fundamental principle*. ILC.111/Recommendation No. 207. International Labour Conference, 111th

and healthy working environment in the set of fundamental principles and rights at work), measures to prevent mass layoffs, bring social standards closer to the standards of social legislation of the EU countries that joined in 2004–2013, and promote decent work with a better balance of rights and interests of employees and employers (*Heyets et al.*, 2023).

Taking into account the current trends of digitalization of the economy and society, as well as the spread of new non-standard forms of employment, including platform employment, one of the most urgent areas for the development of the national system of tripartite social dialogue should be the legislative regulation of the activities of digital and other types of platforms, and the extension of the right to freedom of association and the right to collective bargaining to workers in the platform economy.

Regulation of platform employment and involvement of employees covered by it in the social partnership system

As a starting point for law-making in this direction in Ukraine, it is advisable to choose the adaptation of the provisions of the EU Directive on improving working conditions in platform work⁴⁹, which is simply called the EU Platform Work Directive. The draft of this Directive agreed with the EU Council, which is based on the resolution of the European Parliament of September 16, 2021 on fair working conditions, rights and social protection for platform workers⁵⁰, was adopted by the European Parliament in April 2024.

The impetus for the adoption of these documents was the rapid spread of platform ("gig"-, online-, freelance-) employment in the European Union since the 2000s. According to the European Commission, in 2021 there were more than 500 active digital job platforms in the EU, including well-known ones such as Bolt, Uber, Glovo, Deliveroo, Just Eat, GrubHub, etc., and almost ¾ of them were registered as SMEs. In the specified period, platform employment covered more than 28 million people (12.2% of

Session, 2023. URL: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_886376.pdf

⁴⁹ European Parliament (2024, April 24). *Improving working conditions in platform work. European Parliament legislative resolution of 24 April 2024 on the proposal for a directive of the European Parliament and of the Council on improving working conditions in platform work (COM(2021)0762 – C9-0454/2021 – 2021/0414(COD))*. URL: https://www.europarl.europa.eu/doceo/document/TA-9-2024-0330_EN.pdf

⁵⁰ European Parliament (2021, September 16). *European Parliament resolution of 16 September 2021 on fair working conditions, rights and social protection for platform workers – new forms of employment linked to digital development (2019/2186(INI))*. URL: https://www.europarl.europa.eu/doceo/document/TA-9-2021-0385_EN.html

the total number of employed) in the EU, and by 2025 there will be more than 43 million of them.

The problem is that currently almost 5.5 million platform workers face poor working conditions and no or inadequate access to social protection, as their employment status is misclassified and they are essentially "bogus self-employed". The European Commission believes that as a result of the legislative elimination of the risks of incorrect employment classification, 1.7–4.1 million platform workers in the EU will be reclassified from "self-employed" to "salaried employees", which will give them access to labor rights and social protection. At the same time, measures to eliminate the specified risks will potentially provide an increase in revenues (in the form of social and tax contributions) of the member states in the amount of up to 4 billion euros per year⁵¹.

From now on, the solution of these problems will be facilitated by the implementation by the EU governments of the Directive on platform work, which aims to ensure the correct classification of the employment status of platform workers, as well as guarantee compliance with their basic social and labor rights, including trade union representation. The key norms of this Directive are⁵²:

(1) *introducing a legal presumption of the existence of an employment relationship between a digital labor platform as an employer and a person who performs work on this platform (as opposed to self-employment);*

(2) *establishment of algorithmic management rules, including the use of automated monitoring and decision-making systems. Digital platforms must provide human, and not automated or artificial intelligence, supervision over the adoption or review of decisions regarding hiring, working conditions, earnings, etc. of platform employees;*

(3) *strengthening the protection of personal data of platform employees. Digital platforms are prohibited from using automated monitoring or decision-making systems to process employee data such as biometrics, emotional or psychological state, personal beliefs, etc.;*

⁵¹ European Commission (2021, December 09). *Executive Summary of the Impact Assessment Report accompanying the document Proposal for a Directive of the European Parliament and of the Council on improving working conditions in platform work*. Commission Staff Working Document. SWD/2021/397 final. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52021SC0397>

⁵² European Parliament (2024, April 24). *Parliament adopts Platform Work Directive*. Press Releases. URL: <https://www.europarl.europa.eu/news/en/press-room/20240419IPR20584/parliament-adopts-platform-work-directive>

(4) *expanding the role of trade unions* by covering platform economy workers with labor representation, establishing a requirement for EU states to facilitate the organization and conduct of collective negotiations (based on the provisions of ILO Conventions No. 98 and No. 135) between employers and employees who are participants of online platforms.

As modern European experience proves, the involvement of platform workers in the trade union movement in practice turns out to be quite a difficult task. This, in particular, was shown by a recent ILO study on the willingness of platform workers to form trade unions, conducted on the basis of a representative survey in 14 EU countries, which actually cover 84% of the working-age population in the EU-27 (Vandaele *et al.*, 2024). Although the survey data found union density in the platform economy to be 13.4%, this is interpreted as “accidental” unionization, as platform workers are more likely to have unionized jobs in the regular economy than platform workers. is an additional, non-core occupation for them. There is a significant gap between attitudes and willingness to unionize: while roughly two-thirds of platform workers have a positive attitude toward unions, just over a quarter say they would like to join a union movement. In agreement with ILO experts, the main obstacles that discourage platform workers from joining trade unions relate to algorithmic management, regulatory arbitration regarding the organization of employment and the promotion of clear entrepreneurial orientation among persons covered by platform employment.

***Paradigmatic principles for the post-war strengthening
of the national economy, social dialogue
and social solidarity in Ukraine***

Taking into account the complex tasks of the post-war reconstructive recovery of Ukraine and its fully-fledged integration into the European Union, there is no doubt that the importance of the institutional development of social dialogue as a factor of domestic macroeconomic dynamics and social solidarity will continue to increase. At the same time, in the post-war period, the political and economic paradigm, within which reconstruction, European integration, as well as societally uniting processes will take place in our country, becomes of decisive importance. For more than three decades, Ukraine, like many other post-socialist states of Eastern Europe, has been moving in the direction of the neoliberalism paradigm firmly and deeply instilled in it by international consultants since the early 1990s. The economic practice of modern neoliberalism has its origins in the adoption of the so-called “Washington Consensus” in 1989 – a universal “recipe book” of

ten macroeconomic reforms, which has been used by the IMF and the World Bank for more than two decades, related to mass privatization, increased fiscalization and practically uncontrolled liberalization of markets of finance, conditions of foreign trade and investment. It is noteworthy that this neoliberal approach determined the unconditional priority of market regulation in all spheres of societal dynamics, which became devastating for social and human development, support of vulnerable population groups, reduction of social inequality, formation of labor potential and human capital of countries that implemented such reforms. Many economists, well-known theoreticians and practitioners of state socio-economic regulation have reasonably criticized the steadfast pursuit of neoliberalism, showing its harmfulness for the economic and, especially, social development of developing countries and countries with emerging markets, and justifying the need for a final departure from of this paradigm (Stiglitz, 2003; Rodrik, 2006, 2022; Kolodko, 2011, 2020; Eschenko, Arseenko, 2011; Stiglitz, Kosenko, 2024).

Thus, Joseph E. Stiglitz, the Nobel Laureate in the field of economic sciences, emphasizes in his numerous works that in practice neoliberalism has suffered a colossal failure. An overwhelming abundance of real-world evidence from Latin America and Africa has shown that countries that adopted the Washington Consensus often experienced deindustrialization, slow growth, episodic crises, and increasing social inequality (2003; Stiglitz, Kosenko, 2024). The 2021–2023 President of the International Economic Association, Professor Dani Rodrik, emphasizes that there has been more privatization, deregulation and trade liberalization in Latin America and Eastern Europe than anywhere else at any point in economic history, and a "transition crisis" in the former socialist economies was much deeper and longer than expected, primarily due to the reforms of neoliberalism and "market fundamentalism" (2006). Absolutely critically evaluating the recommendations regarding neoliberal reforms, which were automatically transferred to the countries of Eastern Europe and the CIS according to the principle of "one size fits all", Ukrainian scientists state that the Washington Consensus became the basis for conducting one of the cruellest experiments of our time, especially in countries that developing and post-socialist states (Eschenko, Arseenko, 2011).

In the above case, we are talking about the brutality of the social consequences caused by state policy on neoliberal principles. In this connection, the opinion of Grzegorz W. Kolodko, the key architect of Polish pro-European economic reforms, which were successfully implemented

during his tenure as Deputy Prime Minister and Minister of Finance of Poland (in 1994–1997 and 2002–2003). A successful government official and well-known economist believes that "... neoliberalism definitely overestimates the power, purpose and usefulness of individualism. It unnecessarily supports greed – by elevating this vice to the level of an economy propelling virtue. It neglects the social cohesion aspects of the economy and does not perceive of human beings as the center of the economic activities." (*Kolodko, 2011*).

Summarizing what has been stated in this subsection, it is expedient to assert not only the social perniciousness of blindly following the neoliberal doctrine, proven by the experience of many countries of the world – primarily for well-being, solidarity, social partnership, employment and labor potential, human capital – but also about the need to form a new paradigm of socio-economic development of Ukraine. In this regard, in his recent publication, J. E. Stiglitz clearly indicates that "... As bad as neoliberalism is for economies in normal times, it is even worse for countries at war or undergoing the kind of transformation that Ukraine will face in the years ahead.". At the same time, it is worth considering that neoliberalism is wrong to put the private sector on a pedestal, while the economy of the 21st century requires a balance between government, markets and civil society (*Stiglitz, Kosenko, 2024*). Grzegorz W. Kolodko has a similar, but more detailed vision, rightly believing that in the institutional context, neoliberalism views the government with its regulatory powers as a kind of enemy number one, but "... lasting success is possible only due to an intelligent synergy of the power of the invisible hand of the market and the visible mind of the government." (*Kolodko, 2011*).

As a future alternative to neoliberalism, researchers propose different approaches. In particular, one of them is the paradigm of "productivism", which emphasizes production and investment, rather than finance, as well as the revival of local communities in the face of globalization. Unlike neoliberalism, productivism assigns a significant role to governments and civil society in achieving this goal, and places more emphasis on supply-side measures aimed at creating decent jobs for all (*Rodrik, 2022*). Another alternative is the paradigm of "new pragmatism", which involves a moving away from the dictate of profit maximization and quantitative growth of production as an objective of the economy and its new formulation that takes into account the imperative of subordination of short-term interests of private capital to long-term public interests (*Kolodko, 2020*).

The domestic academic science also proposed its own vision of a new paradigm of the post-war reconstructive recovery of Ukraine. It consists in the idea of nationally rooted economic development, which is substantiated with appropriate accents in the works of academicians of the National Academy of Sciences of Ukraine Andrii Grytsenko (2023), Valeriy Heyets (2023), Oleksandr Amosha (2023), and also Olena Borodina (2023). According to the approach proposed by scientists, the post-war reconstruction of Ukraine's economy, which will take place under fundamentally new initial conditions, should be based on a strategy of nationally rooted development that integrates *internal inclusiveness* (which involves the mobilization of all internal factors, physical and social capital as sources of economic growth) and *external inclusiveness* (aimed at using globalization to realize the interests of national socio-economic development) (Grytsenko, 2023).

In the context of the development of the social dialogue institution, it is very important that this idea finds support from representative social partners at the national level. The institutional improvement and overcoming of the existing deformations of the national system of social dialogue, which is the focus of our research, will objectively contribute to both the strengthening of institutional trust and the solidarity of Ukrainian citizens, as well as the formation of a new, more effective and defect-free neoliberalism of the social contract in the Ukrainian state in the post-war period of its development.

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