

Labor Initiatives 2019 Digest

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Labor Initiatives
and Solidarity Center
teams

NGO Labor initiatives promotes and protects workers' rights, freedom of association, and human rights in Ukraine and the region. We are dedicated to developing Ukrainian civil society and building effective democratic mechanisms for social change.

We provide pro bono legal support in labor-related cases, advocate for decent work, engage the civil society to advance gender equality and battle discrimination, and build a community around labor advocacy and action.

Our lawyers



Our lawyers

George Sandul

is a labor rights lawyer with more than 10 years of experience. He completed his law degree at the National Academy of Management in 2010 and joined the Labor Initiatives team in 2016. George coordinates the Labor Initiatives internship program, as well as the pro bono legal aid clinic. His areas of expertise include collective bargaining agreements, labor disputes, international human rights mechanisms.

Veronika Rudkovskaya

joined the Labor Initiatives team in 2017. She provides legal advice to workers and trade union representatives who apply to the pro bono legal aid clinic, and her specialty is legal assistance for vulnerable populations (single mothers, pensioners, etc.). Veronika is a passionate human rights advocate and educator who devised numerous events for schools and universities on behalf of Labor Initiatives.

Nadiia Yolkina

joined the Labor Initiatives team in 2017. She completed a Master's degree in international law at the Shevchenko National University in Kyiv. Nadiia provides legal advice to workers and trade union representatives who apply to the pro bono legal aid clinic, and her areas of expertise include the application of Ukraine's Labor Code, vacation issues and international human rights law.

Inna Kudinska

is lawyer and analyst of labor-related legislation working with Labor Initiatives and Solidarity Center in Ukraine. Inna joined the Labor Initiatives team in 2016, after completing a Master's degree in international law at the Shevchenko National University in Kyiv. Her areas of expertise include women's labor rights, anti-discrimination norms, legal assistance in union collective bargaining negotiations, and the application of Ukraine's Labor Code.

Labor Initiatives workers' rights center and legal clinic offers comprehensive legal support in labor-related cases. The doors of our office are open to individual workers and trade union representatives seeking legal support related to collective bargaining and general labor and employment issues.

LI lawyers help workers win back wages and fight unfair employment conditions in a number of sectors including agriculture, chemical industry, finance sector, education and healthcare, broadcasting/media, and in retail services (supermarkets, etc.)

Beyond day-to-day consultations, Labor Initiatives lawyers do policy work around labor law, anti-harassment, gender equality, anti-corruption, and protection of whistleblowers.



George Sandul
lawyer of Labor Initiatives NGO

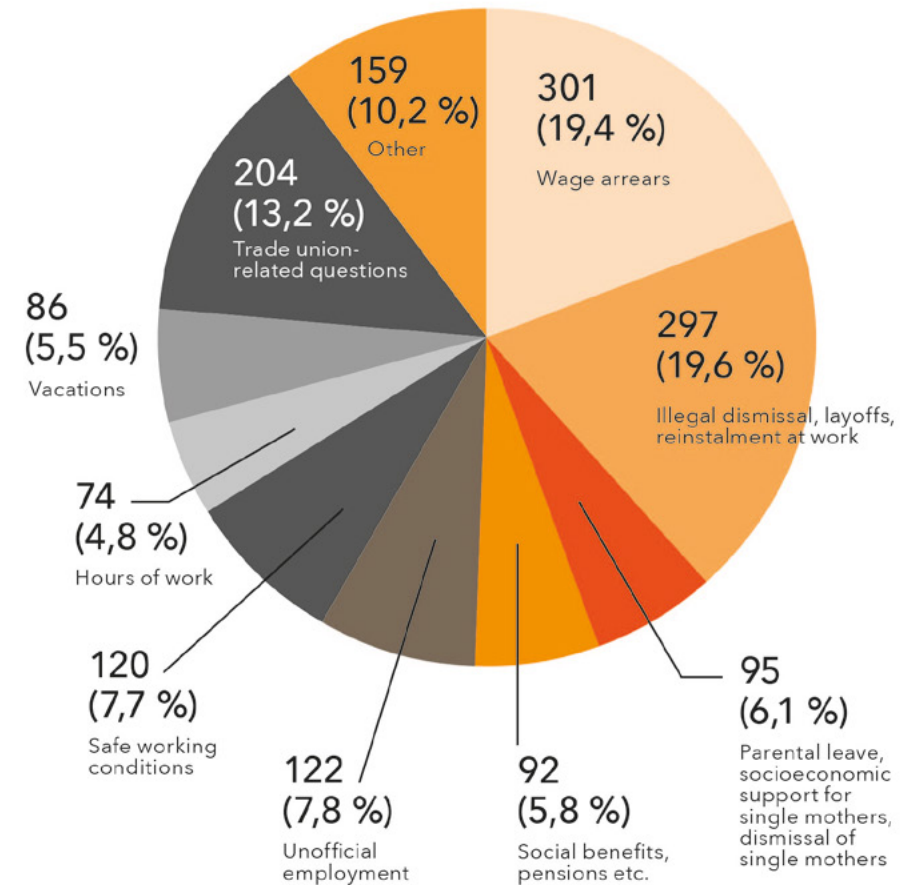
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We are proud to work with union organizations, serving as a networking hub for union leaders, civil society activists, students, and anyone interested in progressive reform in Ukraine. The legal clinic is one of its kind, offering support entirely pro-bono, and making workers' rights a priority.

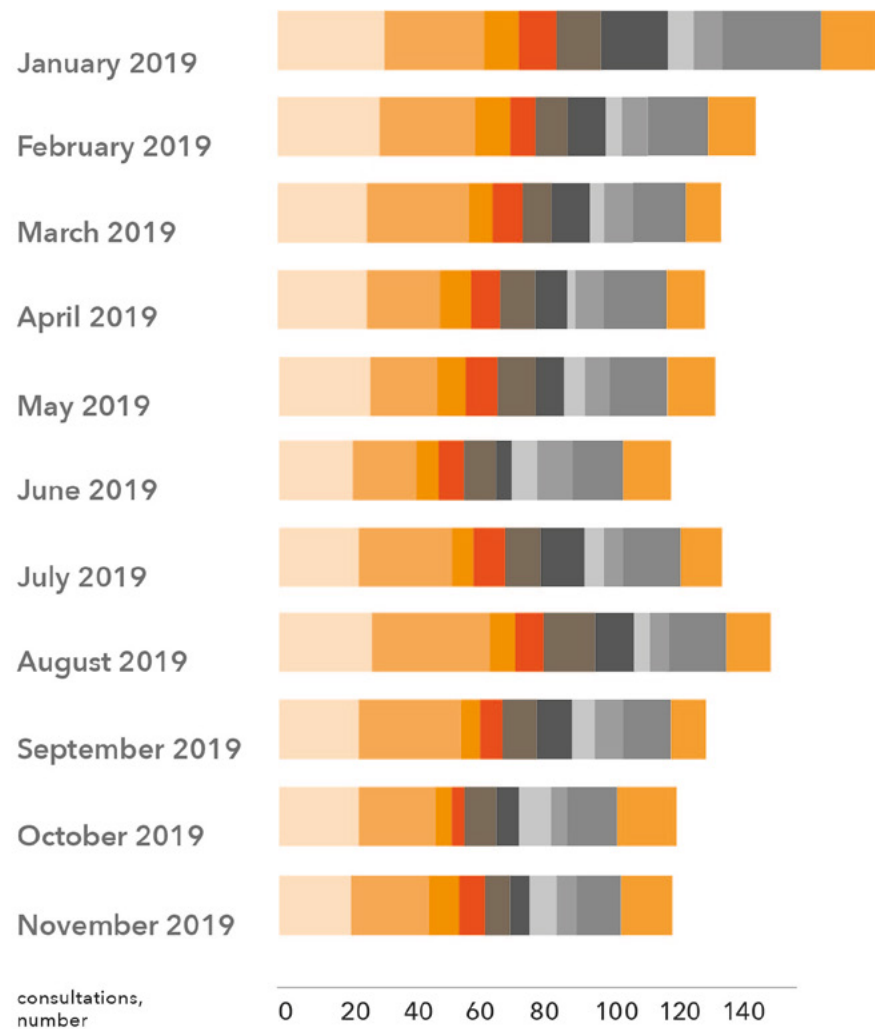
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Consultations at the legal clinic are most often provided around the following issues:

- Freedom of association
- Collective bargaining
- Wage arrears
- Illegal dismissal and reinstatement at work
- Corruption in the public and private sector
- Informal employment
- Maternity leave and other socio-economic benefits for women
- Social security and pension issues
- Occupational safety and health
- Work-life balance



Number of the consultations by each type during the January 1st-December 1st, 2019



The Labor Initiatives legal clinic: strategic litigation cases

Strategic litigation cases constitute a crucial part of the Labor Initiatives legal clinic workload.

Representation of workers in strategic cases helps us build a portfolio of pro-worker court decisions, including at the level of the Supreme Court of Ukraine. Strategic cases are also important in identifying pro-worker legal practices, showcasing ways in which workers can engage with legal processes.

We present a selection of court cases that Labor Initiatives lawyers resolved in favor of workers, and that became exemplary of effective legal mechanisms to secure remedies and challenge malpractices in the world of work.

1

Facts of the case

A doctor was fired illegally due to administrative restructuring of a local hospital. In spite of pt. 1 of art. 43 of the Code of Labor Laws of Ukraine, their employment contract was severed without consulting with the union executive body at the hospital, and without alternative job placements offered, as is required by law. In addition, the worker was fired when they had a temporary disability status.

Outcome

After 2.5 years of litigation, the court has ruled that the dismissal occurred with severe violations of Ukraine's labor law; the worker was reinstated and received 110 000 UAH (\$4600) in back wages and compensation.

2

Facts of the case

After a three-month delay in wage payment at a major state enterprise, a worker filed a lawsuit against their employer. According to the law, workers are entitled to back pay and compensation when wages are delayed for more than one month.

Outcome

The court satisfied the worker's claims and administered 70 000 UAH (\$3000) in back pay and compensation for the worker.

3

Facts of the case

A single mother who resumed work at one of the largest transportation enterprises in Ukraine after her parental leave, was notified that her position was eliminated as a result of a layoff. Subsequently, she was offered alternative positions at the enterprise, which she declined due to a substantial decrease in pay and work travel obligations that she was not able to fulfill. After she refused to accept the offer, she was denied her wages, and fired within two months. Thus, the worker was dismissed in spite of the guarantees that single mothers are entitled to under the law. In addition, the employer violated the firing procedure, and fired her without consulting with the union executive body.

Outcome

After a lengthy litigation through the court of the first instance and the court of the appellate instance, the Supreme Court of Ukraine confirmed the initial court decision and ruled that the firing process violates the law and denies a single mother the guarantees she is entitled to. The worker received 200 000 UAH (\$8400) in back wages and compensation.

4

Facts of the case

Employee of a transnational company was fired without consulting with the union executive body.

Outcome

The Supreme Court of Ukraine supported the arguments of the appellate court, and ruled to reinstate the worker, as the dismissal of a union member is possible solely with prior consultation with the union executive body. The court addressed the union's objections to the firing of the worker, admitting that the union's arguments were well substantiated. After a lengthy litigation, the worker was reinstated in their prior position.

5

Facts of the case

A worker of a municipal company filed a lawsuit against their employer due to substantial wage arrears.

Outcome

The employer paid the delayed wages upon their own initiative before the termination of the litigation, however, the court ruled that the worker is additionally entitled to 38 000 UAH (\$1500) in compensation.

6

Facts of the case

A worker at one of the largest mailing and delivery enterprises was unjustly reprimanded, although she fulfilled her work duties fully and diligently. In addition, the worker is part of the elected union body at the enterprise. The employer issued a reprimand without consulting with the union executive body.

Outcome

After two years of litigation, the Supreme Court of Ukraine ruled that the reprimand was issued unjustly, and the reprimand was withdrawn.

7

Facts of the case

A construction worker was fired without severance pay.

Outcome

The court decision posited that the worker was entitled to the income he lost as a result of the withheld severance. After 1.5 years of litigation, the court ruled in favor of the worker and assigned 80 000 UAH (\$3400) in compensation.



Labor
Initiatives
Internship
Program

Interns:

- work at the legal clinic up to 12 hours a week
- help provide consultations on legal issues over the phone and in person
- analyze labor-related legislation
- help represent our clients in court
- are an indispensable part of the Labor Initiatives team

The Labor Initiatives legal clinic team would be entirely overwhelmed by the sheer number of consultation requests, if it weren't for our interns and fellows. In 2019, the LI internship program has recruited talent from top universities in Kyiv, and expanded to include students of non-legal educational backgrounds to assist with communications and event management.

Up to seven students per semester go through the program, gaining insights into the specifics of the legal profession, and learning about ways to counter injustices that permeate Ukraine's society. Legal fellows are also given the chance to represent our clients in court, under the supervision of our experienced lawyers.

The internships and fellowships with Labor Initiatives have also helped to build interest in labor law and dispute resolution with Ukrainian law faculties, and Labor Initiatives has built alliances with faculty and students across the country.



Bohdan Kokhanskyi
intern at Labor Initiatives

“

I appreciate that LI puts its core values into practice, by providing paid internships and fellowships for all of the selected applicants. I feel supported here, and I am honored to be part of a team that strives to make an impact in the world.

”



Launching a full-time
legal aid clinic
and human rights center
in Donbas region

* Seven union activists from Pavlograd
biked over 70 miles to contribute to
the Youth Day celebrations in Dobropillya



Labor Initiatives now has a full time office in Dobropillya, Donetsk region. The free legal aid clinic and human rights center Labor Initiatives-Donbas serves the communities of Dobropillya, Kramatorsk and the surrounding areas. The center is located near Dobropillya downtown and is equipped with a large community space, a children's room, and an office space for lawyers working with clients.

Local NPGU (the Independent Miners' Union of Ukraine) activists were involved in the development of the project, assisting with logistics and operational support. Natalia Zelena, an alumna of the Third Labor Initiatives Summer School for young union and community leaders, coordinates part of the activities at Labor Initiatives-Donbas.

As a conflict-affected area, Dobropillya has seen tumultuous years since 2014, and its community is recovering from the impact that the war in the East of Ukraine has wielded upon the region. Additionally, workers at state-owned coal mining enterprises in Donbas suffer from consistent wage arrears, with few organizations stepping forth to assist the workers whose rights are violated. In this harsh economic context, Donbas communities are in need of local, accessible, active hubs of knowledge on legal matters, as well as on economic alternatives to the current accelerating deindustrialization.

LI-Donbas Community Engagement :

- LI-Donbas and local NPGU (the Independent Miners' Union of Ukraine) union activists organized Youth Day activities in Dobropillya
- Ukrainian Helsinki Human Rights Union office in Pokrovsk partnered with LI-Donbas to provide better free legal aid services in the region
- LI staff in Dobropillya organized thematic summer activities for middle schoolers
- LI and union partners from NPGU held a clothes and goods donation drive for children's shelters and foster homes in Dobropillya, Donetsk region
- The Selydovo NPGU chapter and LI-Donbas held a seminar on wage arrears as a human rights violation, and legal recourses in case of wage delays



Youth in Kramatorsk learn about labor rights

Labor Initiatives led a seminar for youth in Kramatorsk, during a full-day event. LI lawyers explained legal norms on labor rights for those who are just starting their careers to an audience of high school students and first-year university and technical college students.

Labor Initiatives education and community outreach programs



2019 was rich in new partnerships and opportunities to reach out to new audiences through events in our office, intensive seminars with our union partners, and focused public education campaigns. Part of our programming is devised in close partnership with major Ukrainian union and civil society organization, and the LI hub at the heart of Kyiv continues to attract young activists and scholars for film screenings and discussions on pressing human rights topics, with international guests and local community educators as speakers.



Tetyana Solodovnyk
Solidarity Center
Program Coordinator, Ukraine



The programming of Solidarity Center and Labor Initiatives has expanded so significantly in 2019 – often there are several different initiatives we are coordinating simultaneously. It is hard to keep track of all of the good work that’s done by our teams, which is a testament to how far we’ve come together, and to the sheer enthusiasm that drives our work and our collaborations with union partners.



Labor Initiatives work with young union and community leaders:





LI Summer School Celebrates Its 5th Installment

The Labor Initiatives annual summer school for young union and community leaders convened for the fifth time in Odesa for an intensive week-long training. Trade Union School (TUS) is the most intense event of the year, conjoining theory and practice on collective means of human rights protection. Over the years, the summer school project has grown to include more than 250 activists from all regions of Ukraine, an extensive curriculum, ongoing online and in-person alumni community work, and a living library of ideas on ways to build a democratic youth movement with unions as an important base.



The 2019 TUS format was developed in close partnership with summer school alumni of previous years, and encompassed workshops on public speaking, labor movement history, tolerance and anti-discrimination, collective bargaining strategies, media and communications tools for human rights advocates, etc. Activists from Ukraine, as well as guests from Moldova, Belarus, Kyrgyzstan, and Estonia took part in the event.



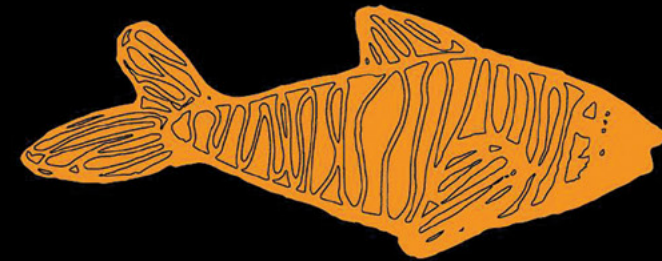
Inna Kudinska
lawyer affiliated with LI
and Solidarity Center in Ukraine



At Labor Initiatives, we are lucky to take on projects that make an impact for the many, rather than for the privileged few. The trade union school is a space we co-create to promote the values we want to see in broader society, in activism, and in our communities.



Stronger unions
make Ukraine
stronger



Stronger unions make Ukraine stronger: here's why

1

Unions improve lives of all workers, not just the union members. Through collective bargaining, unions are able to negotiate on better pay and work conditions, improve work-life balance, and promote a culture of respect for the workers.

2

Unions are essential for democracy. Independent, democratically organized unions have the power to change the country, as they are the largest mass organizations in civil society, with thousands of branches in every region of Ukraine.

3

Unions accompany members with legal advice. Workers who otherwise wouldn't have been able to afford the assistance of a lawyer can appeal to their union when their rights are being violated.

4

Unions build progressive communities. Union members are always part of something bigger and are eager to take concrete steps to make their workplaces and communities better.

5

Unions help you learn new skills. Unions hold trainings, educational events and seminars to help members learn new skills, unite, and develop personally and professionally.

6

Unions call out human rights violations. Workers are often the first to witness and report corruption, harassment, fraud, and bad practices by employers. Large unions also have powerful public voices and can hold informational campaigns to shift public opinion and call out injustices.

7

Union members get paid more, have more vacation time, more annual leave, and better job security.

8

In the changing world of work, unions are vital for the protection of precarious workers and workers in the new economy.

9

Unions balance the power that employers have over individual employees.

Educating Workers About the Traps of Informal Employment

Informal employment cases are particularly challenging to present in court. According to various estimates, up to 35% of workers in Ukraine are employed informally, and non-payment or delayed payment of wages is a common violation of the informally employed workers' rights.

This is why, prevention of potential risks associated with informal employment is an effective route to diminishing the scope of informal economy in Ukraine, and making sure that more workers are covered by basic social guarantees.



The Labor Initiatives legal clinic team organized a series of workshops at technical and community colleges around Kyiv. Legal clinic experts focused on explaining the most common legal traps young workers fall into. Untimely payment of wages and non-payment of wages are but a part of the problematic nature of informal employment—the absence of social security and records about employment make it difficult for labor lawyers to defend wronged workers in court.

Workshops were held at:

- Kyiv Technical College
- The Higher School of Hairstyle Designs
- The Kyiv Sewing Trainee Academy

The percentage of informal employment is two to three times higher in the service sector, construction, and technical services industries than in the job market overall. In Kyiv specifically, construction and service workers constitute the majority of those employed informally. Baristas, construction workers, and waiters request the support of Labor Initiatives lawyers more frequently than other categories of workers.



Nadiia Yolkina
lawyer at Labor Initiatives

“
Young people often have to agree on informal employment or leave the country in search of better work abroad. So, educating young people about the dangers of informal employment will help them know when they are being cheated, and how to use the law to protect themselves. I truly believe that ensuring adequate social guarantees, and decent, formal employment for all workers in Ukraine is an important step in keeping talent at home, instead of prompting the youth to seek better conditions elsewhere. ”

How to reduce harmful business practices that stall Ukraine's economic growth?

Labor Initiatives contributed to the National baseline assessment of business compliance with human rights principles in Ukraine (the NBA), conducted by the representatives of the Yaroslav Mudryi National Law University in cooperation with Fulcrum UA NGO, Human Rights Information Centre NGO, National Assembly of people with disabilities NGO, and United Nations Global Compact Ukraine.

The research was conducted in accordance with the methodology of the Danish Institute for Human Rights mainly by examining national legislation, public policies, and practical cases.

In the labor sphere, where the impact of business practices on human rights is very significant, experts recognized the following set of problematic practices:

- According to official statistics, 22,9% of working people are employed informally.
- Ukraine has highly ineffective mechanisms to protect workers from wage arrears (according to official statistics, wage arrears reached 2.645 bln hryvnias nationwide at the onset of 2019). State-owned mines controlled by the Ministry of Energy and Coal Industry have the biggest wage arrears, and workers resort to protests, demonstrations, and strikes to bring attention to the issue.
- The gender pay gap in Ukraine is persistent and pervasive. On average, women earn 25% less than men. In addition, the executive pay gap is widening—wages of employees in executive and managerial positions have grown to 200 times more than average wage level.
- Part-time employees and temporary workers have insufficient labor guarantees.
- There are poor guarantees on consulting with employees before making important management decisions; businesses tend to exclude workers from decision-making.
- Mobbing and harassment in the workplace are ubiquitous, yet are not addressed.
- Ukrainian legislation in the area of occupational health and safety is based mainly on corrective measures (i.e. responding to emerging risks) rather than on prevention. Most attention is paid to damages recovery instead of risk management.
- According to official statistics, the most dangerous sectors from occupational health and safety standpoint are: mining, agriculture, construction, metallurgical industry, forestry and fish farming. A number of workplace accidents go unregistered.
- Business advertising often channels discriminatory stereotypes, patriarchal views regarding roles and responsibilities of women and men in the family and in society.
- Employers force women to take unpaid leaves and work part-time more often if compared to men; employers often refuse to offer jobs to women as they can potentially get pregnant, give birth and take a parental leave; employers rarely provide women with additional breaks for breastfeeding during work hours as well as rarely arrange special places for breastfeeding.
- There is no widespread practice of implementing corporate policies for gender equality, preventing sexual harassment or other related violations at the workplace.
- There are no guidelines on implementing legislative requirements aimed at ensuring equal rights and opportunities for women and men, namely on remuneration, working conditions, or work-life balance.
- Vulnerable groups of women, including women with disabilities, internally displaced women, women living in rural areas, Roma women, women with HIV/AIDS, LGBTIQ women, are subjected to multiple discrimination and face additional barriers to employment.
- Ukrainian legislation does not provide workers with guarantees for balancing family and work responsibilities. There is a discriminatory regulation regarding parental leaves (a father may, in a number of cases, take a parental leave only if he is a single parent).
- Persons with disabilities face various barriers to employment, in particular: reasonable accommodation principle is applied inconsistently, and failure to comply with the principle does not entail any sanctions; employment quotas for persons with disabilities are ineffective as many employers hire such workers de facto only.
- IDPs are often discriminated by employers due to a risk of short-period employment.
- Ukrainian legislation does not require state-owned or state-controlled enterprises as well as enterprises that receive funding from the Government to conduct human rights due diligence. Moreover, businesses are not required to take human rights into account when managing their supply chains.

Reporting on progress towards gender equality in Ukraine

Labor Initiatives contributed to the National Parallel Report on the implementation by Ukraine of the Beijing Declaration and Platform for Action prepared by numerous NGOs and independent experts. The report presents an independent view on the situation with the protection of women's rights in Ukraine – its full version is available at **fes.kiev.ua**

Here are some of the report takeaways pertinent to the labor sphere:

1 In the meantime, women's access to decent work in Ukraine is still limited, and women still face discrimination when looking for employment.

2 The Ministry of Health of Ukraine (MHU) retracted its ban on 483 professions for women, but the Labor Code of Ukraine still reflects sectoral norms, which regulate women's access to vocational training in these professions and to the vocational training system. In addition, Ukraine did not revoke ILO Convention 45 restricting women's employment in underground mines; and the section of MHU Order No256 on prohibiting women from this same kind of work remains in effect.

3 The parliament of the eighth convocation (November 2014–July 2019) registered three draft laws (10118, 10118-1, 10118-2) on combating and prevention of bullying at workplace (mobbing). These laws would obligate employers to combat and prevent mobbing and to take administrative responsibility for it.

4 The wages of workers in the feminized public sphere were below the national average: in education – UAH 8,035 (USD 297 or 78.5% of the average in the economy), in healthcare and social services – UAH 6,915 (USD 257 or 67.5% of the average in the economy). Among the most severely underpaid in Ukraine are medical nurses; more than 90% of these highly trained specialists are women, and their salaries are consistently at the subsistence minimum level.

5 Ukrainian legislation does not provide for effective protection of workers in case of violation of the norms regarding equal wages. One crucial problem is that close to 35 per cent of Ukraine's working men and women receive their wages (totally or partially) as an informal "envelope salary," complicating efforts to establish documentation and regulation of equal pay for work of equal value.

6 Women of reproductive age constantly experience discrimination based on assumed or expected pregnancy and family obligations.

7 The low level of state support during the maternity leave leads to the growing flexibilization of the women in the workforce – that is, the increase in the labor market of numbers of women working part time, remotely or from home, as well as in the informal economy.

8 The predominant majority of domestic workers are women. The national labor legislation does not regulate the labor of domestic workers. The only exception is the recent, launched in 2019, government program "Municipal Nanny", one of whose objectives is to regulate women's labor of childcare and make it official.

9 In most cases, labor relations between domestic workers and their employers are not officially registered. The invisibility of housework hinders its regulation. Domestic workers face a lot of problems: excessive working hours; considerable physical activity; exclusion from the healthcare services, lack of protection against dismissal in case of pregnancy and childbirth; «lack of representation» in collective bargaining, etc.

10 Women are subject to sexual harassment and other kinds of psychological violence in the workplace.

Building new partnerships in 2019



DocuClub at Labor Initiatives

In February 2019, Labor Initiatives opened its own chapter of DocuClub, a documentary film club featuring past collections of films that were part of the DocuDays UA International Human Rights Documentary Film Festival. DocuDays is a popular annual event in Ukraine. Between the festival dates, films from its collections are shown at DocuClub participating NGOs, including Labor Initiatives. Each film screening is accompanied by a brief discussion with LI experts and invited speakers as moderators, with a particular emphasis on the socio-economic aspects of the problems depicted through a documentary film lens.



Anticorruption work with IFES Ukraine

Labor Initiatives lawyers Veronika Rudkovska and Nadiia Yolkina were invited as speakers in a series of events organized by the International Foundation for Electoral Systems (IFES) in Dnipro, Zaporizhzhya, Khmelnytskyi, and Vinnytsia. They promoted the manual vykryvachi.trudovi.org that lists the existing legal protections for whistleblowers and discussed common issues that emerge of abuse of institutional resources during electoral campaigning.

Healthcare and education workers constituted the target audience for the events, as they are large employment sectors and historically have often been pressured to engage in election campaigning or to support certain candidates during parliamentary elections. More than 300 workers joined the events overall, with the highest turnout in Zaporizhzhya.



Ukrainian Trade Union Young Leaders Academy: a collaboration between FES-Ukraine, Labor Initiatives, and Solidarity Center in Ukraine

2019 has seen the first in-depth workshop of the Ukrainian Trade Union Leaders Academy, a master class from Prof. Dr. Hansjörg Herr, a retired professor for supranational integration at the Berlin School of Economics and Law, and an associate fellow of the Global Labor University.

The workshop was designed for a small group of select participants, union members and allied civil society activists. Prof. Dr. Herr explained the particularities and strategies of collective bargaining and minimum wages as wage setting mechanisms.

The Academy is intended to promote debates and collaboration between trade unionists and civil society activists on how to increase their impact on policy and decision making, to encourage broader cooperation between the unions and civil society organizations across Ukraine.



New avenues of work with ELSA Ukraine

The European Law Students' Association in Kyiv (ELSA Kyiv) opened a human rights department, first of its kind, through a voting process that involved ELSA student leaders. Veronika Rudkovska, lawyer at Labor Initiatives, was elected as head of the department of human rights.

The department is responsible for the development of informational campaigns and events on human rights topics. Beyond that, ELSA and the human rights department will host a mutual aid group, where students and lawyers with experience will share knowledge with their peers and those who are just entering the legal profession.

Labor Initiatives and Solidarity Center have supported and co-sponsored legal educational efforts on human rights, as well as moot court competitions with ELSA.

Labor Initiatives works with ELSA and supports the new annual ELSA anti-corruption moot court, and new tax law moot court. LI sees the emergence of a pro-bono and anti-poverty law culture among law students and faculty as a positive sign of the growing strength of civil society in Ukraine.



Veronika Rudkovska
lawyer at
Labor Initiatives



Kristina Petroniuk
President of ELSA
(the European Law Students
Association) Kyiv, and legal
intern at Labor Initiatives

"Competent experts in labor law and human rights are needed to build a culture of social dialogue in Ukraine, and improve the decaying situation with the fulfillment of workers' rights. A growing base of young lawyers passionate about human rights is crucial in building ground for a stronger democracy in Ukraine, and it is an honor to start a new avenue of work with young lawyers from all around Ukraine."

"I think universities often downplay the role of labor law as a component of legal education, and Labor Initiatives is filling an existing gap in demand, as there is significant interest in topics around economic fairness, with limited capacity of universities to meet the need in programs with a narrow focus."

Expanding collaborations with law faculty at the Taras Shevchenko National University in Kyiv

Labor Initiatives and Solidarity Center in Ukraine supported the international research conference on social security and European integration processes in Ukraine, held by the Center of European Social Law Studies, Taras Shevchenko National University in Kyiv. Solidarity Center Law and Policy Program officer Inna Kudinska and Labor Initiatives Legal Director George Sandul spoke at the conference, sharing data from the LI legal clinic and bringing to the fore the priority of pro-worker policies in ensuring sustainable economic development for Ukraine.

Additionally, more than 150 law students participated in the annual conference on current issues in legal theory and practice, organized by the Taras Shevchenko University. Tristan Masat, Solidarity Center Country Program Director in Ukraine, gave one of the keynote addresses at the conference, emphasizing the importance of labor law as a human rights law.



Tristan Masat
Solidarity Center Country
Program Director in Ukraine



Labor law deals with a central relationship in our lives, and it deals with one of inequality in power between employee and employer. It is best understood as a human rights law, more than one of economic issues. It protects people's livelihood from both public and private actors who would try to exploit or repress. After the constitution, labor law may well be the most important human rights law Ukraine has. //

Building an international network of lawyers assisting workers

The International Lawyers Assisting Workers (ILAW) Network held its inaugural conference on November 4-5, 2019, in Mexico City, Mexico. The conference brought together over 120 labor and human rights lawyers and academics from over 30 countries and from every region of the world. For many members, it was their first opportunity to meet other members in person and exchange ideas for the more effective representation of workers' rights and interests at the national, regional and international levels. Over two days, members participated in thematic and regional roundtable discussions and plenaries on a range of important issues.

Solidarity Center Legal Expert Inna Kudinska and Labor Initiatives Legal Director George Sandul became part of this network, represented Ukraine at the conference and talked about their work. They presented a unique legal case, where workers at a platform company were able to form a union by relying on a judgement from the UK to assist in their advocacy and solidarity campaign. This precedent in Ukraine is indicative of a worldwide need to have broad, universal, inclusive legal definition of employment that covers everyone and the accompanying set of rights that goes with such a definition.



This sort of definition would counteract the arguments often made by platform companies that those who use their platforms are not employees.

Additionally, LI experts presented their work on introducing the definition of mobbing. In 2019, the Verkhovna Rada of Ukraine registered draft law 10118-1, developed with participation of LI, which is meant to counteract instances of mobbing and harassment in the workplace. The draft law introduces the concept of mobbing into the legal discourse in Ukraine as “psychological and/or economic pressure, harassment, creation of unbearable conditions in order to compel an employee to quit their job or in order to create adverse consequences for an employee”. The draft law contains effective methods of prevention and counteraction of mobbing against such employees.

Equality Initiatives: promoting women's economic empowerment



Throughout 2019, it became abundantly clear that every policy issue in Ukraine is a women's rights issue. New legislation adopted on taxation, social security, land reform, anti-corruption policies, energy policies directly impact the amount of power women have in decision-making, in their personal choices, and in their work life. And the array of unresolved inequalities with regards to gender norms and their impact on workers' lives, is staggering .

Women in Ukraine face significant **discrimination** in the sphere of work, most commonly on the basis of women's reproductive function and the possibility that they may take a parental leave. Discrimination during hiring and firing on the basis of age, race, ability, HIV status, IDP status, gender identity and sexual orientation, and other identities, is rampant.

Stereotypes about women's role in the society deepen the **segregation** within the labor market—women are predominantly employed in lower-paying spheres, such as healthcare, education, postal service, and similar occupations.

According to the State Statistical Service of Ukraine, there are 25% more unemployed women than men, and the **gender pay gap** constitutes **up to 30%** depending on the sphere of work. In the years of Ukraine's independence women's average wages have never exceeded 79% of the average wage of men. As of now, Ukrainian laws do not account for violations regarding unequal pay for work of equal value. The only way to promote greater pay equality is through trade union organizations and their campaigns.

As **austerity** has aggravated poverty, women in rural areas, IDPs, and single mothers particularly have little access to decent jobs and adequate healthcare, and are struggling with digitalization of state services in the absence of equipment or experience with smartphones or computers.

With many industries on the decline, women are pushed to take any jobs available to make ends meet or supplement family income. Thus, the risk for abuse of their rights, mobbing, workplace harassment, and **violence**, increases.

Gender-based violence in the workplace is a pervasive issue. Every third female worker has encountered instances of malpractices in the workplace that can be qualified as mobbing and/or harassment. This includes targeted unreasonable workload, creation of impediments in the workflow, open aggression and hostility on part of colleagues or management, unreasonable reprimands or threat of reprimands, rumors and psychological pressure, as well as social isolation and neglect.

Ukraine is lagging behind in provision of an adequate **care infrastructure**, especially in rural areas. Parental leave is not distributed between the parents, and there isn't sufficient legislative basis to support fathers' parental leave. **Work-life balance** can be for women who are juggling employment and parenting duties. Care work is vastly underpaid or unpaid, and is not considered 'work' as such.

The situation with women's rights is exacerbated by the extent of informal economy in Ukraine and the lack of data on the issue. Women are pushed into informal employment more often than men, in part due to employers' preferences for child-free workers with minimal possibility of going on parental leave.

Given these issues, Labor Initiatives strives to make it clear that the fulfillment of women's rights is at the core of progress for Ukraine. And unions have a crucial role to play in calling out discriminatory practices in the workplace, responding to oppressive policies and situations. Labor Initiatives, in partnership with major union organizations, conducts public education events, trainings, awareness campaigns, and advocacy, contributing to the discourse on the role of women's empowerment as a catalyst for greater equality.

Prevention of bullying in the workplace (mobbing) in the public service sector



Labor Initiatives and the Civil Servants' Union of Ukraine organized a seminar on the prevention of mobbing, and discussed existing union mechanisms of workers' protection against harassment in the workplace. In Ukraine, the instances of groups of people targeting a coworker for isolation, humiliation, or aggression, have been recorded, and the public conversation on negative aspects of workplace culture has only recently picked up the pace.

During the seminar, held in Vinnytsia, members of the youth council of the Civil Servants' Union received recommendations from Labor Initiative expert Inna Kudinska, who talked about the types of mobbing, possible instances of mobbing in civil service settings and labor relations, and the factors of its prevention. According to Ms. Kudinska, unions play the unique role of a shield protecting workers targeted for their activism—elected union officials have the protection against being fired without union's consent, for example. Public education approach is crucial to equip workers with knowledge against all types of psychological or economic pressure meant to create unbearable working conditions.

Women Changing the World events series

In celebration of International Women's Day, Labor Initiatives held a series of public events on women championing grassroots movements in Ukraine.



Event #1:
Women Against Corruption

Corruption in the private and public sectors of the economy has long been identified as one of the most significant development challenges in Ukraine. And women, a group that thus far holds significantly less economic and executive power in the society, are forced into positions of vulnerability relative to corrupt officials and employers. As the ones more likely to witness and report corruption, women also tend to be effective in thwarting corrupt practices. Hanna Herasymenko and Anna Ivantsyk, the two speakers for the event, presented two avenues of work for anti-corruption activists: advocacy through research, and grassroots organizing.



Event #2:
Women Changing Kyiv

Kyiv is notorious for its lack of accessibility, especially to young parents commuting from suburban residential communities not well served by the metro system. Olha Myrtsalo, the speaker for this event, and a Facebook-community she co-founded help change Kyiv's infrastructure in favor of parents with young kids. The 'Parent-Friendly Kyiv' community promotes need-sensitive social policies that facilitate easier parenthood. Over the five years of its existence, the community gained over 3000 members and has partnered with hundreds of restaurants, museums, and public spaces in Kyiv to provide amenities necessary for young children.



Event #3: **Women in Charge of Trade Union Organizing**

Two women leaders of the trade union movement, Nataliya Levytska and Nataliya Zelena, spoke at the event.

Ms. Levytska is the Deputy Chair of KVPU (the Confederation of Free Trade Unions of Ukraine), as well as Chair of the union Committee on gender issues and women's rights. She also holds a leadership position with the PERC ITUC (Pan-European Regional Council of the International Trade Union Confederation) Women's Committee.

And Ms. Zelena, who's a leader an activist of the NPGU (Independent Miners' Union that's part of KVPU), chairs the local Women's Committee at the Bilozerska Mine and is a legacy NPGU activist – and is a co-coordinator of Labor Initiatives-Donbas.

The two union leaders shared stories of struggle and success in growing union presence at Ukrainian enterprises.



Valeriya Oshevska-Vokhmyanina
event manager
at Labor Initiatives



This year, our annual series of International Women's Day events was especially successful. I am pleased to see the upsurge of popular interest in feminism in Ukraine – it has definitely become part of the mainstream, more of a cultural norm. //

Discussing Workers' Rights of Women in Kramatorsk



Kramatorsk community activists organized a full-day intensive training on women's movement and workers' rights.

The free intensive was offered to 25 women aged 15-35, hailing from Kramatorsk and the region. Few events of the kind were held in Kramatorsk, and even fewer addressed Ukraine's labor legislation from the workers' perspective. However, the topic proved to be in high demand. Inna Kudinska detailed the nuances, tips, and tactics helpful in combatting bad practices in the workplace. She briefed the audience on legislation relevant to key steps in the employment process – job interviews, hiring, vacations, parental leave, job transfers, firing.

With the coal and machine building industries on the decline, women in Kramatorsk are pushed to take any jobs available to make ends meet or supplement family income. Although jobs in underground mines are still exclusive, many women work in support positions at the mines, often overworked and underpaid, even more so than men working underground. And when women's rights are violated, they are less likely than men to resort to lawsuits, pushed back by low rate of success, high cost of legal support, and the power imbalance between individual workers and enterprise managers.



**Efforts to eradicate violence
in the world of work:
advocacy for the adoption
of ILO Convention N°190**

At the end of 2019, The Confederation of Free Trade Unions of Ukraine (KVPU) and Labor Initiatives launched an informational and advocacy campaign, supported by the Solidarity Center, against violence and harassment in the sphere of work in Ukraine. Campaign participants began advocacy for the ratification of the newly adopted ILO Convention N°190 (Eliminating Violence and Harassment in the World of Work Convention) by Ukraine, thus paving the way for better protection of workers, and the promotion of a violence-free work culture and work environment.

Violence and harassment at work and in work-related contexts in Ukraine is a prevalent issue, yet the scope of the problem is difficult to define due to insufficient reporting mechanisms. As in other countries, GBV affects persons of all genders, and any worker in Ukraine is at risk, yet women and the LGBT+ community are disproportionately affected. Lack of legislative and institutional protection of persons who have experienced violence prevents public disclosure or public discourse about the issue.

Beyond immediate health, social, and economic consequences for persons experiencing GBV in the workplace, instances of violence harm organizations and companies, and undermine economic progress. While the full cost of violence in the workplace is unknown, violence against women directly costs Ukraine at least 4 million U.S. dollars a year, according to mathematical modeling research conducted by the UNFPA in 2017.

Based on the information from lawyers assisting workers at the Labor Initiatives legal clinic, women who have experienced harassment or psychological pressure at work may share their stories in confidence, yet hesitate to take legal action against perpetrators. And in most cases, instances of economic violence and psychological pressure, bullying or mobbing are not recognized as such during litigation, and are classified as general violations of labor law.



Svitlana Iukhymovych
Communications Officer,
Labor Initiatives



We are at the very beginning of a serious nationwide conversation about gender-based-violence – there's a lack of data about incidence of violence and harassment in the workplace, and so we can only estimate the scope of the problem. In the absence of legal mechanisms of protection, publicity and awareness campaigns become important tools for changing the public discourse, amplifying the voices of survivors, making sure they are heard, so that policymakers realize the gravity of these issues.





In Solidarity
Against Corruption



Solidarity Against Corruption is a coalition effort by Ukrainian civil society and trade unions to overcome corruption and to educate on the importance of freedom of association in this struggle. It is also an international platform for concerted anticorruption discourse that unites civil society organizations in Moldova, Serbia, Kyrgyzstan, Georgia, Albania, North Macedonia, USA, and the countries of the Middle East and North Africa.

In Ukraine, coalition activities are primarily represented through the Vykryvachi project, coordinated by NGO Labor Initiatives, and supported by Solidarity Center in Ukraine.

The online resource [Vykryvachi.trudovi.org](https://vykryvachi.trudovi.org) explains the potential role of trade unions as vehicles for the protection of whistleblowers in the workplace, through collective bargaining mechanisms, the right to strike, and international norms that protect workplace activism. The Vykryvachi project conjoins the efforts of individual activists, whistleblowers, and civil society organizations supporting whistleblowers and building a culture of transparency in Ukraine and the region.

In 2019, the scope of SAC activities became broader and internationalized, a Kyrgyz version of the whistleblowers' protection manual was released, and successful cases of freedom of association as an anti-corruption tool in Ukraine were documented in a separate publication. Read more about SAC activities at solidarityac.info



Tristan Masat
Solidarity Center Country
Program Director in Ukraine



As employees, with unique knowledge and access, and as members of professional associations, activist trade unions, and expert community groups, workers have a unique position in the fight for greater transparency. The protection of whistleblowers is crucial, and dedicated whistleblower protection laws are important, but more often protecting anti-corruption activists through freedom of association and labor law is the vital first step. //

Major win in 2019: law on the protection of whistleblowers is adopted



Draft law No.1010, "On the protection of whistleblowers," which was adopted in October, was signed by the President of Ukraine, and it will officially be in effect starting January 1, 2020. Labor Initiatives and Solidarity Center experts contributed to the law in the form of proposals during several coordination meetings that were organized by The Support to Anti-Corruption Champion Institutions Project (SACCI). First of all, LI emphasized the necessity to broaden the labor protections of whistleblowers.

The law provides a separate article on whistleblowers' labor rights, in particular: protection from retaliation in the form of dismissal or force to dismiss, application of negative measures by the manager or employer, transfer to another low paid job etc.

Article 53-7. Protection of labor rights

- 1** The whistleblower or his close relatives or the person equal to the whistleblower cannot be denied employment, dismissed or forced to dismiss, brought to disciplinary responsibility or subjected to negative measures by the manager or employer (transfer, attestation, changing working conditions, refusal of appointment to a higher position, reduction of wages, worsening working conditions, refusal to grant a vacation, removal from post, loss of possibility of promotion, other punishments or discrimination forms of treatment, bringing to material liability) or the threat of such measures due notice of possible facts of corruption or corruption-related offenses and other violations of this law.
Negative measures also include formally legitimate decisions and actions of a manager or employer, but which are selective, in particular, not applied to other employees in similar situations and / or not previously applied to the employee in similar situations.
- 2** In case of non-fulfillment of the work duties, if it is not the fault of the employee who is a whistleblower, the remuneration shall be paid in the amount of the average salary of the employee for the last year.
- 3** The whistleblower or a person equal to the whistleblower may not be denied the conclusion or extension of the contract, employment agreement (contract), provision of administrative and other services in connection with notification of possible corruption or corruption-related offenses, other violations of this Law. It's prohibited to use such obstacles in the further realization of work, professional, economic, social, scientific or other activities, undergoing their service or training, to those persons as well as any discriminatory measures in connection with notifications of possible corruption or related facts with corruption offenses, other violations of this Law.

- 4** In case of non-fulfillment of the work duties, if it is not the fault of the employee who is a whistleblower, the remuneration shall be paid in the amount of the average salary of the employee for the last year.
- 5** The whistleblower or his close relatives, who are dismissed from work in connection with the notification of possible facts of corruption or corruption-related offenses, other violations of this Law are subject to immediate renewal at their previous job (position), and they are paid an average salary during forced absenteeism, but not more than one year. If the application for renewal of the defendant or his / her close relative at work is considered for more than one year, if it is not their fault, he / she is paid the average salary for all the time of forced absence.
- 6** The whistleblower or his close relatives, transferred to other permanent paid work in connection with the notification of possible facts of corruption or corruption-related offenses, other violations of this Law, are subject to immediate renewal at the previous work, and he shall be paid the difference in salary for the period of paid work, but not more than one year. If the application for renewal of the defendant or his / her close relative at work is considered for more than one year, if it is not his fault, he / she is paid the average salary for all the time of forced absence.
- 7** If there are grounds for the renewal of an employee who has been dismissed in connection with the notification of possible facts of corruption or corruption-related offenses, other violations of this Law and for his refusal from such renewal, he shall be paid compensation in the amount of six months' average salary, and in case of failure to renew – in the amount of two years' average salary.

Story of success: Hanna Solomatina exposing corruption at NAPC

Hanna Solomatina's story has gained national and international attention. In 2017, she worked as head of Ukraine's National Agency for Corruption Prevention's (NAPC) Financial Control and Lifestyle Monitoring Department (the National Agency for Corruption Prevention is responsible for the wealth disclosure and declarations of public officials in Ukraine). She reported corruption at NAPC and later was fired, allegedly in retaliation for her public stance on corruption. On December 7th, 2018, the Kyiv Administrative District Court rejected her lawsuit, and she wasn't reinstated at her previous position. Lawyers of NGO Labor Initiatives worked on the case and helped her grapple with persecution at her workplace. Yet the case is still ongoing, as is the media conversation about NAPC's functionality.

It was Ms. Solomatina who first drew public attention to concerns with the NAPC and proposed to alter its structure. Only about 300 declarations were monitored by the agency, and at this pace, it would take NAPC 3,600 years to work through all of the declarations stored in its registries. According to Solomatina, a massive overhaul of NAPC is the only route to restore its credibility.



While it is unclear whether Solomatina will succeed at getting her job back, she has developed a notable activist profile, advocating for better protection of whistleblowers and raising awareness about ways to expose corruption in the workplace.

In December 2018, Kyiv Post named Hanna Solomatina one of the top-five reformers of the year, alongside whistleblowers and changemakers Larysa Golnyk, Kateryna Gandziuk, Halya Chyzyk, and Sergii Gorbatuk.

Labor Initiatives legal clinic supporting workers who battle corruption



Labor Initiatives anti-corruption information hub and legal clinic offers comprehensive legal support in labor-related cases, and specifically in corruption-related cases reported by workers. On average, Labor Initiatives supports more than 120 individuals and union representatives a month. The pro bono legal work at the legal clinic is motivated by the need for accessible legal services for workers whose rights are abused by employers or who need support in their union-based efforts to combat bad employment practices, including abuse of powers.

Corruption in the public and private sector constitutes one of the top issues for individual consultations at the Labor Initiatives legal clinic.



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