

## Human Rights and the Freedom of Association in Eastern Europe: The Challenges of Zhanaozen and the Hopes of the Maidan<sup>1</sup>

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*The outcome of the current confrontation between Ukraine and Russia is yet unclear, but already it has become evident that the social and economic system of the region's two largest countries will change. This article is about emerging threats and opportunities in the area of labour relations in terms of workers' ability to realize their collective rights.*

### Post-Soviet Legal Context

Workers' right to organise and bargain collectively has been recognised by the United Nations as fundamental and is enshrined in the Universal Declaration of Human Rights. These are the rights that empower any worker to participate in economy and ensure a balanced distribution of profit created by labour. Recognition of these rights is one of the main features that make a modern civilised state distinct from despotic, authoritarian and totalitarian regimes.

The Eastern European nations of the former Soviet Union are going through a painful and paradoxical transformation. The Soviet system of labour relations did formally recognise the right to organise freely and bargain collectively, although these rights were never realised in practice. Trade unions were a built-in part of the State machinery, dealing with the distribution of social benefits and workers' edification in the spirit of love for the leaders of the one and only ruling political party.

In 1991 the Soviet regime collapsed, yet the new states that were formed within its borders inherited the paternalistic labour legislation of the Soviet Union. The difference was that now these rights and freedoms could be used by workers. Of course, employers did not rush to hand them to workers, but showing a certain degree of determination did win the workers of many private and public enterprises the ability to organise themselves and collectively put forward and defend their demands.

### Trade Unions and Centralisation of Power

Following a relatively short period of political freedom, practically all countries of Eastern Europe embarked on a process of restoring authoritarian rule. Centralisation of power became the domestic policy's dominant theme in Belarus, Turkmenistan, Kazakhstan, Tajikistan, Uzbekistan, and Russia. Yet against the backdrop of constraining the freedom of the press, turning parliaments into oligarchical clubs controlled by national presidents, and persecuting political opponents, the authorities seemingly forgot about labour rights and their curtailment was gradual.

This can be explained by social apathy. Sociological surveys of the 1990s and the first decade of the 21<sup>st</sup> century showed a low level of confidence in trade unions, people's belief that collective actions got you nowhere. The 1990s saw a lot of individual

forms of protest, and the most popular form of collective action was a hunger strike. Against this background, the few wildcat strikes that occasionally flared up did not cause the authorities or employers any major concern.

During this period, the labour movement was quite amorphous, yet the overall vector of "tightening the nuts" was becoming evident and in a number of countries the authorities were making attempts to bring the unions back under the State's control – such attempts were relatively successful in Azerbaijan, Moldova and Belarus. However, in Russia, Georgia and Kazakhstan the authorities' endeavours to secure trade unions in their "traditional" place as a drive belt of the state were met with both passive and active resistance.

### The Awakening of the Working Class

In those countries where the State recognised trade unions' independence, the movement of workers became more active, protests acquired an organised form. This process became evident in 2008 with the wage strike of the Ford plant workers in Saint-Petersburg as the first example of a classic confrontation of labour and transnational capital. The workers proved themselves to be highly organised and won a victory, and a wave of industrial actions with similar demands rolled across Russia, showing that labour movement in the country was being reborn.

Now the situation was getting serious, and the authorities reacted promptly. This response was in no major way different from their reaction to any other manifestations of civil activism: repressions against worker activists, legal constraints limiting trade union rights and freedoms, and attempts to buy over the more active unions.

Valentin Urusov, a trade union organiser working at the diamond company Alrosa, was thrown in jail for trying to set up a workplace union. Later, a local court in the region of Tver' recognised the contents of trade union leaflets as extremist, with a single decision virtually outlawing all trade union agitation activities. Courts would automatically recognise strikes as illegal. In Moldova, the authorities tried to arrest five workers of the sugar processing plant in Gloden' for organising an action whose participants demanded to be paid six months' wages they were owed by the company. In Kazakhstan, courts began applying the Penal Code article of "inciting social discord" to all who dared put forward social demands. The fly-wheel of repressions was gaining momentum in all countries at once. This process culminated in the town of Zhanaozen, Eastern Kazakhstan.

## The Zhanaozen Massacre

In December 2011, the Kazakh authorities resorted to the use of firearms to crash a strike at the oil fields of the Mangistau region. The labour dispute that lasted for many months and rallied up over 20,000 workers at its peak ended up in a tragedy. Sixteen protesters were shot dead, over 100 were wounded. This to stop the development of the labour movement and put an end to its spreading influence.

For seven months the striking workers were showing discipline and determination, they were ready to take risks and were united, setting an example to workers in other industries and countries. During all those months, the authorities and the KazMunaiGaz corporation refused to negotiate with the strikers, yet after the shooting the authorities tried to shift the blame for the tragedy to the workers themselves. Thirty-seven people were accused of organising mass riots and fomenting social strife.

The Zhanaozen massacre of 2011 became the crucial point in time. Before, trade unions had to face diverse methods of oppression and legal constraints, but the authorities had never dared fire at workers. Using firearms against peaceful protesters has dramatically changed the whole context in which the struggle for labour rights continues today; from that time on, even the most ruthless acts of authorities and employers to suppress workers' actions have become morally legitimate.

### Trade Unions and Human Rights Organisations: The Need to Cooperate

We are dealing with branding labour protests as criminal, taking those protests out of the scope of labour law and transferring them to the category of capital crimes. This forces trade union activists and advocacy organisations to cooperate. While in the past trade union lawyers would specialise in collective and individual labour disputes defined by labour code, these days trade unions often find they need experts in criminal law.

The latest example of this was the arrest of three trade union leaders of the Sheremetevo Trade Union of Airline Pilots (ShPLS) in December 2013. A false criminal case was built against them by the management of Aeroflot after the union forced the company to pay pilots USD33-million as compensation for hazardous working conditions and taxing flight schedules. Now Alexei Shlyapnikov, Valerii Pimoshenko and Sergei Knyshov face a possible sentence of 10 years behind bars.

Kazakhstan continues to develop its repressive labour legislation. The parliament considers bills that limit general civil liberties, the right of peaceful assembly, marches, the freedom of expression. The new law on trade unions prohibits activities of any organisation that does not have a nationwide status. In these circumstances the Confederation of Free Trade Unions of Kazakhstan and a whole range of advocacy organisations supported by their international associations are jointly trying to defend the last civil liberties.

## The Maidan Expectations

The policy of curtailing workers' rights relentlessly pursued by the state authorities in the region is dangerous. It rules out any possibility of peaceful and legitimate protests, which will inevitably lead to greater corruption, social stratification and inequalities, tension, and aggression. Interestingly, the Maidan civil movement in Ukraine can contribute to reversing this trend in the region.

In December 2013 the streets of downtown Kiev were flooded with thousands of people protesting against corruption and the dismantling of civil liberties. The regime met the public protests with violence, but the violence backfired creating and even greater wave of outrage that forced President Yanukovich to flee the country. This wave of protests was saddled by right-wing liberal politicians counting on support from the International Monetary Fund (IMF) and World Bank programmes; it has raised them to power and the new authorities are evidently planning to go further down the road of cutting social spendings.

On the other hand, the Maidan has created a new reality where the authorities are to a greater extent accountable to and controlled by society. And the society is convinced that the goal of the Maidan movement has always been to restore social justice. Now there is hope that having deposed a corrupt government through mass mobilisation on unprecedented scale, the Ukrainian people will be silent no more and continue to actively defend democratic and social demands against any attempt of the government to stray into an antisocial course of action.

A rational and correct next step for any Kiev powers that may be would be to create conditions for free unionisation of workers so that they could participate in the system of labour relations on a par with employers, with the government being but an arbiter. And such a precedent in the region could well be a realistic alternative to the authoritarian system and an inspiration to workers in the neighboring countries.

<sup>1</sup> First published by the French League of Human Rights in the "Lettre des droits de l'Homme en Europe centrale et orientale", n° 11, May/June 2014 ([http://www.ldh-france.org/IMG/pdf/lettre\\_ldh\\_europe\\_centrale\\_et\\_orientale\\_n11.pdf.pdf](http://www.ldh-france.org/IMG/pdf/lettre_ldh_europe_centrale_et_orientale_n11.pdf.pdf)).

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