

FUNDAMENTAL LABOUR RIGHTS OF CREATIVE WORKERS (ARTISTS) IN UKRAINE'S ADVERTISING INDUSTRY

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Ukraine's contemporary cultural patrimony comprises, inter alia, works of world significance created by Ukrainian artists at successive stages in the formation of Ukrainian statehood, including the period of Ukraine's incorporation into the former Union of Soviet Socialist Republics. In this context, scholars note that even in the Soviet era, alongside conformist creators there laboured principled artists of "outstanding cultural potential" who remained committed to the search for truth and upheld exacting moral, ethical, and artistic ideals [1, p. 172]. Ukraine's cultural wealth continues to grow; conceptually and institutionally, the country has moved beyond the post-Soviet cultural space and has become an integral part of contemporary European civilisation. In the context of ongoing resistance to armed aggression and efforts to address its consequences, the preservation of Ukrainian culture and art (and the strengthening of social protection for workers in these fields) has become especially urgent. Through their work, such professionals cultivate and affirm Ukrainian cultural identity and help to shield it from hybrid threats emanating from the aggressor state, as well as from the challenges of globalisation; they also contribute to the creation of a global public good that underpins the sustainable development of humanity.

As noted above, creative workers (artists) in Ukraine's advertising industry constitute one of the most socially vulnerable categories of labour. This vulnerability stems, first, from deficits in state protection of their labour rights, notwithstanding the contemporary State's priority obligation to secure those rights and align them with international legal standards [2, p. 32]. It also arises from the distinctive hazards of creative work – from task-specific risks (for example, stunt performance) to the political salience of cultural production. In many jurisdictions, artists are exposed to direct or indirect censorship [3, p. 47] and to the spread of hate ideology; in 2021 alone, 1,200 attacks on creative workers worldwide were recorded, infringing their fundamental freedoms of expression and thought [4, p. 4]. Moreover, access to creative professions is frequently constrained where the State's social function in the fields of labour and employment is underdeveloped for creative workers; in such circumstances the State simultaneously impedes the freedom of labour and the freedom of creativity by failing to secure the conditions in which creative work can be pursued on equal and secure terms.

A sustained solution requires regulatory consolidation (taking due account of UNESCO's Recommendation concerning the Status of the Artist and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions) within Ukrainian labour legislation. In particular, the law should recognise all creative workers as a professional group comprising persons of working age with employee status; elaborate a coherent set of defining characteristics that would permit the consistent and systematic guarantee of their socially secure existence, including their genuine capacity to acquire, exercise, and vindicate labour rights through judicial and non-judicial remedies; and codify a system of labour rights specific to creative workers in advertising industry. As an integral component of their special labour status, these rights are heterogeneous and must be structured in accordance with the principle of unity and differentiation of workers' rights. In this sense, the "system of labour rights of creative workers in advertising industry" denotes the ensemble of entitlements available to employees within labour relations (calibrated to the particularities of creative activity) that make a socially safe working life realisable, impose correlative duties on employers, and, concurrently, engage the State and society in supervisory and protective functions to secure effective redress. This system necessarily includes both the general rights enjoyed by all employees and special rights that reflect the distinctive features of creative work in advertising industry; as in other sectors, there may also be targeted rights conferring additional protection on vulnerable groups of creative workers in advertising industry.

Focusing on the basic labour rights of creative workers in the advertising industry, this study treats the "general" rights guaranteed by Ukrainian labour law as the baseline against which any sector-specific guarantees must be built. At a minimum, creative workers are entitled to conclude, vary, and terminate an employment contract in accordance with statutory procedure; to receive accurate information about their working conditions, duties, modalities of performance, and occupational-safety requirements; and to be assigned only those tasks stipulated by the contract while being provided with the work specified therein. They enjoy the right to timely, fair, and full remuneration (wages), including pay for downtime not attributable to the employee; the right to rest (embracing weekly days off and public holidays, annual paid leave and other statutory leave, normal limits on working time, and reduced hours for designated categories) and the right to a healthy psychosocial working environment. Correlatively, employers must ensure safe and healthy working conditions in line with state regulatory requirements on occupational safety and health, and must provide, at their own expense, certified collective and personal protective equipment together with appropriate washing and neutralising agents that have passed conformity assessment. Creative workers are covered by compulsory state social insurance against industrial accidents and occupational diseases; they retain the right to self-defence of labour rights, including refusal to work where breaches of safety rules pose a danger to life or health until the hazard is removed (save where the laws of Ukraine

expressly provide otherwise); and they may seek protection and redress through representative bodies (notably trade unions and creative unions), the courts, the State Labour Service of Ukraine, and the Commissioner of the Verkhovna Rada of Ukraine for Human Rights. They also hold the right to compensation for material harm arising from the performance of work duties and to compensation for non-pecuniary (moral) damage. Finally, freedom of association secures professional solidarity: creative workers may freely form and join trade unions and creative unions, hold office within them, and participate in collective bargaining to protect their legitimate social and labour interests.

In sum, a comprehensive analysis of the general (baseline) labour rights of creative workers (artists) in the advertising sector shows that this corpus comprises rights entrenched in the Constitution of Ukraine, the Labour Code of Ukraine, and other instruments of national labour legislation, read alongside the State's international human-rights obligations in the fields of labour and employment. These rights accrue equally to all persons working under an employment contract and form the normative foundation upon which the entire system of labour guarantees is constructed. Taken together, they operationalise the State's duty to secure equal and socially secure conditions for creative work in advertising, impose correlative obligations on employers, and activate supervisory and remedial mechanisms capable of vindicating workers' rights in both judicial and non-judicial forums.

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