

ПРОФЕСІЙНА СПІЛКА РОБІТНИКІВ  
МОРСЬКОГО ТРАНСПОРТУ УКРАЇНИ

MARINE TRANSPORT WORKERS'  
TRADE UNION OF UKRAINE



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MTWTU Official Position on letters restricting seafarer's rights

***To whom it may concern!***

In connection with the numerous appeals of Ukrainian seafarers, the Marine Transport Workers' Trade Union of Ukraine (MTWTU) considers it necessary to express its official position regarding the rights of seafarers, based on provisions of international legal instruments and standard ITF/IBF agreements, due to demands of some shipowners to sign letters implementing the restriction of freedom of expression and consent to call at the ports of Russia.

**1.Re.ban on political conversations on board**

According to the number of international and regional treaties on human rights issues, a natural person has guaranteed freedom of expression.

As is it prescribed by the United Nations Universal Declaration of Human Rights, Article 19:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Moreover, the International Covenant of Civil and Political Rights in Article 19, para. 2 states the following:

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

As to the para. 3 of the Article 19 of ICCPR, certain restrictions may be imposed on the exercise of freedom of expression but these shall only be such as are provided by law.

In its General Comment No. 10: Freedom of expression (Art. 19): 29/06/1983.CCPR General Comment No. 10. (General Comments) Office of the United Nations High Commissioner for Human Rights stresses the following:



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..the exercise of the right to freedom of expression carries with it special duties and responsibilities and for this reason certain restrictions on the right are permitted... However, when a State party imposes certain restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself. Paragraph 3 lays down conditions and it is only subject to these conditions that restrictions may be imposed: the restrictions must be "provided by law"; they may only be imposed for one of the purposes set out in subparagraphs (a) and (b) of paragraph 3; and they must be justified as being "necessary" for that State party for one of those purposes.

Freedom of opinion and expression is a fundamental human right and the employing company has no right to restrict seafarers from exercising such a right.

## 2.Re. vessel is calling Russian port

ILO Convention 155, the Occupational Safety and Health Convention (1981) in Article 13 prescribes that:

“A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice.”

Thus, a Ukrainian seafarer has a right to terminate his employment contract in case the vessel will follow Russian ports and his/her life and safety will be threatened.

Seafarers cannot waive their right to work safely, regulated by international standards, such waiver will be considered null and void.

Apart from this, all these restrictions can cause sufficient harm to seafarers: feeling the pressure by a willingness to have a job, such a practice will have a huge impact to the seafarer's health and psychological harm, thereby it will lead to the breach of Violence and Harassment Convention, 2019 (No. 190) as:

“(a) the term “violence and harassment” in the world of work refers to a range of unacceptable behaviors and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment;”.



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Also, please take into consideration, the International Labour Conference also decided to designate the Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) as fundamental Conventions, in line with its decision to recognize the right to a safe and healthy working environment as one of the fundamental principles and rights at work.

We believe that such undertaking by which a seafarer is limited in the refusal to enter certain ports of call will have a strong impact on the health state of seafarers and will not ensure the realization of fundamental ILO principles and values, especially concerning the fundamental right to a safe and healthy working environment, promotion of decent work.

### 3. Re. Provisions of CBAs

Please be informed that ITF/IBF CBA contains the clause - Waivers&Assignments, providing that the Company undertakes not to demand or request any Seafarer to enter into any documents whereby, by way of waiver or assignment or otherwise, the Seafarer agrees or promises to accept variations to the terms of this Agreement or return to the Company, their servants or agents any wages (including backwages) or other emoluments due or become due to the Seafarer under this Agreement and the Company agrees that any such document already in existence shall be null and void and of no legal effect.



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