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Міжнародною організацією праці

EU-ILO Project

“Towards safe, healthy and declared work in Ukraine”



MOVING FORWARD
TOGETHER

Project is funded by European Union

Occupational Safety & Health (OSH)

Online training series
International and EU Labour Standards

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▶ Work death's paradox

- ▶ Work purposes: mean of subsistence, individual dignity, personal fulfilment and self-esteem, social cohesion, stability, peace and economic growth
- ▶ Work kills more people than wars. From a global workforce of around 2.84 billion, annually:
 - between 350 and 360 thousand people die (in about 270 million accidents)
 - about 2 million dies to occupational diseases
- ▶ In Ukraine, the incidence rate of fatal work-related accidents is almost the triple of the average in EU countries

► Main consequences of occupational accidents and diseases

- Devastating consequences for their victims and families at human level (e.g. death, injuries, disabilities, decreased quality of life, pain, sorrow, suffering and self-esteem issues) and financial level (e.g. loss of earnings and earning capacity)
- High direct and indirect costs to employers and States, whose value can reach up to 4% of Gross National Product (GNP):
 - **direct costs:** health and emergency services costs; social security benefits; insurance premiums and compensation; victims' rehabilitation and reintegration costs; costs of repairing damages in plant, machinery, equipment, raw materials; costs arising from possible civil and criminal liability, etc.
 - **indirect costs:** loss of tax revenue and social security contributions; reputational and image damages; costs with recruitment and training of replacements; increased demotivation, absenteeism and presentism of victims' colleagues; reduction of production capacity and productivity; impact on goods and services quality and delivery times; diseconomies of scale and experience; opportunity costs; inspection and investigation costs; administrative costs, etc.

► More relevant OSH challenges in Ukraine

- Downstream approach to OSH, focused on protection (rather than on prevention) and with a silo-oriented approach (safety vs hygiene), instead of a more holistic approach (safety and health)
- Too detailed, complex and outdated OSH legal framework, with an excessive number of laws/regulations, some of which contradictory
- Contra productive legal provisions (e.g., higher wages and additional benefits for workers engaged in heavy work, work with harmful or hazardous working conditions; employers have to spend at least 0.5 % of the wage fund of the previous year on OSH activities and measures, etc.)
- National statistics on occupational accidents and diseases are unreliable and present inconsistencies and high levels of underreporting

► More relevant OSH challenges in Ukraine

► National OSH legislation DOES NOT:

- provide for the employers' non-transferable responsibility for ensuring the safety and health of workers in every aspects related to work
- apply neither to all employers nor to all workers
- foresee the employers' obligation to take, and continually adjust to changing circumstances, the necessary measures to ensure the safety and health of workers (with strict observance of the sequential and hierarchical GPP), including:
 - ✓ assessment and prevention of occupational risks
 - ✓ consultation and participation of workers
 - ✓ provision of information, training and the necessary organization and means
 - ✓ worker's health surveillance

► More relevant OSH challenges in Ukraine

Labour inspection system is ineffective in promoting and enforcing OSH due to:

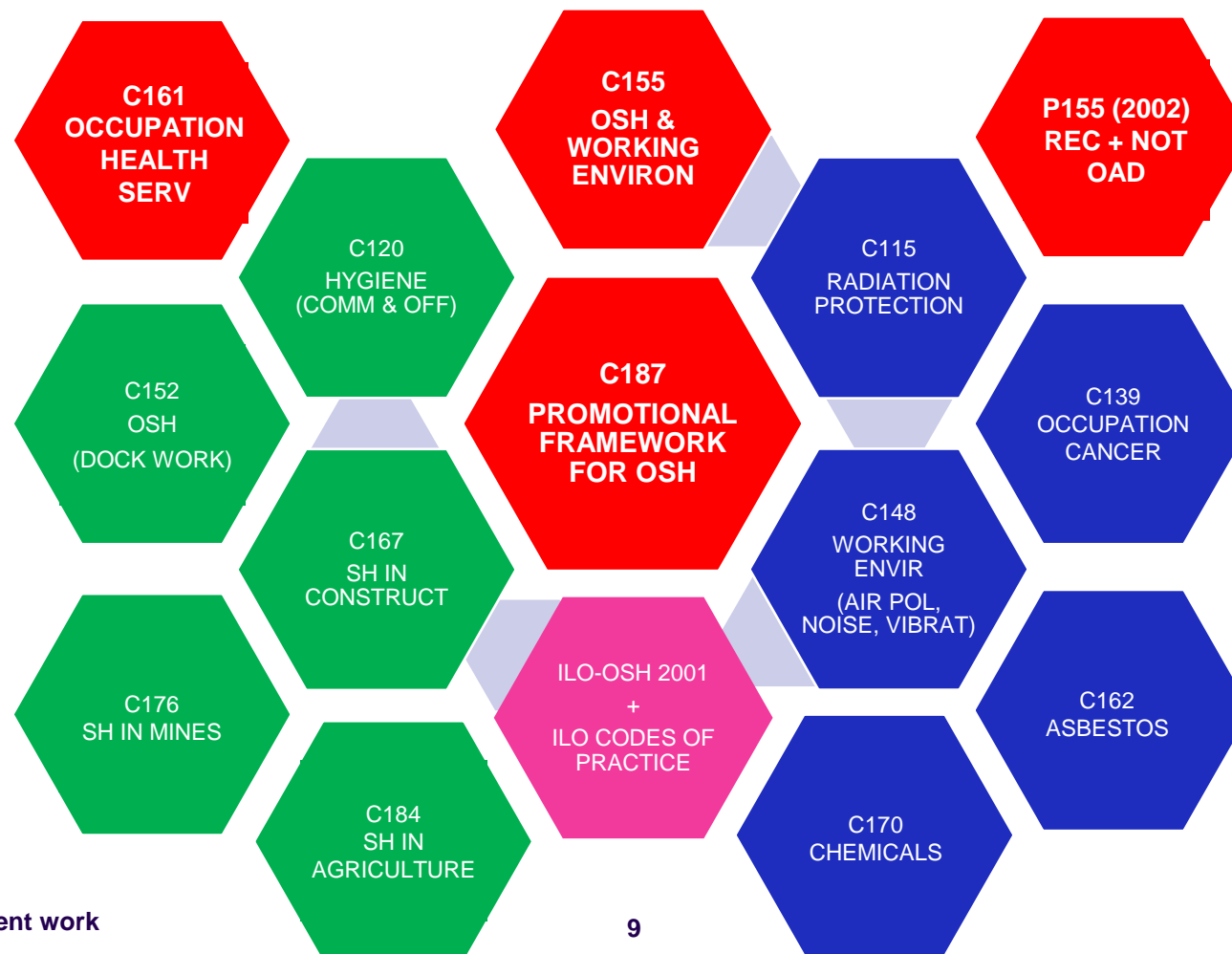
- Lack of powers of labour inspectors to discharge their duties – they cannot, for example:
 - perform inspection visits at any time of the day or night to any workplace without prior notice
 - perform inspection visits when the employer or his representative is not present
 - perform inspection visits without prior issuance of the respective order, emission of the correspondent certificate and register of the inspection visit on the information system
 - widen the inspection visit scope beyond the authorization included in such documents, or duration of the inspection visit, even when the facts seen at the workplace justify it
 - make inspection visits with the duration, frequency and depth which they understand as necessary
 - impose sanctions regarding infractions, if the employer, once notified, corrects the infringements
 - promote and enforce compliance of unregistered employers (which usually show higher non-compliance)
 - suspend works, even in the event of serious and imminent danger to the health, safety, or life of workers

► More relevant OSH challenges in Ukraine

Labour inspection system is ineffective in promoting and enforcing OSH due to:

- Recurrent imposition of moratoria to inspection visits
- Very wide mandate of the SLS, which compromise the discharge of labour inspection primary duties and prejudice the authority and impartiality of labour inspectors
- Insufficient inception and continuous training of labour inspectors
- Inadequate working conditions and insufficient means of labour inspectors to perform their duties

International OSH legal framework



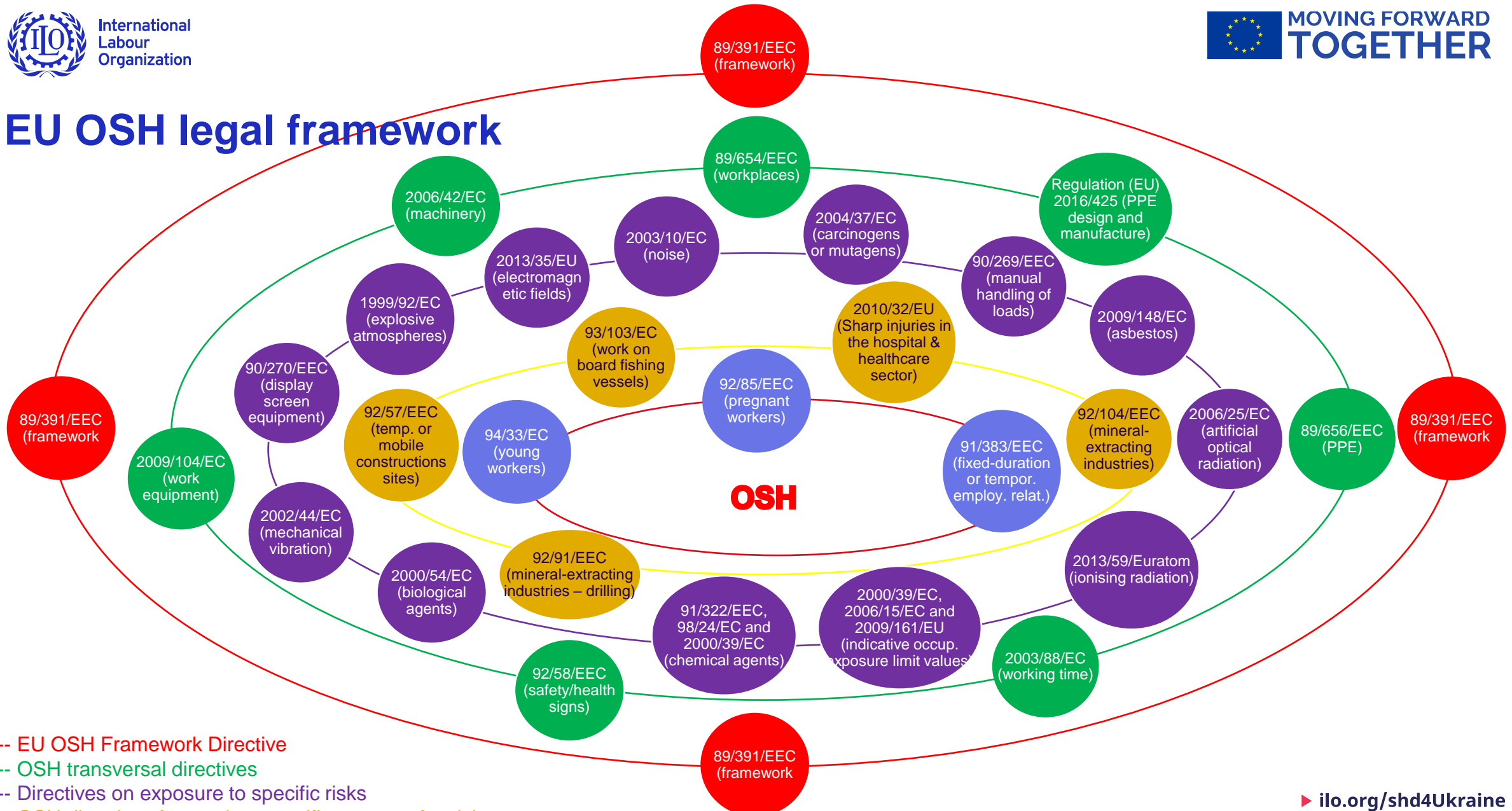
□ **Key ILO Standards on OSH**

□ **ILO standards on OSH regarding particular branches of economic activity**

□ **ILO standards on OSH concerning protection against specific risks**

□ **Other ILO Instruments on OSH**

EU OSH legal framework



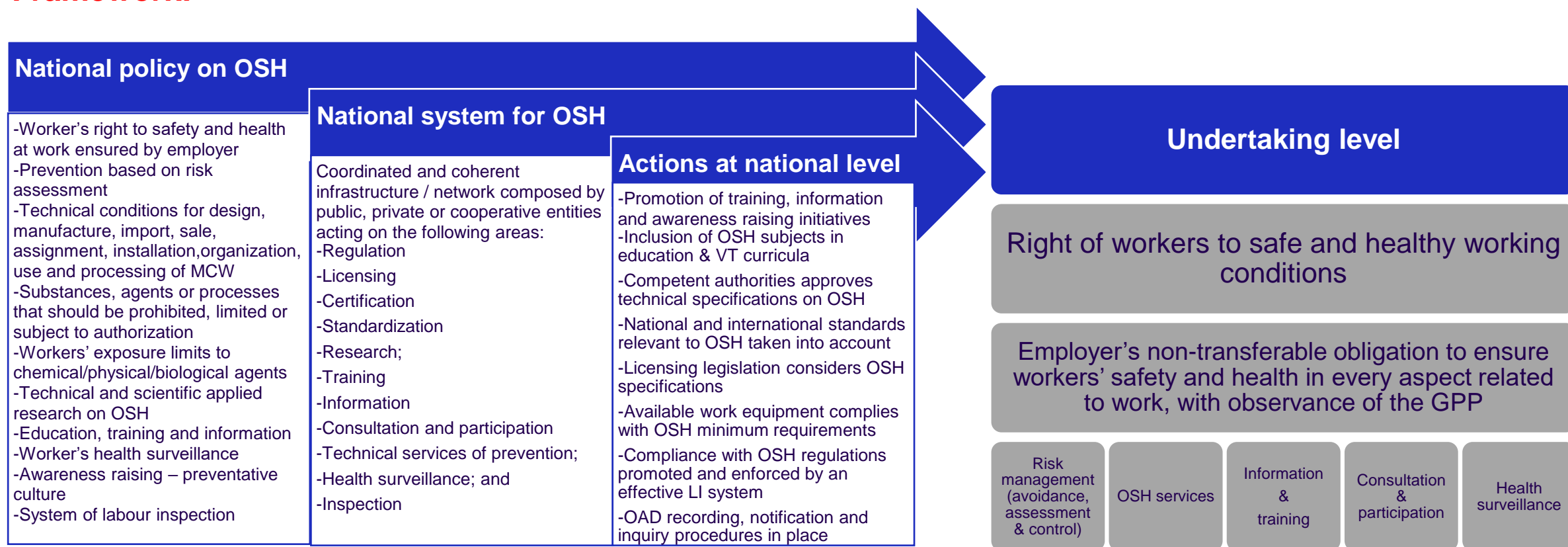
- EU OSH Framework Directive
- OSH transversal directives
- Directives on exposure to specific risks
- OSH directives focused on specific sectors of activity
- OSH directives focused on specific types of workers

▶ Key International and EU Labour Standards on OSH

- ▶ Occupational Safety and Health Convention, 1981 (No. 155) – ratified by Ukraine in 04/01/2012
- ▶ Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155) – not ratified by Ukraine
- ▶ Occupational Health Services Convention, 1985 (No. 161) – ratified by Ukraine 17/06/2010
- ▶ Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) – not ratified by Ukraine
- ▶ Council Directive 89/391/EEC, of 12 June 1989, on the introduction of measures to encourage improvements in the safety and health of workers at work – Ukraine undertook to align with it by 31/08/2020

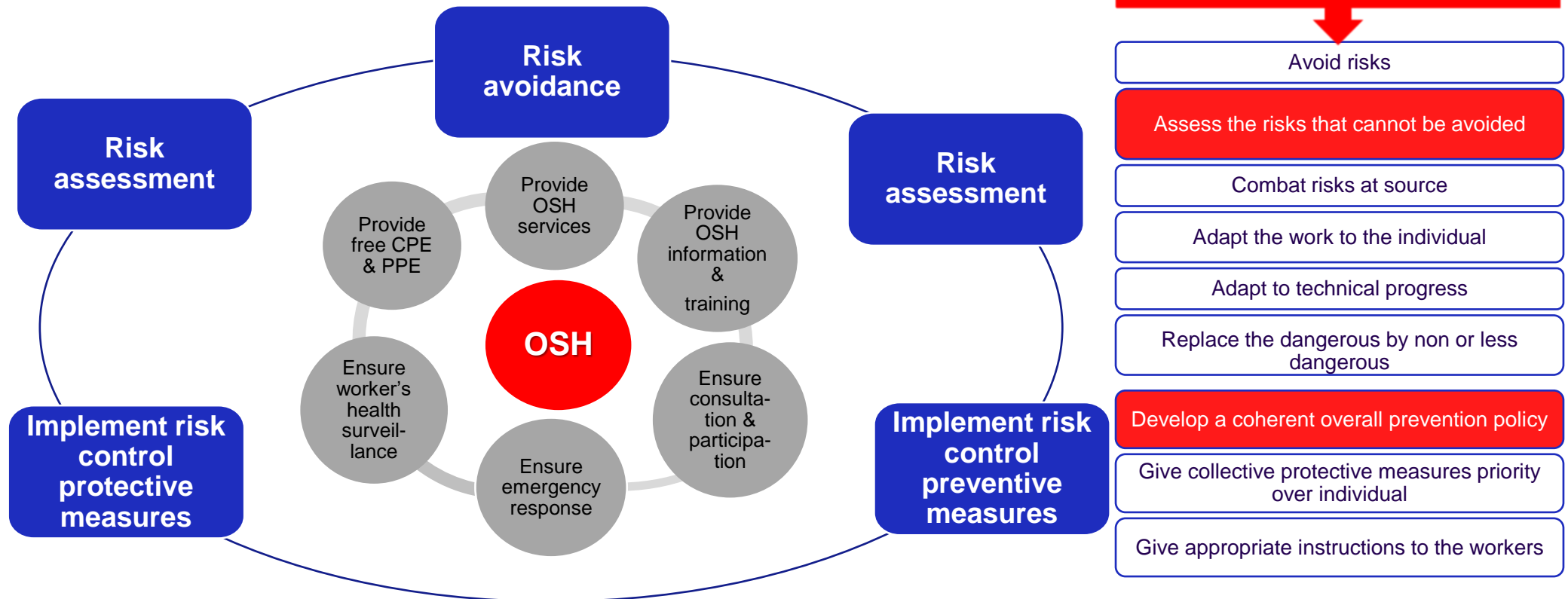
Implications for policy decision-makers and legal acts' drafting experts

Framework:



Implications for policy decision-makers and legal acts' drafting experts

Employers' main obligations on OSH:



► Implications for policy decision-makers and legal acts' drafting experts

Employer' obligations – Risk management:

- Assess all the risks to the OSH of workers, including: choice of work equipment, chemical substances or preparations used, and the fitting-out of workplaces
- Following risk assessment: implement the appropriate preventive / protective measures ensuring worker's OSH (it which be integrated into all activities of the undertaking at all hierarchical levels)
- Be in possession of an assessment of the risks to safety and health at work
- Take into consideration workers' capabilities (as regards health and safety) when entrusting them tasks
- Where several undertakings share a work place: cooperate and coordinate the prevention of and protection against occupational risks and inform one another and respective workers about these risks
- Decide on the preventive and protective OSH measures to be taken and, if necessary, the protective equipment to be used

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Employer' obligations – Preventive and protective OSH Services:

- Designate one or more workers to carry out activities related to prevention of and protection against occupational risks in the undertaking or enlist competent external services or persons
- Ensure that preventive and protective OSH services are responsibility of one or more workers, of one or separate services, whether from inside or outside the undertaking. In the latter case the worker(s) and/or external services or persons must work together whenever necessary
- Ensure that workers designated and external services / persons are able to deal with the organization of preventive and protective measures, considering the undertaking size, risks to which workers are exposed and their distribution throughout the undertaking and, in particular:
 - workers designated must have the necessary capabilities and means
 - external services / persons consulted must have the necessary aptitudes and the necessary personal and professional means and
 - must be sufficient in number

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Employer' obligations – Preventive and protective OSH Services:

- Enlisted services / persons must be informed about risks and corresponding preventive and protective measures (in general and regarding each workstation) and measures regarding first aid, fire-fighting, evacuation of workers and for situations of serious and imminent danger
- Ensure that preventive and protective OSH services, if needed, are able to provide the following services:
 - identification and assessment of the risks from health hazards in the workplace
 - surveillance of the factors in working environment and working practices that may affect workers' health
 - advice on planning and organization of work (including design of workplaces, choice, maintenance and condition of machinery, work equipment and substances used in work)
 - participation in development of programmes for improvement of working practices as well as testing and evaluation of health aspects of new equipment

► Implications for policy decision-makers and legal acts' drafting experts

Employer' obligations – Preventive and protective OSH Services:

- Advice on: occupational health, safety and hygiene; ergonomics and individual and collective protective equipment
- Surveillance of workers' health in relation to work
- Promoting the adaptation of work to worker
- Contribution to measures of vocational rehabilitation
- Collaboration in providing information, training and education on OSH
- Organizing of first aid and emergency treatment
- Participation in analysis of occupational accidents and diseases

► Implications for policy decision-makers and legal acts' drafting experts

Employer' obligations – First aid, fire-fighting, evacuation of workers and situations of serious and imminent danger:

- Take the necessary measures for first aid, fire-fighting, evacuation of workers, including:
 - arranging the necessary contacts with external services
 - designation of the workers required to implement such measures
 - define the actions required in the event of serious and imminent danger
 - provision of the related information and instructions to workers
- Inform all workers who are, or may be, exposed to serious and imminent danger of the risk involved and of the steps taken or to be taken as regards protection

► Implications for policy decision-makers and legal acts' drafting experts

Employer' obligations – First aid, fire-fighting, evacuation of workers and situations of serious and imminent danger:

- Take action and give instructions to enable workers - in the event of serious, imminent and unavoidable danger, to stop work and/or immediately to leave the work place and proceed to a place of safety
- Refrain from asking workers to resume work in a working situation where there is still a serious and imminent danger
- Ensure that all workers are able - in the event of serious and imminent danger (to their own safety and/or that of other persons) and where the immediate superior responsible cannot be contacted - to take the appropriate steps (in the light of their knowledge and available technical means) to avoid the consequences of such danger

► Implications for policy decision-makers and legal acts' drafting experts

Employer' obligations – Occupational accidents and diseases:

- Record and notify the competent authorities (within the time limits established by legislation) and maintain records (during the time prescribed by legislation) on:
 - occupational accidents
 - occupational diseases
 - dangerous occurrences
 - commuting accidents
 - suspected cases of occupational diseases
- Provide appropriate information to workers and their representatives concerning the recording system and notified cases

► Implications for policy decision-makers and legal acts' drafting experts

Employer' obligations – Occupational accidents and diseases:

- Ensure appropriate maintenance of these records and their use for the establishment of preventive measures
- Refrain from instituting retaliatory or disciplinary measures against workers for reporting an occupational accident, occupational disease, dangerous occurrence, commuting accident or suspected case of occupational disease
- Ensure the confidentiality of personal and medical data of the workers in its possession
- Keep a list of occupational accidents resulting in a worker being unfit for work for more than 3 working days
- Draw up, for the responsible authorities, reports on occupational accidents suffered by workers

► Implications for policy decision-makers and legal acts' drafting experts

Employer' obligations – Worker's information:

- Provide workers and their representatives with information on OSH, including about:
 - OSH risks and preventive and protective measures and activities in respect of both the undertaking in general and each type of workstation and/or job and
 - measures taken regarding first aid, fire-fighting, evacuation of workers and situations of serious and imminent danger
- Ensure that only workers who have received adequate instructions may have access to areas where there is serious and specific danger
- Where several undertakings share a workplace, inform one another and their respective workers and/or workers' representatives about: occupational risks to which they are or may be exposed; most adequate preventive and protective measures; and arrangements for first aid, fire-fighting, evacuation of workers and for situations of serious and imminent danger

► Implications for policy decision-makers and legal acts' drafting experts

Employer' obligations – Worker's information:

- Ensure that workers with specific functions in protecting the safety and health of workers, or workers' representatives with specific responsibility for the safety and health of workers, have access to:
 - the risk assessment and resulting preventive and protective measures to be implemented
 - the list and reports on occupational accidents and diseases
 - the information yielded by preventive and protective measures, inspection agencies and bodies responsible for safety and health

► Implications for policy decision-makers and legal acts' drafting experts

Employer' obligations – Consultation and participation of workers:

- Consult workers and/or their representatives and allow them to take part in the discussions on all questions relating to safety and health at work, including to make proposals and to have a balanced participation on such discussions and decisions
- Ensure that workers or workers' representatives with specific responsibility for the safety and health of workers take part in a balanced way, or are consulted in advance and in good time, with regard to:
 - any measure which may substantially affect safety and health
 - designation of workers to carry out activities related to the prevention and protection from occupational risks and to implement measures concerning first aid, fire-fighting and evacuation of workers

► Implications for policy decision-makers and legal acts' drafting experts

Employer' obligations – Consultation and participation of workers:

- Risk assessment
- Preventive and protective measures to be taken
- List and reports on occupational accidents and diseases
- Where appropriate, the enlistment of the competent services or persons outside the undertaking to ensure the provision of the preventive and protective OSH services at the undertaking
- The planning and organization of the worker's training on OSH
- Introduction of new technologies

► Implications for policy decision-makers and legal acts' drafting experts

Employer' obligations – Worker's training on OSH:

- Each worker receives adequate safety and health training, in particular in the form of information and instructions specific to his workstation or job (which should be adapted to take account of new or changed risks, and repeated periodically if necessary), at least:
 - on recruitment
 - in the event of a transfer or a change of job
 - in the event of the introduction of new work equipment or a change in equipment, and in the event of the introduction of any new technology
- Ensure that workers from outside undertakings engaged in work in his undertaking received appropriate instructions regarding OSH risks during their activities in his undertaking
- Workers' representatives with a specific role in protecting the safety and health of workers must have appropriate training

► Implications for policy decision-makers and legal acts' drafting experts

Employer' obligations – Worker's health surveillance:

- Ensure that workers receive health surveillance appropriate to the OSH risks to which they are exposed to
- Ensure that workers receive health surveillance at regular intervals, if they so wish

► Implications for policy decision-makers and legal acts' drafting experts

Workers' rights:

In addition to the general right to safe and healthy working conditions and related rights (information, training, consultation, etc.), workers have also the following rights:

- Not to be involved in any financial costs related to OSH measures
- Not to be placed at any disadvantage, if designated to perform activities related to prevention of and protection against occupational risks, and be allowed adequate time to perform such activities
- Not to be placed at any disadvantage, if designated to implement the measures for first aid, fire-fighting and evacuation of workers
- Not to be placed at any disadvantage and be protected against harmful and unjustified consequences if, in case of serious, imminent and unavoidable danger, they left their workstation and/or a dangerous area

► Implications for policy decision-makers and legal acts' drafting experts

Workers' rights:

- Not to be placed at any disadvantage if, to avoid the consequences of a serious and imminent danger to their own safety and/or that of other persons and when the immediate superior responsible could not be contacted, workers have taken the appropriate steps, in the light of their knowledge and available technical means
- Ask employer to take appropriate measures and to submit proposals to mitigate hazards for workers and/or to remove sources of danger, in case of workers' representatives with specific responsibility for the safety and health of workers
- Be protected against undue retaliatory or disciplinary measures, for having reported an occupational accident, occupational disease, dangerous occurrence, commuting accident or suspected case of occupational disease

► Implications for policy decision-makers and legal acts' drafting experts

Workers' rights:

- Be granted with adequate time off work, without loss of pay, and provided with the necessary means, in case of workers' representative with specific responsibility for the safety and health of workers
- Appeal to the safety and health competent authority, if they consider that the measures taken and the means employed are inadequate to ensure OSH
- Submit observations during the competent authority inspection visits, in case of workers' representatives
- OSH training to which workers are entitled should be provided during working hours
- Particularly sensitive risk groups should be protected against the dangers which specifically affect them

► Implications for policy decision-makers and legal acts' drafting experts

Workers' obligations:

- To take care, as far as possible, of their own safety and health and that of other persons affected by their acts or omissions
- Make correct use of machinery, apparatus, tools, dangerous substances, transport equipment and other means of production
- Make correct use of the personal protective equipment supplied to them and, after use, return it to its proper place
- Refrain from disconnecting, changing or removing arbitrarily safety devices fitted (e.g. to machinery, apparatus, tools, plant and buildings), and use such safety devices correctly

► Implications for policy decision-makers and legal acts' drafting experts

Workers' obligations:

- Inform immediately employer and/or the workers with specific responsibility for the safety and health of workers of any work situation they consider represents a serious and immediate danger to safety and health and of any shortcomings in protection arrangements
- Cooperate with employer and/or workers with specific responsibility for the safety and health of workers, for as long as may be necessary to carried out any tasks imposed by the competent authority to protect the safety and health of workers
- Cooperate with the employer and/or workers with specific responsibility for the safety and health of workers, within their field of activity, for as long as may be necessary to enable employer to ensure that working environment and working conditions are safe and pose no risk to safety and health

Resources on the EU-ILO Project site

ilo.org/shd4Ukraine

Background paper



Infographic



And more...

- ▶ Power Point Presentation
- ▶ Occupational Safety and Health Convention, 1981 (No. 155)
- ▶ Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155)
- ▶ Occupational Health Services Convention, 1985 (No. 161)
- ▶ Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)
- ▶ Council Directive 89/391/EEC



Kharkiv police notified the death of 4 employees of the Utility Company “Kharkivvodokanal” on 27 July (3 days ago)



4 employees died during the repair work due to ammonia poisoning



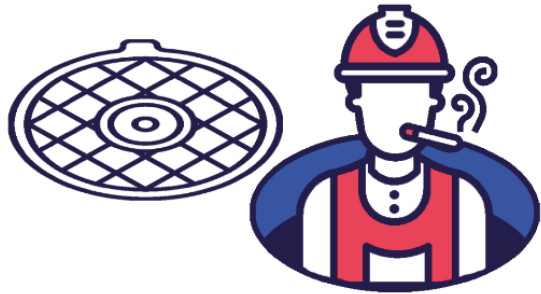
They were working without personal protective equipment

Quid Juris?



Dmytro

labour inspector
of the State Labour Service
for over 10 years



When he was walking on Khreshchatyk this morning, headed to the office, he noted a worker smoking while entering alone into a street sidewalk sewage box (a confined space)



He decided to intervene, in order to prevent the exposure of the worker to a potential explosive atmosphere

Good morning! My name is Dmytro. I'm labour inspector. Your act is unsafe! Have you been informed about the risks to which you are exposed and the preventive and protective measures that you should apply?

No

What is your name? Can you please provide me the identification and contacts of your employer?

I'm Anton. Here they are



Dmytro

Quid Juris?



Worker



Dmytro called the employer and heard in response:

You cannot continue the inspection visit because: I was not prior notified of it and, neither me, nor my representative, are at the worksite!



Employer



Meanwhile, while they were talking on the phone, the sewage box exploded!



Oxana

labour inspector of the State Labour Service for more than 10 years



She received a complaint of a trade union: a scaffold installed in a building, which was exposing workers to the risk of falling from heights



She registered the inspection visit on the system along with the respective grounds, date, hours etc., got the necessary authorization and prior notified the employer



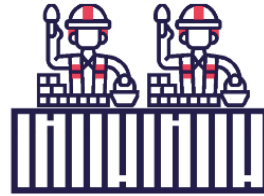
Oxana

Have you ensured the assessment of the risks of the use of such scaffold?
Have you identified and implemented the adequate preventive and protective measures?

No



Employer



When examining the scaffold, she noted that on the roof top of the 10 store building to which scaffold was fixed, there were 2 workers of the same employer repairing the roof without any collective or personal protective equipment against falling from heights.



Oxana

The works on the roof should be immediately stopped, because the workers are exposed to a serious and imminent risk to their life, safety and health, of falling from heights

1. You cannot suspend works in progress even in the event of serious and imminent danger to the safety, health and life of workers
2. The work area of the building roof was not included in the scope of the inspection visit
3. I'm not obliged to carry out risks assesment



Employer



Meanwhile a worker fell from the roof, 10 meters away from them, and died immediately!

Q&A



Contacts

Дякую за увагу!

Thank you for your attention!





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