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EU-ILO Project
"Towards safe, healthy and declared work in Ukraine"

Draft Law
"On Amending Some Legislative Acts of Ukraine concerning Deregulation of Employment Relationship"
of the Ministry of Development of Economy, Trade and Agriculture

EU-ILO project technical recommendations on its better alignment with International and European Labour Standards and best practices

March, 2021

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EXECUTIVE SUMMARY

Background

The draft Law of Ukraine "On Amending Some Legislative Acts of Ukraine concerning Deregulation of Employment Relationship" was developed by the Ministry of Development of Economy, Trade and Agriculture (ME) and formally sent to social partners for consultation prior to its foreseen submission to CMU for adoption.

The present technical advice and recommendations, to the aforesaid ME draft Law, are provided within the scope of the EU-ILO Project "Towards safe, healthy and declared work in Ukraine", under the activity 1.4.5 (of Output 1.4).

They are intended to promote a better alignment of the draft Law "On Amending Some Legislative Acts of Ukraine concerning Deregulation of Employment Relationship" with the main applicable International[1] and European[2] labour standards and best practices, in particular, the provisions of the draft Law concerning fixed-term work, employment relationship, employers' obligations to inform employees and to ensure transparent and predictable working conditions, Occupational Safety and Health (OSH) and working time (hours of work, maximum weekly working time, daily rest, weekly rest, breaks and paid annual leave).

They follow four on-line trainings on the "Employment Relationship", "Employers' obligations to inform workers and to ensure transparent and predictable working conditions", "Working Time" and "OSH" provided by the EU-ILO Project in the summer of 2020.[3]

[1] Namely with the Employment Relationship Recommendation, 2006 (No. 198), Termination of Employment Convention, 1982 (No. 158), Forty-Hour Week Convention, 1935 (No. 47), Hours of Work (Industry) Convention, 1919 (No. 1), Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), Weekly Rest (Industry) Convention, 1921 (No. 14), Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106), Holidays with Pay Convention (Revised), 1970 (No. 132), and with the Protection of Wages Recommendation, 1949 (No. 85).

[2] In particular, with Council Directive 1999/70/EC, of 28 June 1999, concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP; Council Directive 91/533/EEC, of 14 October 1991, on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship; Directive (EU) 2019/1152 of the European Parliament and of the Council, of 20 June 2019, on transparent and predictable working conditions in the European Union; Council Directive No. 89/391/EEC, of 12 June 1989, concerning the introduction of measures to encourage improvements in the safety and health of workers at work; and Directive 2003/88/EC, of the European Parliament and of the Council, of 4 November 2003, concerning certain aspects of the organization of working time.

[3] Integrated in the "Summer Marathon of Online Trainings on International and European Labour Standards and best practices", these sessions were carried out, respectively, on 25th June, 2nd July, 9th July and 30th July, and were attended, respectively, by 416, 300, 480 and 500 experts from the government, parliament, trade unions, employers' organizations, research institutions and academia. The video records and supporting materials of each of these online training sessions can be retrieved by clicking, for the concerned training module, in the following corresponding hyperlink: employment relationship; employers' obligations to inform workers and to ensure transparent and predictable working conditions; working time; OSH.

They also follow some technical recommendations provided by the EU-ILO Project on March 2020, regarding the better alignment of the CMU draft Law "On Labour" No. 2708 with the main applicable International and European Labour Standards on the employment relationship, working time and on the employers' obligations to inform workers, to ensure transparent and predictable working conditions and to safeguard employees' rights in the event of transfers of undertakings or businesses.

Furthermore, they are consistent with the three sets of technical recommendations provided by the EU-ILO Project, regarding the ME draft Law "On Occupational Safety and Health of Workers" (in October and November of 2020 and in February 2021); also with the more recent technical recommendations it provided concerning the ME draft Laws "On amending the Code of Labour Laws of Ukraine concerning the definition of the concept of employment relationship and the indicators of its existence" and "On Amending Some Legislative Acts of Ukraine to Regulate Some Non-standard Forms of Employment" (in March 2021).[4]

However, these technical recommendations are limited to the topics of the ME draft Law of Ukraine "On Amending Some Legislative Acts of Ukraine concerning Deregulation of Employment Relationship" that are covered by the scope of the EU-ILO Project.

They do not address, therefore, the following proposed alterations to the Code of Labour Laws of Ukraine[5]: Chapter IX ("Financial Liability of the Worker"), Article 142 ("Internal labour regulations. Disciplinary statutes and provisions") and Article 252 ("Guarantees for the workers of enterprises, institutions or organizations elected to trade union bodies"). For the same reason, they also do not address the proposed alterations to Articles 38 ("Powers of the elective body of the primary trade union organization at/in an enterprise, institution and organization"), 39 ("Procedure of providing the consent to termination of a labour agreement on the employer's initiative") and 41 ("Guarantees for the workers of enterprises, institutions or organizations elected to trade union bodies") of the Law of Ukraine "On Trade Unions, Their Rights and Guarantees of Activity"[6].

The present technical recommendations should not be seen as official comments of the ILO or as a replacement of the positions of the supervisory bodies of the ILO.

Moreover, the expert technical opinions expressed therein neither reflect the official opinion of the European Union nor its responsibility can be attributed to the European Union.

Looking at the provisions of the draft law under analysis, in light of the main applicable International and European Labour Standards and best practices, it is possible to identify some

[4] The technical recommendations on the ME draft Law "On Occupational Safety and Health of Workers", provided in February 2021, are available at: https://www.ilo.org/budapest/what-we-do/projects/declared-work-ukraine/WCMS_774341/lang--en/index.htm; and the technical recommendations on the ME draft Law "On amending the Code of Labour Laws of Ukraine concerning the definition of the concept of employment relationship and the indicators of its existence", provided in March 2021, are available at: https://www.ilo.org/budapest/what-we-do/projects/declared-work-ukraine/WCMS_774597/lang--en/index.htm.

[5] *Vidomosti Verkhovnoi Rady URSR*, 1971, Annex to No. 50, p. 375, as subsequently amended.

[6] *Vidomosti Verkhovnoi Rady Ukrainy*, 1999, No. 45, p. 397; 2002, No. 11, p. 79.

positive aspects along with some others that need to be further addressed and improved. They are both summarized below.

Main positive aspects

1. Improved clarity on the regulation other types of labour agreements or employment relationships, in particular, of fixed-term labour agreements or employment relationships;
2. More comprehensive framework on the obligation of the employer to inform workers on the mains aspects of the labour agreement or employment relationship;
3. Introduction of some measures to prevent the abuse arising from the use of successive fixed-term employment contracts or relationships and the recourse to contracts of employment for a specified period of time with the aim to avoid the protection resulting from ILO C158, *inter alia*:
    a. Establishment of a maximum total duration (5 years) for the fixed-term labour agreement concluded for the period of performing certain work;
    b. Definition of the grounds under which a fixed-term labour agreement or employment relationship may arise;
    c. Regulation of the circumstances under which a fixed-term labour agreement or employment relationship may be regarded as a labour agreement or an employment relationship for indefinite term.

Main aspects to improve

1. Some terms used throughout the draft law (as well as in the CLL should be changed, in order to improve clarity, simplicity and terminology consistency and to better align them with International and European Labor Standards and best practices. As such, expressions such as “owner or a body authorized thereby” or “enterprise, institution or organization”, should be replaced by the term “employer”, already defined in the proposed fourth part of Article 21 of the Code of Labour Laws, as amended by the Draft Law “On amending the Code of Labour Laws of Ukraine concerning the definition of the concept of employment relationship and the indicators of its existence”.
2. The proposed transfer, from the law to individual labour agreement, of the regulation of several essential aspects of the employment relationship, which should be either ruled by law and/or by collective agreements or subordinated to their minimum requirements. Besides preventing adequate mechanisms for the protection of workers against abuses, especially the ones engaged in precarious or unpredictable employment relationships, the said provisions are, in some cases, contradictory to the applicable International and European Labour Standards and best practices. Some examples:
    a. The possibility given for the employer and worker to establish, in the labour agreement itself, additional rights, duties and responsibilities (e.g., conditions of the

worker's financial provision and work organization, conditions of termination of the agreement, including early termination), as foreseen in the draft aw proposed alterations to Article 9 of the Code of Labour Laws (CLL). Although the principle of contractual freedom should be applied whenever possible, it should be framed by and subordinated to, especially in the labour relations sphere, general rules and minimum requirements established by labour legislation and applicable collective agreements. In this context, it is advisable to ensure that the given possibility is accompanied with a safeguard condition, limiting the possibility of establishing different conditions within an individual labour agreement to the situations where these different provisions are more favourable to the worker and in line with the general rules and minimum requirements established by law or applicable collective agreements.

b. The possibility given for the conclusion of fixed-term labour agreements or employment relationships with other grounds than the ones specifically foreseen in the law, which, as foreseen in the draft law, may be set out in the fixed-term labour agreement itself [paragraph 12) of part one of draft law proposed Article 23^1 of CLL];

c. The possibility of additional grounds for termination being established in the fixed-term labour agreement itself [part two of draft law proposed Article 23^1 of CLL]

d. The foreseen possibility of establishing, in the open-ended and fixed-term labour agreement themselves, the grounds (other than the ones specifically foreseen in the law or collective agreement) for its termination [draft law proposed alterations to paragraph 8) of first part of Article 36 of CLL].

3. Regarding, specifically, fixed-term labour agreements or employment relationships:

   a. As for their nature [draft law proposed alterations to paragraphs 2) and 3) of first part of Article 23 of CLL], it is advisable to define and distinguish more clearly the two similar, yet different, types of fixed-term labour agreements or employment relationships: "certain" an "uncertain" fixed-term labour agreement or employment relationships; which applicable rules should also be slightly different.

   b. Considering the differences between "certain" and "uncertain" fixed-term labour agreements or employment relationships, it should be clearly defined in the draft law proposed Article 23^1:

      i. On the one hand, the grounds under which a "certain" fixed-term labour agreement or employment relationship may be concluded and, on the other hand, in what grounds an "uncertain" labour agreement or employment relationship may be concluded (see recommended second part of Article 23^1). The draft law does not make any distinction regarding the different grounds that should apply to these two different types of fixed-term labour agreements or employment relationships;

      ii. The concept of succession of fixed-term labour agreements or employment relationships and the maximum total duration of a "certain" and of an "uncertain" fixed-term labour agreement or employment relationship and their successions, including (in the case of a "certain" fixed-term labour agreement or

employment relationship) the sum of the duration of their renewals (as recommended with the proposed paragraph 2 of part one and parts two to four of Article 23).

c. Regarding the implementation of adequate measures to prevent abuse arising from the use of successive fixed-term employment contracts or relationships and preventing the recourse to contracts of employment for a specified period of time with the aim to avoid the protection resulting from ILO C158, as foreseen in Clause 5 of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC and in Article 2(3) of ILO C158, the following should be considered:

   i. To ensure that the objective grounds for the conclusion and termination of "certain" and "uncertain" fixed-term labour agreements or employment relationships are specifically defined by law or collective agreements and cannot be established by individual labour agreements, unless they are more favourable to the workers and do not contradict the law or the applicable collective agreements (see recommendations to the draft law proposed paragraph 12) of first part and second part of new Article 23^1 of the CLL, as well as to proposed changes to paragraph 8) of first part of Articles 36 of the CLL);

   ii. To establish that the early termination of fixed term labour agreements or employment relationships at the initiative of the employer shall be subjected to the general rules for termination of permanent employment labour agreements or employment relationships at the initiative of the employer (as recommended on the proposed insertion of a new third part in the Article 9 of the CLL);

   iii. To clearly stipulate in the law and/or collective labour agreements, as mentioned above, the total maximum duration of both the "certain" and "uncertain" fixed-term labour agreements or employment relationships and its succession, and include, in its calculation, the duration period of the renewals of "certain" fixed-term labour agreements or employment relationships (as recommended in paragraph 2 of part one and parts two and three of Article 23);

   iv. To establish the maximum number of renewals of "certain" fixed-term labour agreements or employment relationships in three (times), the subjection of such renewals to the same grounds of its conclusion, and the impossibility of renewal of "uncertain" fixed-term labour agreements or employment relationships (as recommended in the first three parts of Article 39^1);

   v. To establish the conditions under which labour agreements or employment relationships (including fixed-term labour agreements or employment relationships) shall be deemed or converted into labour agreements or employment relationships for indefinite term, including the following recommended ones [as recommended in the proposed new Article 39^2 (Labour agreement for indefinite term)]:

      - Where the term stipulation is intended to evade the provisions governing the labour agreement without a term.

- Concluded outside the grounds foreseen in first part of Article 23^1.
- In which is missing the written form, the identification or signature of the parties, or, at the same time, the dates of conclusion of the contract and of the commencement of work.
- In which the indication of the grounds for the term is not made with express mention of the facts which are part of it and/or the relationship between the grounds relied on and the term stipulated are not established or are insufficient, in violation of paragraph 5) of the first part of Article 29.
- Concluded for a duration that exceeds the maximum duration of 5 years foreseen in the second part of Article 23.
- When, upon expiration of a certain fixed-term labour agreement, employment relationship continues.
- When a certain fixed-term labour agreement is renewed for more than the maximum number of renewals foreseen in Article 39^1 (i.e., more than 3 times).
- When, in the case of an uncertain fixed-term labour agreement, the worker remains in operation after the expiry date indicated in the employer's notice or, failing that, 15 days after the conclusion of the work or task, or occurrence of the event, for which the uncertain fixed-term labour agreement was concluded.
- When the certain fixed-term labour agreement is renewed without observance of the grounds for its conclusion, as provided for in the second part of Article 39^1.

d. As for the measures aimed at improving the quality of fixed-term work by ensuring the application of the principle of equality and non-discrimination and the promotion of more predictable working conditions to workers with fixed-term labour agreements or employment relationships, the provisions regarding employers' obligations to inform workers employed under fixed-term labour agreements on any vacancies for open-ended labour agreements and to provide them with equal opportunities for its conclusion, need to be further improved and aligned with EU Directives 1999/70/EC and 2019/1152, as recommended in proposed new parts 3 to 9 of new Article 23^1. In this regard, this draft law needs to be better aligned with the provisions of Directive (EU) 2019/1152 on the facilitation of the transition to a more predictable form of employment (Article 12 of the Directive 2019/1152) and on mandatory training (Article 13 of the Directive 2019/1152). It is also advisable to better align it with the provisions of Clauses 4 (mainly regarding the equal treatment and non-discrimination of fixed-term workers in respect to employment conditions and period of service qualifications requirements, as well as on the use, where appropriate, of the principle of *pro rata temporis*) 6 (on the provision of information and training to fixed-term workers) and 7 (on the provision of information about

fixed-term labour agreements or employment relationships to worker's representative bodies and on the obligation to consider the number of fixed-term workers for calculating the threshold above which workers' representative bodies may be constituted) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC.

4. In what concerns labour agreements or employment relationships, in general, not specifically the ones with fixed-term:
    a. The provisions on the employers' obligation to inform workers about the main aspects of the labour contract or employment relationship and to ensure transparent and predictable working conditions, need to be further aligned with Directive (EU) 2019/1152, in particular:
        i. The content of the information to be provided [as recommended in paragraphs 1) to 21) of first part and parts two to four of Article 29 of the CLL], including the one on Occupational Safety and Health. The latter, moreover, should also be properly aligned with EU Directive 89/391/EEC and consistent with the one required pursuant to Article 5 of the Law "on Labor Protection" (as recommended through the proposed rewording of the second part of Article 5 of the Law of Ukraine "On Labour Protection).
        ii. The timing of providing and updating the information (as recommended in parts 1, 3 and 4 of Article 29);
        iii. The form and support for providing the information (as recommended in parts 1, 5 and 6 of Article 29 of CLL).
        iv. The proposed amendments to Article 26 of the CLL, regarding the probation period (i.e., probationary period) should also include some additional ones, in order to ensure a better alignment with Articles 8(1), 8(2) and 8(3) of Directive (EU) 2019/1152. This includes, as recommended, the insertion of the proposed parts four to seven of Article 26, foreseeing: the limitation of the length of the probationary period; its proportionality, in case of a fixed-term labour agreement or employment relationship; its non-applicability, in the case of renewal of a fixed-term labour agreement or employment relationship for the same function and tasks; and, in case of absence during such period, its extension for the period corresponding to the duration of the absence.
    b. This draft law introduces amendments in several aspects of the working time (e.g., hours of work, overtime, shifts, breaks, weekly rest and leaves) in both the CLL (e.g., Articles 52, 57, 58, 62, 66, 67, 69, 71, 79 and 80) and in the Law of Ukraine "On Leaves" (Articles 10 and 11). However, and in order to better align the CLL and the Law on Leaves with the main applicable International and European Labor Standards and best practices on working time, these, as well as other provisions, need to be further amended, in particular:
        i. Regarding the normal daily and weekly working time: Article 50 of the CLL should be amended, in order to establish, in addition to the 40 hours as the Normal

Working Hours per Week, the 8 hours as the Normal Working Hours per Day. This would facilitate the understanding of the difference between "normal" daily and weekly working hours and "overtime" hours, simplifying the understanding of the maximum working hour limits per day and per week, whereas the Maximum Working Hours should be equal to Normal Hours (per day or week) plus the Legal Overtime Hours (per day or week) as limited by law. This approach also ensures a better alignment of the CLL with Article 2 of ILO Hours of Work (Industry) Convention, 1919 (No. 1), Article 3 of ILO Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), Article 1 of the ILO Forty-Hour Week Convention, 1935 (No. 47) and Article 6(b) of Directive 2003/88/EC, of the European Parliament and of the Council, of 4 November 2003, concerning certain aspects of the organization of working time.

ii. Concerning the weekly rest period: in order to ensure a better alignment with Article 5 of Directive 2003/88/EC, as well as with Article 2 of the ILO Weekly Rest (Industry) Convention, 1921 (No. 14) and Article 6 of ILO Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106), Article 52 (Five- and six-day working week and daily working hours) of the CLL should be amended, to establish the employers' obligation to ensure that, per week, every worker is entitled to a minimum uninterrupted rest period of 24 continuous hours plus the 11 continuous hours of uninterrupted daily rest; and Articles 67 (Days-off) and 69 (Days-off at continuously operating enterprises, institutions or organizations) of the CLL should also be amended, in order to ensure that, regardless of the days of the week in which the workers' days-off occur, it does not prevent them from enjoying the established minimum uninterrupted rest period of 24 hours plus the 11 hours' daily rest.

iii. Regarding minimum daily rest: in order to better align with Article 3 of Directive 2003/88/EC, Article 57 (work starting and ending time) of the CLL should establish that every worker is entitled to a minimum daily rest period of 11 consecutive hours per 24-hour period, while Article 58 (working in shifts) and Article 65 (Limit norms of application of overtime works) of CLL should provide that work in shifts and overtime to not prevent workers from enjoying the established minimum daily rest period.

iv. As for overtime: Article 65 (Limit norms of application of overtime works) of the CLL establishes that "Overtime work should not exceed four hours for each employee for two consecutive days and 120 hours per year". In order to ensure clear limits on overtime hours per day and per week, in a manner that accounts for Article 3 of ILO C1, Articles 5 and 6 of ILO C30 and Article 6(b) of Directive 2003/88/EC, Article 65 of the CLL should establish a maximum daily overtime hours and a maximum weekly overtime hours of, respectively, not more than 2 overtime hours per workday and not more than 8 hours of overtime hours per work week. In addition, Article 71 (Work on days-off) of the CLL should also be changed, in order to ensure that, by virtue of the work performed in days-off, the working time of each concerned worker, including overtime, does not exceed the

above limits, thus better aligning with Article 6(b) of Directive 2003/88/EC, as well as with Articles 2 to 5 of the ILO C1 and with Articles 3, 4, 5(c) and 6 of the ILO C30.

v. Regarding leaves:

- Article 75 of the CLL and Article 6 of the Law on Leaves establish that the duration of the annual basic leave is at least 24 calendar days for the working year. Therefore, and in order to better align them with Article 7(1) of Directive 2003/88/EC, these articles should be amended, as recommended, so as to establish the employees' right to a minimum of four weeks of paid annual leave per year of service. In addition, the remaining paragraphs of Article 6 of the Law on Leaves should also be amended (adjusted and/or deleted in conformity, as the case may be), as they foresee an amount of minimum annual basic paid leave which is equal or lower than the recommended four-weeks.

- Articles 83 of the CLL and 24 of the Law on Leaves foresee that, at the request of the employee, part of the annual leave is replaced by monetary compensation, provided that the duration of the annual and additional leave granted to an employee is not less than 24 calendar days. In order to preserve the rights of workers to the full amount of the basic paid annual leave provided by the law, limits should be placed on money paid in lieu for annual leave days. The right to leave is meant to ensure that workers have a right to recover from the mental and physical demands of work, away from the workplace. It is important to ensure these rights are not limited or undermined by allowing payment for annual leave days. As such, in order to prevent that the right to the minimum annual basic paid leave, may be relinquished, forwent or replaced by an allowance in lieu, as well as to better align with Article 7(2) of Directive 2003/88/EC and Article 12 of ILO C132, those articles should be changed, foreseeing that such possibility can only be exercised, if the employee enjoys the minimum period of annual basic paid leave of four weeks per year of service foreseen in Article 6 of this Law and in Article 75 of the Code of Labour Laws of Ukraine. The latter also justifies, partially, the recommended changes to the eighth part of Article 79 (Procedure and conditions of granting annual leaves. Recalling from leave) of the CLL, in what concerns the foreseen monetary compensation for unused annual leaves due to a recall from leave.

- Finally, the seventh part of Article 79 of the CLL, which foresees that the "unused part of the annual leave must be granted to the worker, as a rule, until the end of the working year but no later than 12 months from the completion of the working year for which the leave is granted" needs to be changed, in order to better align it with Article 9(1) of ILO C132. In particular, to provide that such unused part of the annual leave should be enjoyed no later than eighteen months from the end of the year in respect

of which the annual leave entitlement has arisen (and not no later than 12 months from the end of the year within which they should be enjoyed), i.e., 6 months earlier.

5. Omission of legal provisions aimed at sanctioning the violation of the introduced provisions, in particular foreseeing penalties for the infringements regarding the provisions on fixed-term labour agreements or employment relationships, in order to dissuade non-compliance.

The more detailed recommendations, concerning the main aspects referred to above, as well as many others, along with their respective rationale, are presented in the next section.

Following that, some examples of legal provisions regulating fixed-term labour agreements or employment relationships in other countries are shared.

It is our expectation that these recommendations may contribute to an improved legislation, more aligned with the applicable International and European labour standards and best practices which effectively contributes to advance decent working conditions in the country.

Kyiv, 20 March 2021

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ILO Office for Central and Eastern Europe

EU-ILO DETAILED PROJECT RECOMMENDATIONS

CMU draft law provision's wording	Recommended wording	Rationale
1. In the Code of Labour Laws of Ukraine (Vidomosti Verkhovnoi Rady URSR, 1971, Annex to No. 50, p. 375, as subsequently amended):		
1) reword Article 9 as follows:		
"Article 9. Additional conditions of labour agreements		
…….		
In cases envisaged hereby the worker and the owner or a body authorized thereby may provide for additional rights, duties and responsibilities of the parties, conditions of the worker's financial provision and work organization, and conditions of termination of the agreement, including early termination."; **Early termination of fixed term labour agreements or employment relationships at the initiative of the employer shall be subjected to the general rules for termination of permanent employment labour agreements or employment relationships at the initiative of the employer"**	In cases envisaged hereby the worker and the **employer** may provide for additional rights, duties and responsibilities of the parties, conditions of the worker's financial provision and work organization, and conditions of termination of the agreement, including early termination**, if they are more favourable to the worker and do not contradict the provisions of applicable collective agreements or the law.**	This provision should be changed, subdivided into two different paragraphs and complemented, as recommended, in order to avoid that the possibility it offers for the establishment, within individual employment agreements, of additional rights and obligations, including on work organization, working conditions and termination of employment, may unprotect workers from abuses. Otherwise, and as it is, this provision is, in itself, contradictory with: 1. The purposes of the Council Directive 1999/70/EC, of 28 June 1999, concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, which include, as foreseen in Clause 1 of its Annex (framework agreement on fixed-term work): • "to improve the quality of fixed-term work by ensuring the application of the principle of non-discrimination"; and • "to establish a framework to prevent abuse arising from the use of successive

CMU draft law provision's wording	Recommended wording	Rationale
		fixed-term employment contracts or relationships". 2. The measures foreseen in Clauses 5(1) and 5(2) of the Annex of Directive 1999/70/EC, aimed at preventing abuses arising from the use of successive fixed-term employment contracts or relationships. 3. ILO Termination of Employment Convention, 1982 (No. 158), which establishes: • Establishes that the provisions concerning termination of employment, where not provided for by collective agreements or prescribed by arbitration awards or court decisions, shall be given effect by laws or regulations, and not by individual labour agreements [Article 1]. • Foresees that adequate safeguards shall be provided against recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection on the termination of employment resulting from the Convention [Article 2(3)]. • Provides for adequate protection to workers against unfair dismissals through several provisions foreseeing the existence of, *inter alia*: valid reason for termination (Articles 4 to 6); procedural requirements prior to or at the time of termination (Article 7) and for appeal against termination (Articles 8 - 10), including prior notice (Article

CMU draft law provision's wording	Recommended wording	Rationale
		11), and severance allowance and other income protection (Article 12). These provisions are aimed at ensuring workers the right to be heard and to defend him/herself, to be represented, and to appeal against the dismissal decision.
2) in Article 23:		
in the first part:		
reword paragraph 2 as follows:		
"2) fixed-term, concluded for a definite term established as agreed by the parties or for the period of performing certain work but not more than for five years.";	**2) Fixed-term, concluded on the grounds provided for in the first part of Article 23[1], for:** **i. A certain fixed-term;** **ii. An uncertain fixed-term, for the period necessary for completing a specific task or until the occurrence of a specific event, which completion or occurrence dates are uncertain;**	To better align with Clauses 3(1) and 5(1)(a) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC and Article 2(3) of ILO C158, and to separate "certain" from "uncertain" fixed term contracts, whose nature is different.
	The maximum total duration of a certain or uncertain fixed-term labour agreement and their successions, including the sum of the duration of their renewals, in the case of a certain fixed-term labour agreement, cannot exceed five years.	These two parts should be inserted so as to limit the maximum total duration of successive fixed-term employment contracts or relationships, in order to better align this draft law with Clauses 5(1)(b) and 5(2)(a) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC and with Article 2(3) of ILO C158, by foreseeing adequate measures to prevent abuse arising from the use of successive fixed-term employment contracts or relationships and preventing the recourse to contracts of employment for a specified period of time with the aim to avoid the protection resulting from ILO C158, thus reducing the precariousness and
	It is considered as only one fixed-term labour agreement the one which is renewed.	
	It is considered a succession of a fixed-term labour agreement or employment relationship the fixed-term labour agreement or employment relationship that is initiated less than three months after the termination of the previous one.	

CMU draft law provision's wording	Recommended wording	Rationale
		unpredictability of such labour agreements or employment relationships.
delete paragraph 3;		
delete the second part;		
3) add Article 23^1 as follows:		
"Article 23^1. Specifics of conclusion and termination of a fixed-term labour agreement		
A fixed-term labour agreement may be concluded:		
1)		
2)		
3)		
4) for performance of works connected with temporary (up to one year) expansion of production or scope of services provided by the respective enterprise, institution or organization;	4) for performance of works connected with temporary (up to one year) expansion of production or scope of services provided by the respective **employer**;	Should be changed, for consistency with the term "employer" defined in the proposed fourth part of Article 21 of the Code of Labour Laws, as amended by the Draft Law "On amending the Code of Labour Laws of Ukraine concerning the definition of the concept of employment relationship and the indicators of its existence". In addition, the terms "enterprise, institution or organization" leave out of the scope of this provision other employers which are not "enterprises, institutions and organizations", such as private entrepreneurs with employees or self-employed persons with employees.
5)		
6)		
7)		
8)		
9)		
10)		
11)		

CMU draft law provision's wording	Recommended wording	Rationale
12) in other cases when establishment of employment relationship for a fixed term is provided for by a law or by conditions of a collective or labour agreement.	12) in other cases when establishment of employment relationship for a fixed term is provided for by a law or by conditions of a collective ~~**or labour**~~ agreement.	Should be changed, in order to avoid the possibility that other grounds for the conclusion of a labour agreement can be established in the labour agreement itself, thus better aligning the provision with Clauses 1(b) and 5(1)(a) of the Framework Agreement on Fixed-term Work, annexed to Directive 1999/70/EC.
	Without prejudice to part one, an uncertain fixed-term employment contract may be concluded only in a situation referred to in any of the paragraphs 1) to 3), 5), 6) and 11) of the preceding part.	This part should be inserted in order to ensure that, considering its nature, an "uncertain" fixed-term labour agreement can only be concluded for completing a specific task or until the occurrence of a specific event which completion or occurrence dates are uncertain, thus ensuring a better aligning with Clauses 3(1) and 5(1)(a) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC and Article 2(3) of ILO C158.
Additional grounds for termination may be set out in a written fixed-term labour agreement.	**Sould be deleted.**	This part should be deleted, because is contradictory with: 1. The purposes of the Council Directive 1999/70/EC, of 28 June 1999, concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, which include, as foreseen in Clause 1 of its Annex (framework agreement on fixed-term work): • "to improve the quality of fixed-term work by ensuring the application of the principle of non-discrimination"; and • "to establish a framework to prevent abuse arising from the use of successive fixed-term employment contracts or relationships".

CMU draft law provision's wording	Recommended wording	Rationale
		2. The measures foreseen in Clauses 5(1) and 5(2) of the Annex of Directive 1999/70/EC, aimed at preventing abuses arising from the use of successive fixed-term employment contracts or relationships. 3. Article 1 of ILO Termination of Employment Convention, 1982 (No. 158), which establishes that the provisions concerning termination of employment, where not provided for by collective agreements or prescribed by arbitration awards or court decisions, shall be given effect by laws or regulations (and not by individual labour agreements). 4. Article 2(3) of ILO C158, which provides that adequate safeguards shall be provided against recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection on the termination of employment resulting from the Convention.
The owner or a body authorized thereby shall be required to inform the workers employed under a fixed-term labour agreement on any vacancies that provide for possible conclusion of an open-ended labour agreement, and to provide such workers with equal opportunities for its conclusion.”;	The **employer** shall be required to inform the workers employed under a fixed-term labour agreement on any vacancies that provide for possible conclusion of an open-ended labour agreement, and to provide such workers with equal opportunities for its conclusion.”;	Should be changed, for consistency with the term “employer” defined in the proposed fourth part of Article 21 of the Code of Labour Laws, as amended by the Draft Law "On amending the Code of Labour Laws of Ukraine concerning the definition of the concept of employment relationship and the indicators of its existence".
	The employer shall facilitate access by workers with fixed-term labour agreements or employment relationships to appropriate training opportunities to enhance their skills, career development and occupational mobility.	This part should be inserted, to align with Clause 6(2) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC.

CMU draft law provision's wording	Recommended wording	Rationale
	The employer shall ensure that, in respect of employment conditions workers with fixed-term labour agreements or employment relationships shall not be treated in a less favourable manner than comparable permanent workers solely because they have a fixed-term contract or employment relationship unless different treatment is justified on objective grounds	This part should be inserted, to align with Clause 4(1) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC.
	The employer shall ensure that any period of service qualifications relating to particular conditions of employment shall be the same for workers with fixed-term labour agreements or employment relationships as for permanent workers except where different length of service qualifications are justified on objective grounds.	This part should be inserted, to align with Clause 4(4) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC.
	When appropriate, namely for the calculation of the entitlements of workers with fixed-term labour agreements or employment relationships, the principle of *pro rata temporis* shall apply.	This part should be inserted, to align with Clause 4(2) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC.
	The number of workers with fixed-term labour agreements or employment relationships shall be taken into consideration in calculating the threshold above which workers' representative bodies may be constituted in the undertaking as required by law.	This part should be inserted, to align with Clause 7(1) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC.
	Employers shall provide appropriate information about existing or terminated fixed-term labour agreements or employment relationships to existing workers' representative bodies.	This part should be inserted, to align with Clause 7(3) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC.

CMU draft law provision's wording	Recommended wording	Rationale
	Collective agreements may introduce more favourable provisions for workers with fixed-term labour agreements or employment relationships than the ones laid down in this law.	This part should be inserted, to better align this draft law (and, consequently, the CLL) with Clause 8(1) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC and with Article 14 of Directive (EU) 2019/1152.
4) reword the third part of Article 26 as follows:		
…….		
1) ……		
2) ……		
3) ……		
4) ……		
5) ……		
	Probation period, when exist, shall not exceed six months.	This part should be inserted, to align with Article 8(1) of Directive (EU) 2019/1152, of the European Parliament and of the Council, of 20 June 2019, on transparent and predictable working conditions in the European Union.
	In the case of fixed-term labour agreements or employment relationships, the length of the probation period is proportionate to the expected duration of the contract and the nature of the work.	This part should be inserted, to align with Article 8(2) of Directive (EU) 2019/1152.
	In the case of the renewal of a fixed-term labour agreement or employment relationship for the same function and tasks, the employment relationship shall not be subject to a new probation period.	
	In case worker has been absent from work during the probation period, the probation period may be extended correspondingly in relation to the duration of the absence.	This part should be inserted, to align with Article 8(3) of Directive (EU) 2019/1152.
5) Reword Article 29 as follows:		

CMU draft law provision's wording	Recommended wording	Rationale
"Article 29. Obligation of the owner or a body authorized thereby to inform the worker	"Article 29. Obligation of the **employer** to inform the worker	Should be changed, by replacing the term "the owner or a body authorized thereby" by the term "employer", for consistency with the term "employer" defined in the proposed fourth part of Article 21 of the Code of Labour Laws, as amended by the Draft Law "On amending the Code of Labour Laws of Ukraine concerning the definition of the concept of employment relationship and the indicators of its existence".
Prior to commencement of work under a concluded labour agreement, the owner or a body authorized thereby shall be required, in a way agreed upon with the worker, to:	Prior to commencement of work under **an employment relationship**, the **employer** shall be required~~, in a way agreed upon with the worker,~~ **to provide information to workers, at least on the following essential aspects of the employment relationship**:	Should be changed, as proposed, because: • The obligations of the employer prior to the commencement of work "under a concluded labour agreement", laid down below, should be extended to the "work under an employment relationship", in order to ensure that these obligations also apply to workers who have an employment relationship but whose employer did not concluded a labour agreement with them; • The way of fulfilling the above obligations and its minimum requirements should be aligned with EU Directives 91/533/EEC, 2019/1152 and 89/391/EEC, instead of letting them to be agreed between the employer and the worker, as better proposed below; Should also be changed, in order to better organize and align this article with the provisions of EU Directives 91/533/EEC, 2019/1152 and 89/391/EEC, by separating the obligations regarding the provision of information and its support from the obligations of other nature. Finally, it should also be changed, by replacing the term "the owner or a body authorized

CMU draft law provision's wording	Recommended wording	Rationale
		thereby" by the term "employer", for consistency with the term "employer" defined in the proposed fourth part of Article 21 of the Code of Labour Laws, as amended by the Draft Law "On amending the Code of Labour Laws of Ukraine concerning the definition of the concept of employment relationship and the indicators of its existence".
	1) The identities of the parties to the employment relationship;	To better align with Article 4(2)(a) of Directive (EU) 2019/1152.
1) provide to the worker information about the place of employment, the job function the worker undertakes to perform (a position and a list of official duties), and the work starting date, as well as, in case a fixed-term labour agreement is concluded, grounds and time limits for conclusion of such an agreement;	**2) The place of work; where there is no fixed or main place of work, the principle that the worker is employed at various places or is free to determine his or her place of work, and the registered place of business or, where appropriate, the domicile of the employer;**	To better align with Article 4(2)(b) of Directive (EU) 2019/1152.
	3) The title, grade, nature or category of work for which the worker is employed or a brief specification or description of the work;	To better align with Article 4(2)(c) of Directive (EU) 2019/1152.
	4) The date of commencement of the employment relationship;	To better align with Article 4(2)(d) of Directive (EU) 2019/1152.
	5) In the case of a fixed-term employment relationship:	To better align the provision with Article 4(2)(e) of Directive (EU) 2019/1152 regarding the improvement of the transparency and predictability of this fixed-term employment relationships, as well as with Clause 5(1)(a) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC, Article 2(3) of ILO C158 and EU best practices, which are aimed at providing for adequate measures to prevent abuse arising from the use of successive fixed-term employment contracts or relationships and
	i. The end date or the expected duration thereof; **ii. Indication of the term stipulated and the grounds for the fixed-term labour agreement or employment relationship;** **iii. For the purposes of the preceding subparagraph, the indication of the grounds for the term must be made**	

CMU draft law provision's wording	Recommended wording	Rationale
	with express mention of the facts which are part of it, and the relationship between the grounds relied on and the term stipulated shall be established.	to prevent the recourse to contracts of employment for a specified period of time with the aim to avoid the protection resulting from ILO C158.
	6) The duration and conditions of the probationary period, if any;	To better align with Article 4(2)(g) of Directive (EU) 2019/1152.
	7) The training entitlement provided by the employer, if any;	To better align with Article 4(2)(h) of Directive (EU) 2019/1152 and with Clause 6(2) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC.
2) assign a workstation to the worker, and supply it with means necessary for work;	**To be moved below, as paragraph 1) of part seven of this Article.**	Should be moved below (as paragraph 1) of part seven of this Article), so as to improve the Article systematic and organization, by separating the obligations regarding the provision of information and its support from the obligations of other nature.
3) explain to the worker their rights and duties, and inform the worker about working conditions, presence of hazardous and harmful workplace factors, not yet eliminated, at the worker's workstation, and possible implications of their impact on health, and about the worker's entitlement to benefits and compensations for work in such conditions according to the legislation and the collective contract;	**8) Workers' rights and duties;**	To improve paragraph systematics, organization and simplicity.
	9) Working conditions;	
	10) Presence of hazardous and harmful workplace factors not yet eliminated and their possible impact on worker's health, as well as the safety and health risks and protective and preventive measures and activities in respect of both the undertaking and/or establishment in general and the employee's job in particular;	To better align the intended provision with Articles 4 of Directive (EU) 2019/1152 and with Article 10 of Directive 89/391/EEC.
	11) Where applicable, the measures taken for first aid, fire-fighting and evacuation of workers, including the identification of the workers designated to implement them.	To better align the intended provision with Articles 4 of Directive (EU) 2019/1152 and with Articles 8(2) and 10(1) of Directive 89/391/EEC.

CMU draft law provision's wording	Recommended wording	Rationale
	12) Worker's entitlement to benefits and compensations for work in hazardous and harmful conditions according to the legislation and the collective contract;	To improve paragraph systematics, organization and simplicity.
4) familiarize the worker with the internal labour regulations (if any) or with conditions of establishment of the working schedule, duration of work and rest time, and with the collective contract (if any);	**13) Internal labour regulations (if any);**	To improve paragraph systematics and organization and to better align this paragraph with Articles 4(2)(l) and 4(2)(m) of Directive (EU) 2019/1152.
	14) If the work pattern is entirely or mostly predictable, the worker's standard work schedule, rest time and any arrangements for overtime and its remuneration and, where applicable, any arrangements for shift changes;	
	15) If the work pattern is entirely or mostly unpredictable, the employer shall inform the worker of: **i. The principle that the work schedule is variable, the number of guaranteed paid hours and the remuneration for work performed in addition to those guaranteed hours;** **ii. The reference hours and days within which the worker may be required to work;** **iii. The minimum notice period to which the worker is entitled before the start of a work assignment; and** **iv. Where applicable, the deadline for cancellation and the amount of compensation to which the worker is entitled in case of cancelation of a previously agreed assignment.**	
	16) Any collective agreements governing the worker's conditions of work or in the case of collective agreements concluded	To better align with Article 4(2)(n) of Directive (EU) 2019/1152.

CMU draft law provision's wording	Recommended wording	Rationale
	outside the business by special joint bodies or institutions, the name of such bodies or institutions within which the agreements were concluded;	
	17) Where it is the responsibility of the employer, the identity of the social security institutions receiving the social contributions attached to the employment relationship and any protection relating to social security provided by the employer;	To better align with Article 4(2)(o) of Directive (EU) 2019/1152.
5) instruct the worker on labour protection, workplace hygiene, occupational health, and fire protection;	**Should be moved below, as paragraph 2) of part seven of this Article.**	Should be moved to paragraph 2) of part seven of this Article, in order to improve the Article systematic and organization, by separating the obligations regarding the provision of information and its support from the obligations of other nature, as well as to better align the intended provision with Articles 6(2)(i), 6(3)(d), 8(3)(b), 12(1) and 12(2) of Directive 89/391/EEC.
6) provide to the worker information on duration of annual leave, conditions and amount of labour remuneration;	**18) The amount of annual paid leave to which the worker is entitled and its conditions or, where this cannot be indicated when the information is given, the procedures for allocating and determining such leave;**	To better align with Article 4(2)(i) of Directive (EU) 2019/1152.
	19) The remuneration including the initial basic amount, any other component elements, if applicable, indicated separately and the frequency and method of payment. This information shall also be provided to each worker with each payment or remuneration;	To better align with Article 4(2)(k) of Directive (EU) 2019/1152 and with Paragraph 7 of the ILO Protection of Wages Recommendation, 1949 (No. 85).
7) inform the worker of the procedure and time limits, established hereby, of notification about termination of employment relationship, which	**20) The procedure to be observed by the employer and the worker, including the formal requirements and the notice**	To better align with Article 4(2)(j) of Directive (EU) 2019/1152.

CMU draft law provision's wording	Recommended wording	Rationale
the worker and the owner and a body authorized thereby must adhere to."; 	**periods, where their employment relationship is terminated or, where the length of the notice periods cannot be indicated when the information is given, the method for determining such notice periods;**	
	21) Regarding workers required to work outside the country for a period or periods which each duration exceeds four consecutive weeks, the employer shall provide each one of them the information of the preceding subparagraphs 1 to 21 above before the worker's departure and the documents shall include, at least, the following additional information: **i. The country or countries in which the work abroad is to be performed and its anticipated duration;** **ii. The currency to be used for the payment of remuneration ;** **iii. Where applicable, the benefits in cash or kind relating to the work assignments;** **iv. Information as to whether repatriation is provided for and, if so, the conditions governing the worker's repatriation.**	To better with Article 7 of Directive (EU) 2019/1152.
	The information referred to in the paragraphs 6, 7, 14 and 17 to 20 of the first part of this Article can be given in the form of a reference to the laws, regulations and administrative or statutory provisions or collective agreements governing those paragraphs.	To better align the intended provision with Article 4(3) of Directive (EU) 2019/1152.

CMU draft law provision's wording	Recommended wording	Rationale
	The employer shall ensure that any change in the essential aspects of the employment relationship referred to in the first part of this Article and any change to the additional information for workers sent to another country shall be provided in the form of a written document by the employer to the worker at the earliest opportunity and at the latest on the day on which it takes effect and, in the case of workers sent to other country, before their departure.	To better align the intended provision with Article 6(1) of Directive (EU) 2019/1152.
	The preceding part shall not apply to changes that merely reflect a change in the laws, regulations and administrative or statutory provisions or collective agreements cited in the information previously provided.	To better align the intended provision with Article 6(2) of Directive (EU) 2019/1152.
	The employer shall provide each worker with the information required pursuant to this Article in writing and transmitted on paper.	To better align the intended provision with Article 3 of Directive (EU) 2019/1152.
	The employer may transmit to each worker the written information required pursuant to this Article in electronic form, provided that:	
	1) The information is accessible to the worker;	
	2) That it can be stored and printed; and	
	3) That the employer retains proof of transmission or receipt.	
	Prior to commencement of work under an employment relationship, the employer shall be also required to:	Should be moved to here, so as to improve the Article systematic and organization, by separating the obligations regarding the provision of information and its support from the obligations of other nature.
2) assign a workstation to the worker, and supply it with means necessary for work;	**1) Assign a workstation to the worker, and supply it with means necessary for work;**	

CMU draft law provision's wording	Recommended wording	Rationale
5) instruct the worker on labour protection, workplace hygiene, occupational health, and fire protection;	**2) Provide adequate instructions to workers concerning their safety and health, as well as regarding first aid, fire-fighting, evacuation of workers and situations of serious and imminent danger.**	Should be moved to here (as paragraph 2) of part seven of this Article), in order to improve the Article systematic and organization, by separating the obligations regarding the provision of information and its support from the obligations of other nature, as well as to better align the intended provision with Articles 6(2)(i), 6(3)(d), 8(3)(b), 12(1) and 12(2) of Directive 89/391/EEC.
6) in the second sentence in the third part of Article 32, add the words "which entails worsening of working conditions" after the words "and other –";	**Should be deleted.**	This provision should be deleted, in order to better align this draft law with Article 6(1) of Directive (EU) 2019/1152, according to which any change in the essential aspects of the employment relationship (and not just on the ones that "entails worsening of working conditions"), as well as any change to the additional information for workers sent to another country, shall be provided in the form of a written document by the employer to the worker at the earliest opportunity and at the latest on the day on which it takes effect and, in the case of workers sent to other country, before their departure.
7) in the first part of Article 36:		
……		
reword paragraph 8 as follows:		
"8) grounds prescribed by a contract or by a written fixed-term labour agreement;";	**Should be deleted.**	This provision (foreseeing that a fixed-term labour agreement may in itself establish additional grounds for its termination) should be deleted, because this provision is contradictory with the International and European best practices and with the spirit of the EU Directives 1999/70/EC and 2019/1152, as well as with ILO C158.

CMU draft law provision's wording	Recommended wording	Rationale
		In fact, and instead of providing a special protection to this particular vulnerable group of workers (who have a precarious employment relationship) and ensuring that adequate measures to prevent abuse and the recourse to contracts of employment for a specified period of time to avoid the protection resulting from ILO C158, this provision negatively discriminates these workers, allowing the establishment, in the labour agreement, of additional grounds (other than the ones specifically foreseen in the law) for the termination of the employment relationship. In this respect, it is important to note that Article 1 of the Termination of Employment Convention, 1982 (No. 158), establishes that the provisions concerning termination of employment, where not provided for by collective agreements or prescribed by arbitration awards or court decisions, shall be given effect by laws or regulations, and not by individual labour agreements. It should also be noted, in this connection, that according to Article 2(3) of ILO C158, adequate safeguards shall be provided against recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection resulting from the Convention.
8) in the first part of Article 39, replace the words and digits "Article 23(2) and (3)" with the words and digits "Article 23(2)";		
9) reword Article 39^1 as follows:		
"Article 39^1. Extension of a fixed-term labour agreement	"Article 39^1. **Renewal** of a fixed-term labour agreement	The term "extension" should be replaced by the term "renewal", for clarity and better alignment

CMU draft law provision's wording	Recommended wording	Rationale
		with the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC.
	The maximum number of renewals of a certain fixed-term labour agreement or employment relationship is three.	These three parts should be inserted, in order to limit the number of renewals of fixed-term labour agreements or employment relationships, in order to better align this draft law with Clause 5(1)(c) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC and with Article 2(3) of ILO C158, by foreseeing adequate measures to prevent abuse arising from the use of successive fixed-term employment contracts or relationships and preventing the recourse to contracts of employment for a specified period of time with the aim to avoid the protection resulting from ILO C158, thus reducing the precariousness and unpredictability of such labour agreements or employment relationships.
	The renewal of a certain fixed-term labour agreement shall be subjected to the verification of the existence of the grounds for its conclusion.	
	The uncertain fixed-term labour agreement, due to its nature, cannot be object of renewal.	
If, upon expiration of a labour agreement (Article 23(2)), employment relationship actually continues and neither of their parties demands their termination, validity of the agreement shall be regarded as extended for an indefinite term.	**Should be reviewed and moved to the proposed new Article ("Article 39^2. Labour agreement for indefinite period").**	Should be reviewed and moved below to the new proposed Article 39^2 ("Labour agreement for indefinite period") for better systematic and organization purposes, as these provisions are more about the consequences of improper renewal of a fixed-labour agreement than on the imposition of limits for its renewal. In addition, it is also important to provide for the regulation of situations of misuse or abuse in the use of fixed-term labour agreements or employment relationships.
Labour agreements renewed for one or more times, except for cases provided for by the first part of Article 23^1, shall be regarded as concluded for an indefinite term..		
The worker and the owner or a body authorized thereby shall have the right to agree to continue their employment relationship established for a fixed-term if it is necessary to complete the work defined in the fixed-term labour agreement. In such a case, the employment relationship shall		

CMU draft law provision's wording	Recommended wording	Rationale
expire when the work is fully completed. Continuation of employment relationship to complete the work defined in the fixed-term labour agreement shall not be regarded as extension of the labour agreement for an indefinite term.”;		
	Article 39[2]. Labour agreement for indefinite term	This new Article and this first part should be inserted, in order to better align this draft law with Clause 5 of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC and with Article 2(3) of ILO C158, by foreseeing adequate measures to prevent abuse arising from the misuse of fixed-term employment contracts or relationships and to prevent the recourse to fixed-term employment contracts or relationships with the aim to avoid the protection resulting from ILO C158.
	A fixed-term labour agreement shall be regarded as concluded for an indefinite term in the following cases:	
	1) Where the term stipulation is intended to evade the provisions governing the labour agreement without a term.	These paragraphs should be introduced, in order to align with International and European Labor Standards and best practices, in particular with Clause 5 of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC and with Article 2(3) of ILO C158, foreseeing adequate measures to prevent abuse arising from the use of successive fixed-term employment contracts or relationships and preventing the recourse to contracts of employment for a specified period of time with the aim to avoid the protection resulting from ILO C158
	2) Concluded outside the grounds foreseen in first part of Article 23[1].	
	3) In which is missing the written form, the identification or signature of the parties, or, at the same time, the dates of conclusion of the contract and of the commencement of work.	
	4) In which the indication of the grounds for the term is not made with express mention of the facts which are part of it and/or the relationship between the grounds relied on and the term stipulated are not established	

CMU draft law provision's wording	Recommended wording	Rationale
	or are insufficient, in violation of paragraph 5) of the first part of Article 29.	
	5) Concluded for a duration that exceeds the maximum duration foreseen in the second part of Article 23.	
	A fixed-term labour agreement shall be converted into a labour agreement for indefinite term in the following cases:	This second part of this new Article should be inserted, in order to better align this draft law with Clause 5 of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC and with Article 2(3) of ILO C158, by foreseeing adequate measures to prevent abuse arising from the misuse of fixed-term employment contracts or relationships and to prevent the recourse to fixed-term employment contracts or relationships with the aim to avoid the protection resulting from ILO C158. In this case, for the conversion into open-ended labour agreements the ones that supervening (i.e., after their conclusion), violate the provisions regulating the fixed-term labour agreements or employment relationships.
If, upon expiration of a labour agreement (Article 23(2)), employment relationship actually continues and neither of their parties demands their termination, validity of the agreement shall be regarded as extended for an indefinite term.	1) **When**, upon expiration of **a certain fixed-term** labour agreement, employment relationship actually continues and neither of their parties demands **its** termination**.** ~~**, validity of the agreement shall be regarded as extended for an indefinite term**~~.	The proposed part should be changed to improve clarity and to separate "certain" from "uncertain" fixed term contracts, whose nature is different. Uncertain fixed term contracts renewal is addressed below [see paragraph 3) of this second part of Article 39[2]]
Labour agreements renewed for one or more times, except for cases provided for by the first part of Article 23[1], shall be regarded as concluded for an indefinite term.	2) **When a certain fixed-term** labour agreement is renewed **for more than the three maximum number of renewals foreseen in the first part of Article 39[1].**	This paragraph (proposed in the ME draft Law as the second part of Article 39[1]) hould be moved to here [as paragraph 2) of the second part of our suggested Article 39[2]] and changed, because: 1) The measures aimed at preventing the abuse arising from the use of successive

CMU draft law provision's wording	Recommended wording	Rationale
		fixed-term employment contracts or relationships should apply to all certain fixed-term labour agreements or employment relationships (including the ones celebrated according to article 23^1), as foreseen in Clause 5 of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC; 2) It should refer to a pre-defined maximum number of renewals, proposed in Article 39^1, in accordance with Clause 5(1)(c) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC.
The worker and the owner or a body authorized thereby shall have the right to agree to continue their employment relationship established for a fixed-term if it is necessary to complete the work defined in the fixed-term labour agreement. In such a case, the employment relationship shall expire when the work is fully completed. Continuation of employment relationship to complete the work defined in the fixed-term labour agreement shall not be regarded as extension of the labour agreement for an indefinite term.”;	**3) When, in the case of an uncertain fixed-term labour agreement, the worker remains in operation after the expiry date indicated in the employer's notice or, failing that, 15 days after the conclusion of the work or task, or occurrence of the event, for which the uncertain fixed-term labour agreement was concluded.**	Should be changed, as recommended, because: • If the fixed-term labour agreement is concluded on the ground of completing a work or a task precisely defined, as foreseen in the grounds laid down in the first part of Article 23^1, then the fixed-term contract shall be concluded for an uncertain fixed-term (until the conclusion of the task), as the date of completion of the task is not foreseen in advance, thus not needing any renewal for its extension until the completion of the task; however, • If the proposed provision refers to the extension of the uncertain fixed-term labour agreement beyond 5 years (because the task's duration is bigger than the maximum duration of an uncertain fixed-term agreement, which is 5 years, as foreseen in the recommended second part of Article 23), then the uncertain

CMU draft law provision's wording	Recommended wording	Rationale
		fixed term labour agreement should be regarded as concluded for an indefinite term, in order to align this draft law with Clauses 5(1)(b) and 5(1)(c) of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC and with Article 2(#) of ILO C158.
	4) When the certain fixed-term labour agreement is renewed without observance of the grounds for its conclusion, as provided for in the second part of Article 39[1].	This paragraph should be introduced, in order to subject the renewal of a certain fixed-term labour agreement to the same grounds of its conclusion or, otherwise, convert it into a open-ended labour agreement, thus ensuring a better alignment of this draft law with International and European Labor Standards and best practices, in particular with Clause 5 of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC and with Article 2(3) of ILO C158, foreseeing adequate measures to prevent abuse arising from the use of successive fixed-term employment contracts or relationships and preventing the recourse to contracts of employment for a specified period of time with the aim to avoid the protection resulting from ILO C158.
	In the situations referred to in this Article, the seniority of the worker is counted from the beginning of the work.	This part should be inserted in order to ensure that, in case a fixed-term labour agreement in regarded as or converted into an open-ended labour agreement, the seniority of the worker is counted from the date he started to work and not from the date of the said conversion or consideration, therefore promoting a better alignment of this draft law with International and European Labor Standards and best practices,

CMU draft law provision's wording	Recommended wording	Rationale
		namely with Clause 5 of the Framework Agreement on Fixed-term Work annexed to Directive 1999/70/EC and with Article 2(3) of ILO C158, which foresee the provision of adequate measures to prevent abuse arising from the use of successive fixed-term employment contracts or relationships and preventing the recourse to contracts of employment for a specified period of time with the aim to avoid the protection resulting from ILO C158
10) ……		
……		
……		
11) ……		
	12) in Article 50:	The first part of Article 50 of the Code of Labour Laws (CLL) should be replaced by the recommended wording, in order to clarify the difference between "normal" daily and weekly working hours and "overtime" hours, simplifying the understanding of maximum working hour limits per day and per week, whereas the Maximum Working Hours = Normal Hours (per day or week) + Legal Overtime Hours (per day or week), as limited by this law. For this purpose, the first part of Article 50 of the CLL (which wording is: "Normal working hours of employees cannot exceed 40 hours per week") should be replaced by the proposed wording, thus ensuring a better alignment of the CLL with Article 2 of ILO Hours of Work (Industry) Convention, 1919 (No. 1), Article 3 of ILO Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), Article 1 of the ILO Forty-Hour Week Convention, 1935 (No. 47) and
	Replace first part by "Normal working hours of employees cannot exceed 8 hours per day and 40 hours per week"	

CMU draft law provision's wording	Recommended wording	Rationale
		Article 6(b) of Directive 2003/88/EC, of the European Parliament and of the Council, of 4 November 2003, concerning certain aspects of the organization of working time.
12) in Article 52:	**13)**	Should be renumbered, due to the insertion of the previous paragraph.
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.....		
	In any case, employer shall ensure that:	This paragraph should be inserted, as part fourth of Article 52, in order to ensure the alignment of this draft law with Article 5 of Directive 2003/88/EC, as well as with Article 2 of the ILO Weekly Rest (Industry) Convention, 1921 (No. 14) and Article 6 of ILO Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106).
	1) Workers receive a rest day equivalent to a minimum period of 24 continuous hours in a workweek. This period can be extended by regulation, collective bargaining agreement, or agreement between worker and employer; and	
	2) The period of 11 continuous hours of daily rest between workdays or work shifts referred to in the third part of Article 57.	
13) reword Article 57 as follows:	**14)**	To be renumbered.
"Article 57. Work starting and ending		
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	In any case, employer shall ensure that every worker is entitled to a minimum period of 11 continuous hours of daily rest between workdays or work shifts.	This part should be inserted in order to ensure the alignment of this Draft with Article 3 of Directive 2003/88/EC.
14) in Article 58:	**15)**	To be renumbered.
.....		
.....		
	Employer shall ensure that work in shifts observe the minimum daily rest period established in the third part of Article 57.	This part should be inserted in order to ensure the alignment of this Draft with Article 3 of Directive 2003/88/EC.
15) in Article 62:	**16)**	To be renumbered.

CMU draft law provision's wording	Recommended wording	Rationale
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16) ……	**17)** ……	To be renumbered.
	18) in Article 65:	First part of Article 65 of the CLL (which wording is: "Overtime work should not exceed four hours for each employee for two consecutive days and 120 hours per year") should be changed, as recommended, in order to ensure clear limits on overtime hours per day and per week, in a manner that accounts for Article 3 of ILO C1, Articles 5 and 6 of ILO C30 and Article 6(b) of Directive 2003/88/EC, establishing a maximum daily overtime hours and a maximum weekly overtime hours of, respectively, not more than 2 overtime hours per workday and not more than 8 hours of overtime hours per work week. This measure should also be complemented by the insertion of a new second part below: to ensure that overtime does not prevent workers from their right to a minimum daily rest period, thus ensuring the its better alignment with Article 3 of Directive 2003/88/EC.
	Replace first part by "Overtime work for each employee should not exceed two hours per day, eight hours per week and 120 hours per year."	
	Insert a second part with the following wording: "Employer shall ensure that overtime do not prevent workers from enjoying the minimum daily rest period established in the third part of Article 57".	This part should be inserted in order to ensure that overtime do not prevent workers from benefiting from the minimum daily rest period, thus enabling a better alignment of the CLL with Article 3 of Directive 2003/88/EC.
	Due to the insertion of new part two, the current part two becomes part three.	To renumber the current part two of Article 65 as part three.
17) in Article 66:	**19)** ……	To be renumbered, due to the previous insertion of two additional paragraphs [12) and 18)].

CMU draft law provision's wording	Recommended wording	Rationale
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delete the second sentence in the fourth part;	**A list of such works, procedure and place of taking meal shall be established by collective agreements or agreements between the two sides of industry or, failing that, by law.**	The proposed provision (to "delete the second sentence in the fourth part") should be replaced by the recommended provision, in order to align this draft law with Article 4 of Directive 2003/88/EC.
18) reword the second part of Article 67 as follows:	**20)** …….	To be renumbered.
…….		
	In any case, employer shall ensure that every worker is entitled to a minimum uninterrupted rest period of 11 continuous hours between workdays or work shifts and a rest period of at least 24 continuous hours per workweek, as provided for in the third part of Article 52.	This part should be inserted in order to ensure the alignment of this draft law with Article 5 of Directive 2003/88/EC, as well as with Article 2 of ILO C014 and Article 6 of ILO C106.
19) …….	**21)** …….	To be renumbered.
20) in Article 69, replace the words "in accordance with a shift schedule to be approved by the owner or a body authorized thereby as agreed upon with the elective body of the primary trade union organization (trade union representative) of the enterprise, institution or organization" with the words "according to the written labour agreement or shift schedules.";	**22)** in Article 69, replace the **wording** "in accordance with a shift schedule to be approved by the owner or a body authorized thereby as agreed upon with the elective body of the primary trade union organization (trade union representative) of the enterprise, institution or organization" with the **wording** "according to the written labour agreement or shift schedules, **provided that the employer ensures that every worker is entitled to a minimum uninterrupted rest period of 11 continuous hours between workdays or work shifts and a rest period of at least 24 continuous hours per workweek as established in the third part of Article 52**.";	The proposed sentence (in red in the adjacent left cell) should be inserted, in order to ensure the alignment of this draft law with Article 5 of Directive 2003/88/EC, as well as with Article 2 of ILO C014 and Article 6 of ILO C106. In addition, the term "words" should be replaced by "wording", for correctness. The number of the paragraph should also be updated, to take into account the two paragraphs inserted above.
21) in Article 71:	**23)** …….	To be renumbered.
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CMU draft law provision's wording	Recommended wording	Rationale
"Article 71. Work on days-off		
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	Employer shall ensure that, by virtue of the work performed in days-off, the working time of each concerned worker, including overtime, does not exceed 10 hours per day and does not exceed 48 hours per each workweek.	This new paragraph should be inserted, as the fifth part of Article 71, in order to better align this draft law with Article 6(b) of Directive 2003/88/EC, as well as with Articles 2 to 5 of the ILO C1 and with Articles 3, 4, 5(c) and 6 of the ILO C30.
	The employer shall pay overtime to the worker who works on their day-off, including weekly rest days, public holidays, or scheduled leave days, regarding all the overtime hours worked each day, at a rate of pay no less than the one defined in the Code of Labour Laws or, if higher, in the applicable collective agreement and, in any case, no less than one and one-quarter times the regular rate.	This new paragraph should be inserted, as the fifth part of Article 71, in order to better align this Article of the CLL with Article 6(2) of ILO C1 and Article 7(4) of ILO C30.
	24) in Article 75:	Should be amended, in order to better align it with Articles 7(1) of Directive 2003/88/EC and Article 3(1) of the ILO Holidays with Pay Convention (Revised), 1970 (No. 132).
	reword the title of the Article 75 as follows: "Article 75. Duration of the annual basic <u>paid</u> leave"	In order to insert the word "paid", clarifying that the annual basic leave is paid and better aligning with Articles 7(1) and (2) of Directive 2003/88/EC and Article 3(1) of the ILO C132.
	reword the first part of Article 75 as follows: "Annual basic paid leave is granted to employees for at least <u>four weeks per year of service</u>, which is counted from the date of the employment contract"	In order to establish the employees' right to a **<u>minimum of four weeks of paid annual leave per year of service</u>** and to better align with Article 7(1) of Directive 2003/88/EC.
22) in Article 78:	**25)** in Article 7**9**:	To correct the error and renumber the paragraph.

CMU draft law provision's wording	Recommended wording	Rationale
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	reword the seventh part of Article 79 as follows:	The seventh part of Article 79 should be changed, in order to better align with Article 9(1) of ILO C132, by ensuring that, whenever it is not possible to ensure that the worker enjoys an uninterrupted period of annual paid leave of four weeks, the unused period of annual paid leave is, nevertheless, enjoyed within a reasonable period of time. In this case, the alteration proposed ensures that the workers may enjoy the unused leave 6 months earlier. In fact, while the 12 months foreseen by the CLL are counted from the end of the year in which such leave should be enjoyed, the 18 months of the Article 9(1)of ILO C132 are counted from the end of the year within the right to annual leave was earned (thus, a year before).
	" An unused part of the annual leave must be granted to the worker, as a rule, until the end of the working year but no later than eighteen months from the end of the year in respect of which the annual leave entitlement has arisen.";	
	reword the second sentence of the eighth part of Article 79 as follows:	The second sentence of the eighth part of Article 79, in order to ensure that, whenever recalled from an annual, the worker may resume it as soon as the impediment cease, may replace the unused annual leave by compensations (provided that the employee enjoys the minimum period of annual basic paid leave of four weeks per year of service),or shall be carried over to another period by agreement between the employer and the concerned worker, thus better aligning with Article 7(2) of Directive 2003/88/EC and Articles 8 and 12 of ILO C132.
	"If the worker is recalled from leave, the unused part of the leave shall be granted after the reasons which interrupted the leave cease to exist, shall be replaced by monetary compensation if the employee so requests and provided that the worker enjoys the minimum period of annual basic paid leave of four weeks per year of service foreseen in Article 75 of this law and in Article 6 of the law "on leaves", or shall be carried over to another period by agreement between the employer and the concerned worker.";	

CMU draft law provision's wording	Recommended wording	Rationale
23) ……	**26)** ……	To renumber the paragraph.
	27) in Article 83:	Should be amended, in order to better align it with Article 7(2) of Directive 2003/88/EC and Article 12 of ILO C132. Also to renumber the paragraph.
	Reword the fourth part of Article 83 as follows: "At the request of the employee, part of the annual leave is replaced by monetary compensation, provided that the employee enjoys the minimum period of annual basic paid leave of four weeks per year of service foreseen in Article 75 of this law and in Article 6 of the law "on leaves."	The fourth part of Article 83 should be changed, in order to prevent that the right of workers to a minimum annual basic paid leave, intended to promote the rest, relaxation and health of workers, may be relinquished, forwent or replaced by an allowance in lieu, as well as to better align with Article 7(2) of Directive 2003/88/EC and Article 12 of ILO C132.
24) ……	**28)** ……	To renumber the paragraph.
25) reword Chapter IX as follows: "Chapter IX FINANCIAL LIABILITY OF THE WORKER 26) in the first part of Article 142, replace the words "shall be determined" with the words "may be determined"; 27) in Article 252: in the third part, delete the words "except for cases where the general procedure shall be observed,"; reword the fourth part as follows: "The procedure of providing consent in cases envisaged by the second and third parts of this Article shall be defined by a collective contract.";	**NOT ANALSYZED, AS THIS TOPIC IS OUT OF THE SCOPE OF THE EU-ILO PROJECT "TOWARDS SAFE, HEATLHY AND DECLARED WORK IN UKRAINE".**	
2. In the second part of Article 5 of the Law of Ukraine "On Labour Protection (Vidomosti Verkhovnoi Rady Ukrainy, 1992, No. 49, p. 668), replace the words "against signed receipt" with the words "in a way agreed upon with them,".	2. In the second part of Article 5 of the Law of Ukraine "On Labour Protection (Vidomosti Verkhovnoi Rady Ukrainy, 1992, No. 49, p. 668), replace the words "against signed receipt **about working conditions and about there being**	To ensure that Article 5 of the Law of Ukraine "On Labour Protection (Vidomosti Verkhovnoi Rady Ukrainy, 1992, No. 49, p. 668): • Is better aligned with Articles 3 and 4 of Directive (EU) 2019/1152; and

CMU draft law provision's wording	Recommended wording	Rationale
	hazardous and harmful production factors at their workplace not yet eliminated, possible consequences of their impact upon the worker's health, and the worker's right to benefits and compensations for work in such conditions according to legislation and pursuant to a collective contract" with the words "**in the way prescribed in parts five and six of Article 29 of the Code of Labour Laws of Ukraine (Vidomosti Verkhovnoi Rady URSR, 1971, Annex to No. 50, p. 375, as subsequently amended) about:**	• Is more clear and consistent with paragraphs 9) to 12) of the first part of Article 29 of the Code of Labour Laws of Ukraine (Vidomosti Verkhovnoi Rady URSR, 1971, Annex to No. 50, p. 375, as subsequently amended).
	1) Working conditions;	To ensure that Article 5 of the Law of Ukraine "On Labour Protection": • Is better aligned with Article 4 of Directive (EU) 2019/1152; and • Is more clear and consistent with paragraph 9) of the first part of Article 29 of the Code of Labour Laws of Ukraine.
	3) Presence of hazardous and harmful workplace factors not yet eliminated and their possible impact on worker's health, as well as the safety and health risks and protective and preventive measures and activities in respect of both the undertaking and/or establishment in general and the employee's job in particular;	To ensure that Article 5 of the Law of Ukraine "On Labour Protection": • Is better aligned with Article 4 of Directive (EU) 2019/1152 and with Article 10 of Directive 89/391/EEC; and • Is more clear and consistent with paragraph 10) of the first part of Article 29 of the Code of Labour Laws of Ukraine.
	3) Where applicable, the measures taken for first aid, fire-fighting and evacuation of workers, including the identification of the workers designated to implement them.	To ensure that Article 5 of the Law of Ukraine "On Labour Protection": • Is better aligned with Article 4 of Directive (EU) 2019/1152 and with Articles 8(2) and 10(1) of Directive 89/391/EEC; and

CMU draft law provision's wording	Recommended wording	Rationale
		• Is more clear and consistent with paragraph 11) of the first part of Article 29 of the Code of Labour Laws of Ukraine.
	4) Worker's entitlement to benefits and compensations for work in hazardous and harmful conditions according to the legislation and pursuant to a collective contract;"	To ensure that Article 5 of the Law of Ukraine "On Labour Protection" is more clear and consistent with paragraph 12) of the first part of Article 29 of the Code of Labour Laws of Ukraine.
3. In the Law of Ukraine "On Leaves" (Vidomosti Verkhovnoi Rady Ukrainy, 1997, No. 2, p. 4; 2000, No. 51-52, p. 449; 2004, No. 6, p. 38):		
	1) in Article 6:	Should be amended, in order to better align it with Articles 7(1) of Directive 2003/88/EC and Article 3(1) of the ILO C132.
	Reword the title of the Article 6 as follows: "Article 6. Annual basic paid leave and duration"	In order to insert the word "paid", clarifying that the annual basic leave is paid and better aligning with Articles 7(1) and (2) of Directive 2003/88/EC and Article 3(1) of the ILO C132.
	Reword the first part of Article 6 as follows: "Annual basic paid leave is granted to employees for at least four weeks per year of service, which is counted from the starting date of the employment contract."	The first part of Article 6 should be changed, in order to establish the employees' right to a **minimum of four weeks of paid annual leave per year of service** and to better align with Article 7(1) of Directive 2003/88/EC.
	Delete the second, third and fourth parts of Article 6.	These parts should be deleted because they foresee an amount of minimum annual basic paid leave which is equal or lower than the one proposed in the part one of Article 6.
	In the fifth part of this Article, delete the words "non-paramilitary employees of the mining rescue units are granted 24 calendar days with an increase of 2 calendar days for each two years worked, but not more than 28 calendar days".	These words should be deleted because they foresee an amount of minimum annual basic paid leave which is equal or lower than the one proposed in the part one of Article 6.

CMU draft law provision's wording	Recommended wording	Rationale
	Renumber parts six to ten of Article 6 as parts three to seven and replace, in each one of them, the words "annual basic leave" by "annual basic paid leave".	Should be amended to renumber the parts (adjusting them to the above proposed deleting of parts 2, 3 and 4) and to insert the word "paid", clarifying that the annual basic leave is paid, thus better aligning it with Articles 7(1) and (2) of Directive 2003/88/EC and Article 3(1) of the ILO C132.
1) in Article 10:	**2)** ……	To renumber the paragraph.
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……		
2) ……	**3)** ……	To renumber the paragraph.
	4) in Article 24:	The fourth part of Article 24 should be changed, in order to prevent that the right of workers to a minimum annual basic paid leave, intended to promote the rest, relaxation and health of workers, may be relinquished, forwent or replaced by an allowance in lieu, as well as to align with Article 7(2) of Directive 2003/88/EC and Article 12 of ILO C132.
	Reword the fourth part of Article 24 as follows: "At the request of the employee, part of the annual leave is replaced by monetary compensation, provided that the employee enjoys the minimum period of annual basic paid leave of four weeks per year of service foreseen in Article 6 of this Law and in Article 75 of the Code of Labour Laws of Ukraine."	
4. In the Law of Ukraine "On Trade Unions, Their Rights and Guarantees of Activity" (Vidomosti Verkhovnoi Rady Ukrainy, 1999, No. 45, p. 397; 2002, No. 11, p. 79):	**NOT ANALSYZED, AS THIS TOPIC IS OUT OF THE SCOPE OF THE EU-ILO PROJECT "TOWARDS SAFE, HEATLHY AND DECLARED WORK IN UKRAINE".**	
1) in the first part of Article 38:		
reword paragraph 4 as follows:		
"4) take part in addressing by the employer of the matters concerning work and rest time, agree upon shift and leave schedules as well as introduction of summary recording of work time, obtain information on planned overtime work, work on days-off, etc.;";		

CMU draft law provision's wording	Recommended wording	Rationale
delete paragraph 10;		
2) delete Article 39;		
3) in Article 41:		
in the third part, delete the words "except for cases where the general procedure shall be observed,";		
reword the fourth part as follows:		
"The procedure of providing consent in cases envisaged by the second and third parts of this Article shall be defined by a collective contract.".		
II. Final provisions		
1. ……		
2. ……		
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EXAMPLES FROM OTHER COUNTRIES[7]

Albania

An employment contract is an agreement between the employer and the employee, containing the rights and obligations of both parties. The employee thereby undertakes to offer his/her services for a fixed or indefinite period of time under the organization and orders of the employer, who undertakes to pay remuneration [LC, Art. 12].

Brcko District of Bosnia and Herzegovina

Employment contracts can be concluded for indefinite or fixed periods. An employment contract which does not contain information as to its duration, with the exception of the initial contract, is considered a contract of indefinite duration. Fixed-term contracts cannot last longer than two years [LC, Arts. 12(1), (3), (4)].

Bulgaria

Fixed-term contracts can be concluded for a period not exceeding three years, unless otherwise provided for by the Council of Ministers or statutory provision; for completion of an assigned task; for temporarily replacing a worker absent from work; for occupying a position until it is filled after a competitive examination is undertaken; for a term of office [LC, Art. 68].

Croatia

"(1) Exceptionally, an employment contract may be concluded for a fixed term, for the purpose of taking up an employment where the end of the employment is determined by objective conditions such as reaching a specific date, completing a specific task, or the occurrence of a specific event.
(2) The employer may enter into a successive fixed-term employment contract with the same worker solely on objective grounds, which must be clarified in the same contract or in a letter of engagement referred to in Article 14, paragraph 3 of this Act.
(3) The cumulative duration of all successive fixed-term employment contracts, including the first employment contract, may not exceed three consecutive years, unless where it is necessary for the purpose of replacing a temporarily absent worker or where it is on objective grounds allowed by law or a collective agreement.
(4) The limitations referred to in paragraphs 2 and 3 of this Article shall not apply to the first fixed-term employment contract.

[7] Available at: https://www.ilo.org/dyn/ceelex/en/f?p=14100:2100:0::NO:2100:P2100_COUNTRYLIST,P2100_NODELIST:EU,247036;247039;247045;24.

(5) Any change or amendment to the fixed-term employment contract affecting its prolongation shall be regarded as a next successive fixed-term employment contract.
(6) An interruption of less than two months shall not be regarded as the interruption of the three-year period referred to in paragraph 3 of this Article.
(7) Where an employment contract is not concluded in compliance with the provisions of this Act or where a worker continues to work at the employer's after the expiry of the contract, it shall be deemed that the concluded contract was of indefinite duration." [Labour Act, Art. 12].

Federation of Bosnia and Herzegovina

Employment contracts can be concluded for a fixed period, not exceeding three years. If an employee does not expressly or tacitly renew a fixed-term contract, or if the employee expressly or tacitly concludes consecutive fixed-term contracts with the same employer for a period of at least 3 consecutive years, the contract is deemed to be for an indefinite duration.

Discontinuations which are not considered termination of employment are the following: annual leave, temporary inability to work, maternity leave, authorized absences from work, periods between termination and re-instatement, a period up to 60 days between different employment contracts with the same employer.

Employment contracts with trainees can be concluded for a fixed-term period, not exceeding one year.

[LC, Arts. 22(1), (3), (4), 23(1) and 32(3)]

Hungary

The period of fixed-term employment shall be determined according to the calendar or by other appropriate means.

The duration of a fixed-term employment contract must not exceed 5 years, including the duration of an extended relationship and that of another fixed-term employment relationship concluded within six months of the termination of the previous fixed-term employment relationship.

A fixed-term employment relationship may be extended, or another fixed-term employment relationship may be concluded within six months from the time of termination of the previous one upon the employer’s legitimate interests. The agreement may not infringe upon the employee’s legitimate interest. The number of possible extensions is not pre-defined.

[LC, s. 192]

Montenegro

Employment contracts may be concluded for a fixed-term period to perform a job whose duration is predetermined by objective reasons or due to the occurrence of unforeseeable events. Employers are not allowed to conclude several contracts of employment with the same employee if their duration (continuously or with interruptions) is longer than 24 months.

Exceptionally, fixed-term contracts may last longer than 24 months if this is necessary to substitute an employee temporarily absent from work, to perform seasonable jobs or work towards the completion of a specific project.
If an employee continues to work after the expiry of the fixed-term period, the employee is considered to have concluded a contract for an indefinite duration.

Employees on fixed-term contracts have the same rights, obligations and responsibility of employees on contracts for an indefinite duration.

[LC, Arts. 25 and 26]

North Macedonia

A fixed-term employment contract may be concluded for the performance of the same work for a period of up to five years, with or without interruptions.

[LRL, Arts. 46(1)]

Poland

An employment contract can be concluded for a fixed-term period.

There are statutory limitations on the duration of a fixed-term employment contract (employment contracts) and on the number of fixed- term employment contracts that can be concluded between the same parties. The employment under a fixed-term employment contract/contracts cannot last longer than 33 months. After the expiry of this period, the contract is treated as an employment contract for indefinite period.

The same parties cannot conclude more than 3 fixed-term employment contracts. The fourth one is treated as an employment contract for indefinite period.

The limitations mentioned above do not apply to:

1. a fixed-term contract for replacement of an employee during his/her justified absence from work;
2. a fixed-term contract concluded to perform casual, seasonal work;
3. a fixed-term contract concluded for performing work during a term office;
4. if there are objective reasons connected to an employer and specified by an employer.

[LC, Art. 25-1(1 - 4)]

Portugal[8]

Admissibility of fixed-term employment contract [LC, Art. 140]:

1 - The fixed-term employment contract may only be concluded to meet the company's temporary need and for the period strictly necessary to meet that need.
2 - In particular, the company's temporary need is considered to be:
a) Direct or indirect replacement of a worker who is absent or who, for any reason, is temporarily prevented from working;
b) Direct or indirect replacement of an employee for whom an action for assessing the lawfulness of dismissal is pending in court;
c) Direct or indirect replacement of worker on leave without remuneration;
d) Replacement of full-time worker who goes on to work part-time for a specified period;
e) Seasonal activity or other activity whose annual production cycle presents irregularities arising from the structural nature of the respective market, including the supply of raw materials;
f) Exceptional increase in company activity;
g) Execution of occasional task or precisely defined and non-long determined service;
h) Execution of work, project or other defined and temporary activity, including the execution, direction or supervision of civil construction work, public works, assembly and industrial repair, under a contract or in direct administration, as well as their projects or other complementary control and monitoring activity.
3 - Without prejudice to paragraph 1, an uncertain fixed-term employment contract may be concluded only in a situation referred to in any of points (a) to (c) or (e) (h) of the preceding paragraph.
4 - In addition to the situations provided for in paragraph 1, a certain fixed-term employment contract may be concluded for:
a) Launch of new activity of uncertain duration, as well as start of work of a company or establishment belonging to a company with less than 750 employees;
b) Hiring a worker looking for a first job, in a situation of long-term unemployment or in another provided for in special employment policy legislation.
5 - It is for the employer to prove the facts justifying the conclusion of a fixed-term employment contract.
6 - A very serious offence constitutes a breach of paragraphs 1 to 4.

[8] Available at the following URL: https://dre.pt/web/guest/legislacao-consolidada/-/lc/123915628/202102281131/exportPdf/normal/1/cacheLevelPage?_LegislacaoConsolidada_WAR_drefrontofficeportlet_rp=indice.

Form and content of fixed-term employment contract [LC, Art. 141]:

1 - The fixed-term employment contract is subject to written form and must contain:
a) Identification, signatures and domicile or registered office of the parties;
b) Worker's activity and corresponding remuneration;
c) Normal place of work and working time;
d) Start date of work;
e) Indication of the term stipulated and the respective justification;
f) Dates of conclusion of the contract and, if certain fixed-term contract, of the respective termination.
2 - In the absence of the reference required by point (d) of the preceding paragraph, the contract shall be considered to have commenced on the date of its conclusion.
3 -For the purposes of paragraph 1(e), the indication of the reason for the term must be made with express mention of the facts which are part of it, and the relationship between the justification relied on and the term stipulated shall be established.
4 - A serious offence constitutes a breach of paragraph 1(1) (e) or paragraph 3.

Special cases of very short-term employment contract [LC, Art. 142]:

1 - The employment contract in seasonal agricultural activity or for a tourist event of a duration of not more than 15 days is not subject to written form, and the employer must communicate his conclusion to the competent social security service, by means of an electronic form containing the elements referred to in points (a), (b) and (d) of paragraph 1 of the preceding article, as well as the place of work.
2 - In the cases provided for in the preceding paragraph, the total duration of fixed-term employment contracts with the same employer may not exceed 70 working days in the calendar year.
3 - In the event of a breach of the provisions of any of the preceding paragraphs, the contract shall be considered concluded for a period of six months, including in this period the duration of previous contracts concluded under the same precepts.

Succession of fixed-term employment contracts [LC, Art. 143]:

1 -The termination of a fixed-term employment contract, for reasons not attributable to the worker, prevents the new admission or allocation of a worker by means of a fixed-term employment contract or temporary work the execution of which takes place in the same job, or also a contract for the provision of services for the same object, concluded with the same employer or company which is in a domain or group relationship with him, or maintain common organizational structures, before a period of time equivalent to one third of the duration of the contract, including renewals.
2 - The provisions of the preceding paragraph shall not apply in the following cases:
a) New absence of the replaced worker, where the fixed-term employment contract has been concluded for his replacement;
b) Exceptional increase in the company's activity after the termination of the contract;

c) Seasonal activity;
d) Worker previously employed under the scheme applicable to the hiring of worker looking for first job.
3 - A serious offence constitutes a breach of paragraph 1.

Information on fixed-term employment contracts [LC, Art. 144]:

1 -The employer shall communicate the conclusion of a fixed-term employment contract, indicating the justification, as well as the termination thereof to the workers' commission and the trade union association in which the worker is affiliated, within five working days.
2 -The employer must communicate, in accordance with the ordinance of the minister responsible for the labour area, to the service with inspective competence of the ministry responsible for the labor area the elements referred to in the preceding paragraph.
3 - The employer shall communicate, within five working days, to the entity with competence in the area of equal opportunities between men and women the reason for non-renewal of a fixed-term employment contract where a pregnant, postpartum or lactating worker is concerned.
4 - The employer shall post information on the existence of permanent jobs that are available in the company or establishment.
5 - It constitutes a slight offence the breach of the provisions of paragraphs 1, 2 and 4 and a serious offence the breach of the provisions of paragraph 3.

Preference on admission [LC, Art. 145]:

1 - Up to 30 days after the termination of the contract, the employee has, under equal conditions, preference in the conclusion of an open-ended contract, whenever the employer proceeds to external recruitment for the exercise of functions identical to those for which he was hired.
2 - The breach of the preceding paragraph obliges the employer to indemnify the worker in the amount corresponding to three months of basic remuneration.
3 - It is for the worker to allege the breach of the preference provided for in paragraph 1 and the employer to prove compliance with the provisions of that provision.
4 - A serious offence constitutes a breach of paragraph 1.

Igualdade de tratamento no âmbito de contrato a termo [LC, Art. 146]:

1 - The term worker has the same rights and is attached to the same duties as a permanent worker in a comparable situation, unless objective reasons justify differential treatment.
2 - Fixed-term workers are considered, for the purposes of determining social obligations related to the number of workers, on the basis of the average of those existing in the company at the end of each month of the previous calendar year.

Labour contract without term [LC, Art. 147]:

1 – It is considered to be without term the labour contract:

a) Where the term stipulation is intended to evade the provisions governing the contract without a term;
b) Concluded outside the cases provided for in Article 140(1), (3) or (4) [where the fixed-term labour contract is concluded outside the admissibility requirements laid down therein];
c) In which is missing the written form, the identification or signature of the parties, or, at the same time, the dates of conclusion of the contract and of the commencement of work, as well as the one in which references to the term and the justification are omitted or insufficient;
d) Concluded in breach of Article 143(1) [where the duration of the fixed-term labour contract is longer than 2 years].

2 – It is converted into a labour contract without term:

a) The one whose renewal has been made in breach of Article 149 [when renewal does not check the admissibility requirements, when it is renewed more than 3 times or when the total duration of renewals exceeds that of its initial period];
b) The one in which the duration or number of renewals referred to in the following Article is exceeded;
c) The one concluded on an uncertain term, where the worker remains in operation after the expiry date indicated in the employer's notice or, failing that, 15 days after the verification of the term.

3 – In a situation referred to in paragraph 1 or 2, the seniority of the worker is counted from the beginning of the work, except in the situation referred to in paragraph 1 (d), which includes the working time provided in compliance of successive contracts.

Duration of fixed-term employment contract [LC, Art. 148]:

1 - The certain fixed-term employment contract may be renewed up to three times and its duration may not exceed:

a) 18 months, when it comes to a person looking for a first job;
b) two years, in the other cases provided for in Article 140(4);
c) Three years, in the remaining cases.

2 - The certain fixed-term employment contract can only be concluded for a term of less than six months in a situation provided for in any of subparagraphs a) to g) of paragraph 2 of article 140 and its duration cannot be shorter than that provided for the task or service to perform.

3 - In the event of a breach of the provisions of the first part of the preceding paragraph, the contract shall be concluded for a period of six months provided that it corresponds to the satisfaction of the company's temporary needs.

4 - The duration of the uncertain fixed-term employment contract may not exceed six years.

5 - It is included in the calculation of the limit referred to in subparagraph c) of paragraph 1 the duration of fixed-term or temporary work contracts whose execution takes place in the same job, as well as a service provision contract for the same object, between the worker and the same

employer or companies that are in a dominant or group relationship with the employer or maintain common organizational structures.

Renovation of fixed-term employment contract [LC, Art. 149]:

1 - The parties may agree that the certain fixed-term employment contract is not subject to renewal.
2 - In the absence of a stipulation referred to in the preceding paragraph and the declaration of any of the parties which terminates it, the contract shall be renewed at the end of the term for the same period if another is not agreed by the parties.
3 - The renewal of the contract is subject to verification of its admissibility, in accordance with the provisions of its conclusion, as well as to the same form requirements in the event of establishing a different period.
4 - It is considered as only one contract the one which is renewed.

Expiry of certain fixed-term employment contract [LC, Art. 344]:

1 -The certain fixed-term employment contract expires at the end of the stipulated period, or its renewal, provided that the employer or the worker communicates to the other party the willingness to terminate it, in writing, respectively, 15 or 8 days before the expiry period.
2 - In the event of expiry of a certain fixed-term employment contract arising from the employer's declaration in accordance with the preceding paragraph, the employee shall be entitled to compensation corresponding to 18 days of basic remuneration and seniority allowance for each full year of seniority, calculated in accordance with Article 366.

Expiry of uncertain fixed-term employment contract [LC, Art. 345]:

1 - The uncertain fixed-term employment contract expires when, where the term is expected, the employer informs the worker of its termination at least seven, 30 or 60 days in advance, depending on the contract having lasted for up to six months, from six months to two years or for a longer period.
2 -In the case provided for in subparagraphs (e) or (h) of Article 140(2) which gives rise to the hiring of several workers, the communication referred to in the preceding paragraph shall be made successively from the verification of the gradual decrease in their occupation, as a result of the normal reduction of the activity, task or work for which they were hired.
3 - In the absence of the communication referred to in paragraph 1, the employer shall pay the worker the amount of the remuneration corresponding to the missing notice period.
4 - In the event of expiry of an uncertain fixed-term employment contract, the worker is entitled to compensation corresponding to the sum of the following amounts:
a) 18 days of basic remuneration and seniority allowance for each full year of seniority, for the first three years of the contract;
b) A 12 days of basic retribution and diuturnities for each full year of seniority in subsequent years.

5 - The compensation provided for in the preceding paragraph shall be calculated in accordance with Article 366.
6 - Serious offence constitutes the violation of paragraph 4.

Conversion into fixed-term contract after retirement by old age or age of 70 years [LC, Art. 345]:

1 - It is considered to be a fixed-term employment contract the employment contract of an employee who remains in service after 30 days has elapsed over the knowledge, by both parties, of his retirement due to old age.
2 - In the case provided for in the preceding paragraph, the contract is subject to the regime defined in this Code for the fixed-term contract, with the necessary adaptations and the following specificities:
a) The written form is waived;
b) The contract is in force for a period of six months, renewing for equal and successive periods, without subjection to maximum limits;
c) The expiry of the contract shall be subject to 60 or 15 days' notice, depending on whether the initiative belongs to the employer or worker;
d) The expiry does not determine the payment of any compensation to the worker.
3 - The provisions of the preceding paragraphs shall apply to an employment contract of a worker who reaches 70 years of age without retirement.

Special rules for dismissal on the employer's initiative in the event of a fixed-term employment contract [LC, Art. 393]:

1 - The general rules of termination of the contract apply to fixed-term employment contracts, with the alterations contained in the following paragraph.
2 - If dismissal is declared unlawful, the employer is sentenced to:
a) Pay to worker a compensation for property and non-property damage, which shall not be less than the retribution which the worker has ceased to receive since the dismissal to the certain or uncertain term of the contract, or until the final decision of the court decision, if that term occurs later;
b) If the term occurs after the final judgment of the judicial decision, in the reintegration of the worker, without prejudice to his category and seniority.
3 - A serious offence constitutes a breach of the provisions of the preceding paragraph.

Termination of employment contract by worker with prior notice [LC, Art. 400]:

1 -The worker may terminate the contract regardless of just cause, by communication to the employer, in writing, at least 30 or 60 days in advance, as he has, respectively, up to two years or more than two years of seniority.
2 -The collective labour regulation instrument and the employment contract may increase the period of notice up to six months for a worker holding a management position, or with functions of representation or responsibility.
3 - **In the case of a certain fixed-term employment contract**, the termination may be made at least 30 or 15 days in advance, depending on the duration of the contract being at least six months or less.

4 - **In the case of an uncertain fixed-term contract**, for the purpose of the notice period referred to in the preceding paragraph, the duration of the contract already elapsed is taken into account.

Termination of employment contract by the worker without prior notice [LC, Art. 401]:

The worker who does not comply, in whole or in part, the period of notice established in the previous article shall pay the employer compensation equal to the basic remuneration and seniority allowance corresponding to the missing period, without prejudice to compensation for damages caused by failure to comply with the period of notice or obligation assumed in a permanence pact.

Republic of Moldova

Employment contracts can be concluded for a fixed term, not exceeding five years, in the following cases: to fulfil work obligations of employees who are suspended or on leave, to fulfil temporary work for up to two months, to fulfil seasonal work which can only be carried out in a certain period of the year due to weather conditions, to work abroad, with foreign citizens, for a period of internship or professional training, with persons studying on a full-time basis, with retired persons for a period up to two years, with scientists, teaching staff and rectors of higher education institutions, to occupy elected positions, for giving public works to the unemployed, for a period required to complete a certain task or for the implementation of a project, with employees in arts and religious associations [LC, Arts. 54(2) and 55(1)].

Republic of Srpska

Employment contracts can be concluded for an indefinite or fixed-time period. Contracts with no duration period are considered to be for an indefinite duration.

Fixed-term contracts can be concluded because of objective reasons or execution of a precise job, or due to the occurrence of a predetermined event.

An employer and an employee can conclude one or more fixed-term employment contracts, lasting less than 24 months with or without interruptions. Interruptions of work of less than 30 days are not considered as interruptions of the employment relation. Fixed-term contracts may also be concluded for a period longer than 24 months if it is necessary to temporarily replace an absent employee, to work on a project (less than 60 months) or if the person was unemployed and needed 5 years of employment to claim old-age pension.

If a fixed-term contract is concluded contrary to the law or if the employee stays at work for at least 5 working days after expiry of the contract, the contract must be considered a contract of indefinite duration.

Fixed-term contracts cease to exist upon expiry of the fixed-term period.

[LC, Art. 33(1-2) and 39(1-6)]

Romania

Employers can employ employees on fixed-term contracts not exceeding 36 months in the following cases: to replace an absent employee (unless the employee is participating in a strike), to cover an increase or change in the employer's activity, for seasonal jobs, to temporarily benefit unemployed people, to employ people within 5 years from their retirement date, to fill an elective position in trade unions or other organizations, to employ a retired worker who may accumulate retirement benefits through wages, in other cases provided for in special laws.

Employers are not allowed to conclude more than 3 fixed-term employment contracts with the same employee.

[LC, Arts. 82-87]

Serbia

Employment contracts may be concluded for a definite time period when the duration is predetermined by objective reasons justified by the time limit or performance of specific work or occurrence of specific event. Employers may conclude one or more fixed-term contracts with the same employee, not exceeding 24 months.

Circumstances where a fixed-term employment contract may be concluded are: to replace a temporarily absent employee; to work on the completion of a project; with foreign citizens on the basis of a work permit; to work for a newly established employer; to hire an unemployed person missing 5 years to fulfil their old-age pension entitlement.

If a fixed-term contract is concluded contrary to such provisions or if the employee continues to work for 5 days upon the expiry of the contract, the contract is considered to have been concluded for an indefinite time period.

[LC, Art. 37]

Slovakia

Employment relationships may be for an indefinite period or for a fixed-term.

Fixed-term employment relationships must not exceed two years and they must be agreed in writing (otherwise they are considered to be for an indefinite period).

Fixed-term contracts may be extended or renewed at most twice within a two-year period.

[LC, § 48 Fixed term employment relationship 2001]

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