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EU-ILO Project
ENHANCING THE LABOUR ADMINISTRATION CAPACITY
TO IMPROVE WORKING CONDITIONS AND TACKLE UNDECLARED WORK

GUIDELINES AND RECOMMENDATIONS
TO THE CONCEPT ON THE REFORM OF THE NATIONAL SYSTEM
FOR OCCUPATIONAL RISK PREVENTION AND PROMOTION OF
OCCUPATIONAL SAFETY AND HEALTH

UKRAINE

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FOREWORD

These guidelines and recommendations have been developed within the scope of the Outcome 1 of the EU-ILO Project “Enhancing the labour administration capacity to improve working conditions and tackle undeclared work” in Ukraine.

It answers to the call of the national stakeholders to provide expert support to the process of drafting the Concept on the reform of the national system for occupational risk prevention and promotion of occupational safety and health.

The main purpose of the OSH Concept is to lay the foundations on which should be based the Ukrainian system for occupational risk prevention and promotion of occupational safety and health, aimed at improving the workers’ OSH conditions at the workplaces, reducing the work-related accidents and occupational diseases, fostering the enterprises’ productivity and increasing the social and economic development of the Ukraine.

It is also expected that the effective implementation of the OSH Concept can contribute decisively to the execution of the National strategy on human rights, Article 424 of the EU-Ukraine Association Agreement, articles 2 and 3 of the European Social Charter (revised), paragraph 12 of the Plan of action for implementation of the European Social Charter (revised) for 2015-2019, paragraph 149 of the Chapter 1 of the Plan of priority action of the Ukrainian government for 2017.

The structure of this document reflects the structure of the draft Concept and the content of each section has been considerably enlarged and supplemented by the description of the international and European standards and approaches to the occupational safety and health promotion, specifying the main components of the draft Concept, stages of its implementation and steps which are recommended to be taken at each relevant stage.

The document also provides a number of sound arguments supporting the proposed measures, in order to contribute to the discussions on the draft Concept and help the development of a common and consensual position of the parties involved in its further finalization and approval.

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Concept on the reform of the national system for occupational risk prevention and promotion of occupational safety and health

1. Object and scope of the OSH Concept

The concept of the reform of the national system for occupational risk prevention and promotion of occupational safety and health of Ukraine (hereinafter referred to as «OSH Concept») is the framework document that establishes the context, vision, principles, tasks and main directions of the reorganization of the Ukrainian Occupational Safety and Health (OSH) policy, in order to ensure the effective implementation of the right to safety and health working conditions, foreseen in the Ukrainian legislation, as well as in both the International and the European Union Labour Standards.

The main purpose of the OSH Concept is, therefore, to lay the foundations on which should be based the Ukrainian system for occupational risk prevention and promotion of occupational safety and health, aimed at improving the workers' OSH conditions at the workplaces, reducing the work-related accidents and occupational diseases, fostering the enterprises' productivity and increasing the social and economic development of the Ukraine.

As such, the OSH Concept identifies the key challenges of the current Ukrainian Occupational Safety and Health Management System (OSHMS) and describes the key solutions to address those main challenges.

It is expected that this OSH Concept may give a decisive contribution towards the modernization and improvement of the efficiency and effectiveness of the Ukrainian system for OSH promotion, to the development of a truly national OSH prevention culture and to the alignment of the national OSH legislation with the International and European Union Labour Standards. In this way, it is foreseen that this OSH Concept can make a sound contribution to the dramatic improvement of the OSH conditions at the workplaces and, consequently, to the effective prevention and reduction of work-related accidents and occupational diseases, minimizing their devastating negative economic and social impacts.

The Concept is thus designed with a long run perspective and shall be the basis for the future development of a modern Ukrainian OSH policy, legal framework and OSH programs, at state, regional, sectoral and enterprise levels.

The OSH Concept also foresees the implementation of the provisions of the following documents:

- The National Human Rights Strategy, approved by the Decree of the President of Ukraine No. 501/2015, of 25 August 2015 (President of Ukraine, 2015);
- The article 424, Appendix XVII-5 and Annex XL to Chapter 21 of the Association Agreement between Ukraine and European Union, European Atomic Energy Community and the member states (EU and Ukraine, 2014), ratified by the Law of Ukraine No. 1678–VII, of 16 September 2014 (Parliament of Ukraine, 2014) and its respective Action Plan (Cabinet of Ministers of Ukraine, 2017);
- Articles 2 and 3 of the European Social Charter (revised) 1996 (Council of Europe, 1996), ratified by the Law of Ukraine № 137–V, of 14 September 2006 (Parliament of Ukraine, 2006);
- Paragraph No. 12 of the Action plan for the implementation of the provisions of the European Social Charter (revised) for 2015–2019, approved by the Order of the Cabinet of Ministers of Ukraine No. 450, of 14 May (Government of Ukraine, 2015, 2016);
- Paragraph No. 149 of the Chapter I of the Government's Priority Actions Plan for 2017,

approved by the Order No. 275 of the CMU, of 03 April 2017.

- Ukraine decent work country programme 2016 – 2019 (ILO, 2016).

In addition, the it is also aimed at ensuring the effective implementation of the International Labour Standards already ratified by Ukraine, namely the following:

- ILO Convention No. 81, concerning labour inspection in industry and commerce (Labour Inspection Convention), adopted in the 30th ILC session, in 11 July 1947 (ILO, 1947a);
- ILO Convention No. 129, concerning labour inspection in agriculture (Labour Inspection (Agriculture) Convention), adopted in the 53rd ILC session, in 25 June 1969 (ILO, 1969a);
- ILO Convention No. 115, concerning the Protection of Workers against Ionising Radiations, ratified by Ukraine in 19 June 1968 (ILO, 1960);
- ILO Convention No. 120, concerning Hygiene in Commerce and Offices, ratified by Ukraine in 19 June 1968 (ILO, 1964a);
- ILO Convention No. 139, concerning Prevention and Control of Occupational Hazards caused by Carcinogenic Substances and Agents, ratified by Ukraine in 17 June 2010 (ILO, 1974);
- ILO Convention No. 150, concerning labour administration: role, functions and organisation - Labour Administration Convention, adopted in the 64th ILC session, in 26 June 1978, ratified by Ukraine in 10 November 2004 (ILO, 1978);
- ILO Convention No. 155, concerning occupational safety and health and the working environment (Occupational Safety and Health Convention), adopted in the 67th ILC session, in 22 June 1981, ratified by Ukraine in 4 January 2012 (ILO, 1981);
- ILO Convention No. 161, concerning Occupational Health Services, ratified by Ukraine in 17 June 2010 (ILO, 1985);
- ILO Convention No. 176, concerning Safety and Health in Mines, ratified by Ukraine in 15 June 2011 (ILO, 1995a);
- ILO Convention No. 184, concerning Safety and Health in Agriculture, ratified by Ukraine in 01 Dec 2009 (ILO, 2001a);

The OSH Concept also aims at aligning the Ukrainian legislation with the principles and provisions of the International and European Union Labour Standards, Documents and Guidelines, as well as at ensuring their effective observation and implementation, in particular, in what concerns the following:

- ILO Protocol No. 81, of 1995, to the Labour Inspection Convention No. 81 (ILO, 1995b);
- ILO Recommendation No. 81, concerning Labour Inspection, adopted in the 30th ILC session, in 11 Jul 1947 (ILO, 1947b);
- ILO Recommendation No. 82, concerning Labour Inspection in Mining and Transport (ILO, 1947c);
- ILO Convention No. 148, concerning the Protection of Workers against Occupational Hazards in the Working Environment Due to Air Pollution, Noise and Vibration (ILO, 1977);
- ILO Recommendation No. 133, concerning Labour Inspection in Agriculture (ILO, 1969b);
- ILO Protocol No. 155, of 2002, to the OSH Convention No. 155 (ILO, 2002);
- ILO Convention No. 162, concerning Safety in the Use of Asbestos (ILO, 1986);

- ILO Convention No. 187, concerning the promotional framework for occupational safety and health (Promotional Framework for OSH Convention), adopted in the 95th ILC session, in 15 June 2006 (ILO, 2006a);
- ILO Resolution concerning statistics of occupational injuries (resulting from occupational accidents), adopted by the Sixteenth International Conference of Labour Statisticians (ILO, 1998);
- ILO Code of Practice on Recording and notification of occupational accidents and diseases (ILO, 1996);
- ILO Guidelines on occupational safety and health management systems ILO-OSH 2001 (ILO, 2001b);
- Council Framework Directive No. 89/391/EEC, of 12 June 1989, on the introduction of measures to encourage improvements in the safety and health of workers at work (European Council, 1989a);
- European Parliament and European Council Directive No. 2009/104/EC, of 16 September 2009, concerning the minimum safety and health requirements for the use of work equipment by workers at work (European Parliament & European Council, 2009a);
- Council Directive No. 89/656/EEC, of 30 November 1989, on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (European Council, 1989c);
- Council Directive No. 89/654/EEC, of 30 November 1989, concerning the minimum safety and health requirements for the workplace (European Council, 1989b);
- Council Directive N.º 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 (European Council, 1991a);
- European Parliament and European Council Directive No. 2003/88/EC, of 4 November 2003, concerning certain aspects of the organisation of working time (European Parliament & European Council, 2003b);
- European Commission Communication COM (2014) 332 final, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, on an EU Strategic Framework on Health and Safety at Work 2014-2020, of 6 June 2014 (European Commission, 2014);
- European Parliament Resolution No. 2015/2107(INI), of 25 November 2015, on the EU Strategic Framework on Health and Safety at Work 2014-2020 (European Parliament, 2015);
- European Parliament Resolution 2013/2112(INI), of 14 January 2014, on effective labour inspections as a strategy to improve working conditions in Europe (European Parliament, 2014).

2. Background

The work plays a central role in the well-being and quality of life of people and their families, allowing means of subsistence and the strengthening of self-esteem, personal fulfilment and individual dignity, as well as the promotion of social cohesion and stability, peace and economic growth (Budd, 2011, 2013; Budd & Spencer, 2015; Danna & Griffin, 1999; Pontifical Council for Justice and Peace, 2004).

It is now widely recognized, moreover, that the professional and personal lives of the people are not two separate entities, but rather areas interconnected and interrelated, with interactions between them (Caudron, 1997; Conrad, 1988; Zedeck & Mosier, 1990).

Paradoxically, and in clear contrast with the central role and importance commonly recognized to work, the International Labour Organization (ILO) holds that it kills more people than wars (ILO, 2005:5).

Indeed, and from a global workforce of around 2.84 billion people, it is estimated that about 2.4 million people die annually due to accidents at work (between 350 and 360 thousand deaths in about 270 million accidents at work) and occupational diseases (about 2 million deaths) (Hämäläinen, Leena Saarela, & Takala, 2009; J. Takala et al., 2014; Jukka Takala, 2005).

Alli (2008) noted, in this connection, that in sub-Saharan Africa die annually 54 thousand employees of work-related causes and that there are approximately 42 million accidents at work per year resulting in at least 3 days of absence. He also observed that in Latin America and the Caribbean occur annually about 30 thousand deaths from work-related causes and approximately 22.6 million work accidents with absences of at least 3 days.

In the European Union (EU), according to the latest Eurostat European Statistics on Accidents at Work (ESAW), in 2014 occurred 3,774 fatal work-related accidents, corresponding to an average incidence rate of 1.81 (Eurostat, 2017a). The higher incidence rates were recorded in activity sectors such as Mining and quarrying (with an incidence rate of 10.93); Construction (6.17); Transportation and storage (5.9); Agriculture, forestry and fishing (5.87); and Water supply, sewerage, waste management and remediation activities (5.31) (Eurostat, 2017a).

As for the non-fatal work-related accidents (with 4 or more days of absence, according to the Eurostat ESAW methodology), the EU 28 registered about 3.2 million, corresponding to an average incidence rate of 1,536.25 (Eurostat, 2017b). The higher incidence rates were observed in activity sectors such as Water supply, sewerage, waste management and remediation activities (incidence rate of 3,065.04 per 100,000 workers); Construction (2,933.88); Transportation and storage (2,532.76); Administrative and support service activities (2,165.15); and Manufacturing (1,948.96) (Eurostat, 2017b).

Concerning the occupational diseases in the EU 28, between 2010 and 2011 it were registered 187,500 deaths due to work-related illnesses. Cancers accounted for about 53% of those deaths, cardiovascular and circulatory diseases were responsible for about 28%, respiratory disease for 6% and neuropsychiatric conditions for around 5.7% (Schneider, 2015). According to the Eurostat (2010) report on Health and Safety at Work in Europe (1999-2007), 8.6% of the EU 27 workforce experienced work-related health problems in the past 12 months, which represents around 23 million people, being the musculoskeletal problems the most often reported as the main work-related health problem (60%), followed by stress, depression or anxiety (14%). According to this report, the occurrence of work-related health problems tends to increase with age and slowing down in workers aged 55 to 64 (as unhealthy workers usually leave the workforce earlier). Low educated workers are found to report work-related health problems more often. Moreover, this report also finds that musculoskeletal health problems are most frequently reported by low educated persons, whereas stress, depression or anxiety are more often identified by high educated persons. In addition, manual workers tends to registered more

work-related health problems than non-manual workers. Work-related health problems are especially prevalent in economic activity sectors such as ‘agriculture, hunting and forestry’, and ‘mining and quarrying’ and, regarding women, mostly reported in sectors such as ‘agriculture, hunting and forestry’, ‘health and social work’, ‘education’ and ‘manufacturing’ (Eurostat, 2010). It is estimated that the work-related health problems in the EU 27 in 2007 resulted in about 37 million calendar days of sick leave.

In the Ukraine, on the other hand, it were recorded 384 fatal work-related accidents in 2014, according to the ILO (2017a). Moreover, according to the draft of the Ukrainian OSH profile, in 2015 died 375 workers in work-related accidents, in 2016 the number of fatal work-related accidents raised up to 400 and, according to the the State Labour Service (SLS), during the first nine months of 2017, 257 already died working, due to work-related accidents. The highest numbers of the fatal work-related accidents occurred in 2014 were registered in the Manufacturing sector (75); Agriculture, forestry and fishing (49); Transportation and storage (41); Construction (40); and Mining and quarrying (36) (ILO, 2017a). Considering, however, the number of workers exposed to occupational risks (i.e. the number of workers of each economic activity sector), one can see that the Ukraine presented in 2014 an average incidence rate of fatal work-related accidents of 4.3, which is about 2.4 times more than the average incidence rate of fatal work-related accidents in the EU 28 (Eurostat, 2017a; ILO, 2017c). Moreover, when looking at the distribution, per economic activity sector, of the fatal work-related accidents incidence rates, it is possible to see that the economic activity sectors that show the highest incidence rates are the following: Construction (17.6); Mining and quarrying (11.6); Agriculture, forestry and fishing (9.5); Professional, scientific and technical activities (9.1); Water supply, sewerage, waste management and remediation activities (8.5); and Administrative and support service activities (8.2) (ILO, 2017c). These figures, however, seem inconsistent with the data provided by the State Labour Service (SLS), according to which SLS investigated about 548 fatal work-related accidents occurred in 2014, as shown in the draft document of the Ukrainian OSH profile.

As for the non-fatal work-related accidents occurred in Ukraine in 2014, the ILO statistics show that in the Ukraine occurred 137,345 non-fatal work-related accidents (which caused at least 1 day of absence, according to the ILO criteria) in 2014 (ILO, 2017b), of which about 5,770 were investigated by the SLS, as shown in the draft of the Ukraine OSH profile document and in additional SLS data. Moreover, according to that document, in 2015 the SLS investigated 3,885 non-fatal work-related accidents, in 2016 that number raised up to 4,028 and, during the first nine months of 2017, the SLS registered the occurrence of 2,878 non-fatal work-related accidents. The majority of the non-fatal work-related accidents registered in 2014 occurred in the following economic activity sectors: Manufacturing sector (37,142); Wholesale and retail trade, repair of motor vehicles and motorcycles (21,197), and Construction (20,110) (ILO, 2017b). With respect to the incidence rates of the non-fatal work-related accidents, Ukraine presented, in 2014, an apparently unfeasible average incidence rate of non-fatal work-related accidents of only 51.2 (ILO, 2017d), which seems to indicate a substantial under-reporting of non-fatal work-related accidents. This assumption, moreover, appears consistent with Hämäläinen, Leena Saarela, & Takala (2009), who found that the Ukraine recorded a number of non-fatal work-related accidents (with 3 or more days of absence in 1998 and 2001; and with 4 or more days of absence in 2003) of 3,041,308, 1,786,662 and 1,733,404 during the years of 1998, 2001 and 2003 (respectively), corresponding to incidence rates of, respectively, 13,224, 8,828 and 8,433 (in 2003, this incidence rate was about 2.5 times higher than the average EU 15 incidence rate).

The unfeasibility and unreliability of the data on fatal and non-fatal work-related accidents occurred in Ukraine in 2014 is also supported by its inconsistency with the H-1 form data of the Social Insurance Fund of Ukraine, according to which in 2014 occurred in Ukraine a total of 4,999 work-related accidents (384 of which were fatal and 4,615 non-fatal), as can be seen in the draft of the Ukraine OSH Profile document.

Moreover, regarding the occupational diseases, and according to the data of Social Insurance Fund of Ukraine (included in the draft document of the Ukraine OSH profile), Ukraine registered a total of 2,752 occupational diseases in 2014, a total of 1,764 in 2015 and about 1,603 in 2016. This figures, however, seem inconsistent with the data of the Institute of Occupational Medicine under the NAMS of Ukraine (as also shown in the draft coument of the Ukrainian OSH profile), which accounted for 4,352 cases of occupational diseases in Ukraine in 2014. In addition, and according to the Institute of Occupational Medicine under the NAMS of Ukraine, the majority of this reported occupational diseases are referred to diseases of the respiratory system, locomotor system pathology caused by nervous system impairment, vibration disease and to diseases of chemical etiology (cf. draft of the Ukrainian OSH profile).

Besides their deeply damaging consequences for the victims and their families, particularly at human and financial levels, work-related accidents also have harmful consequences for the employers and the States, resulting from their respective direct and indirect costs, whose value can reach up to 4% of their Gross National Product (GNP) (Bird & Germain, 1966, 1986; EU-OSHA, 1998; Fabela & Sousa, 2012; Hämäläinen et al., 2009; HSE, 2015; Leigh, 2011; J. Takala et al., 2014; Jukka Takala, 2005).

3. International and European Union legal frameworks on OSH

The growing awareness and serious concerns about the relatively high number and incidence rates of work-related accidents and occupational diseases, their devastating effects and the consequent emergency of their fight, has already encouraged policy makers around the globe to take action in order to promote the improvement of safety and health conditions at work and to prevent the occurrence of work-related accidents and occupational diseases.

As a result, international community has been involved in joint efforts at international, regional, national and local levels, in order to promote safety and health at work and, in this way, prevent the occurrence of accidents at work. Those efforts are being carried out both within the main reference organizations in the field in which they are integrated, such as the United Nations (UN), the ILO, the World Health Organization (WHO), the Organization for Economic Co-operation and Development (OECD) and the EU, and through bilateral, multilateral and tripartite processes of negotiation and consultation between the various stakeholders (in particular among Governments, employers ' and workers ' representative associations and civil society representatives).

These international efforts, moreover, have been fleshing out in international guidelines, norms and standards, mainly in the form of international treaties, covenants, declarations, charters, conventions and community directives, whose implementation is understood as likely to contribute to the improvement of the safety and health in the workplaces and, consequently, to the reduction of accidents at work and occupational diseases (Alli, 2008; European Council, 1989a; European Parliament, 2015; ILO, 1981, 2006a, 2007). They reflect the understanding that poor working conditions, in terms of safety and health at work, do decrease productivity and competitiveness, as accidents at work and occupational diseases have direct and indirect adverse consequences on the lives of workers, their families and employers, whereas safe and healthy work, on the contrary, have significant positive impacts on the productivity and competitiveness of companies and countries themselves (European Parliament, 2015; ILO, 2007).

They also reveal the belief that the absence of high levels of protection of the safety and health of workers may result in absenteeism due to the occurrence of accidents at work and occupational diseases, leading to permanent disabilities which, from the point of view of the social and economic costs, often supported by the respective social security systems and public finances, foreshadows considerable impact on Member States (European Parliament, 2015).

It is worth to mention, in this connection, the preamble of ILO's Constitution of 1919, embodying the ILO's mandate to protect workers against sickness, diseases and injuries at work (ILO, 1919), and the articles 100 and 118 of the Treaty of Rome (establishing the European Economic Community), which provide for Community intervention at the level of safety and health at work and the adoption of policies on employment, working conditions and protection against accidents and occupational diseases, giving the Commission the role of ensuring cooperation between Member States in these fields (EEC, 1957).

Regarding international covenants, it should be noted, for example, the article 7 of the International Covenant on Economic, Social and Cultural Rights, which provides for the right of all people to enjoy just and favorable working conditions that ensure, in particular, safer and healthy working conditions (UN, 1966).

As far as the international declarations are concerned, it is important to highlight, among others: the United Nations Universal Declaration of Human Rights, which foresees, in articles 23 and 24, the rights of all people *to work, to just and favorable conditions of work, to just and favorable remuneration supplemented, if necessary, by other means of social protection and to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay* (UN, 1948); and the ILO Declaration of Philadelphia (Declaration Concerning the Aims and

Purposes of the ILO, adopted at its 26th session General Conference, in May 10, 1944) in which the ILO assumes the obligation of supporting the implementation of programs aiming to *achieve an adequate protection of the life and health of workers in all occupations* (ILO, 1944:paragraph III-g).

Moreover, and concerning international charters, the Charter of Fundamental Rights of the European Union assumes special relevance, as it provides for, in its article 31, the right of all workers to *fair and just working conditions*, namely to *working conditions which respect worker's health, safety and dignity* and to *limitation of maximum working hours*, as well as to *daily and weekly rest* (EU, 2000). It is also important to mention, in this regard, the Community Charter of Fundamental Social Rights of Workers, which sets out, in point 19, the right of all workers to benefit from *satisfactory health and safety conditions in his working environment* and the need for the adoption of appropriate measures to ensure it, which must take into account the necessary *training, information, consultation and balanced participation of workers as regards the risks incurred and the steps taken to eliminate or reduce them* (EU, 1989).

With regard to international conventions, and besides the Convention of the League of Nations relating to slavery, adopted at Geneva on 25 September 1926 (LN, 1926), it also assumes special prominence, within the international and European OSH promoting legal framework architecture, the international labour standards set by the ILO Conventions No. 155, concerning OSH and the working environment and No. 187, concerning the promotional framework for OSH (ILO, 1981, 2006a).

The ILO Convention No. 155 sets out the principles for a national policy of safety and health at work, to be adopted by the ILO constituents, here understood as needed to prevent the occurrence of work-related accidents and health hazards arising from work (ILO, 1981). It also defines the actions to be undertaken at national level (e.g. implementation of a system to supervise and enforce the application of the law on safety and health at work; definition of worker processes that should be forbidden or conditioned; establishment, where necessary, of the rules relating to the design, construction, organization, exploitation and transformation of companies and materials used; and provision of the legal obligation of notification, full inquiry and annual publication of statistical data on occupational accidents and diseases). It recognizes the need to ensure the enforcement of OSH legislation through an appropriate and sufficient inspection system (which should provide for the application of penalties in case of non-compliance with the legal provisions) and to provide advice to employers and workers in order to assist them in fulfilling their legal obligations. It also sets, at company level, the OSH obligations of both employers and employees.

The promotional framework for OSH Convention No. 187, on the other hand, is aimed at establishing a coherent, systematic and continuous improvement system to promote OSH, in order to prevent occupational injuries, diseases and deaths (ILO, 2006a). The foreseen framework, that should be adopted by the ILO constituents, consists in the combination of a national policy to promote safer and healthier working environments with a national system (composed by laws, regulations, responsible authorities, technical information, advice, training, education, OSH services, research and collection of data on accidents and diseases) and national OSH programs (which should define priorities, time frames, means of action and performance assessment procedures).

In addition to the abovementioned ILO conventions, it is also important to stress the importance of other OSH related ILO conventions, namely the following: No. 81, on labour inspection in industry and commerce; No. 129, on labour inspection in agriculture; No. 150, on labour administration: role, functions and organization; No. 115, on radiation protection; No. 120, concerning hygiene in commerce and offices; No. 139, on the prevention and control of occupational hazards caused by carcinogenic substances and agents; No. 148, on working environment - air pollution, noise and vibration; No. 162, on safety in the use of asbestos; No.

176, on safety and health in mines; and No. 184, on safety and health in agriculture (ILO, 1947a, 1960, 1964a, 1969a, 1974, 1977, 1978, 1986, 1995a, 2001a).

Regarding the European OSH promoting legal framework, it assumes special prominence the European 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 (European Council, 1989a) and its subsequent special directives, as well as the EU Strategic Framework on Health and Safety at Work 2014-2020 (European Commission, 2014).

The EU directives in the field of OSH, are intended essentially to harmonize the conditions of health and safety at work at EU level, in order to ensure the proper compatibility between economic and social progress, avoiding that competition within the EU can be done at the expense of workers' safety and health, through the establishment of minimum safety and health at work requirements (European Council, 1989a).

The European Council Directive No. 89/391/EEC, establishes the European legal framework for the promotion of OSH at workplaces, which is often understood as a mandatory OSHMS for EU Member Countries (European Council, 1989a; Karageorgiou, Jensen, Walters, & Wilthagen, 2000; Walters, 2002). Based on the understanding that the workers can be exposed to dangerous environmental factors at the workplace and that the incidence of accidents at work and occupational diseases were still too high, the Council had considered that preventive measures should be taken in order to safeguard the safety and health of workers and ensure a higher degree of protection, through the implementation of OSH minimum requirements across the EU. In essence, it defines the principles regarding the prevention of occupational risks, the protection of safety and health, the elimination of risk and accident factors, the practices of informing, training, consulting and ensuring the participation of workers, as well as the employers and workers obligations in respect to the implementation of those principles. The general principles of prevention, as laid down in paragraph 2 of article 6 of the framework Directive, include, according to the following hierarchical order: to avoid risks; to evaluate the risks which cannot be avoided; to combat the risks at source; to adapt the work to the individual; to adapt to technical progress; to replace the dangerous by the non-dangerous or the less dangerous; to develop a coherent overall prevention policy which covers technology, organization of work, working conditions, social relationships and the influence of factors related to the working environment; to give collective protective measures priority over the individual ones; and to give appropriate instructions to the workers (European Council, 1989a). The worker's obligations involve essentially taking care of his own safety and health and that of other persons affected by his actions, to make correct use of work equipment and personal protective equipment and to cooperate with the employer and other workers. Regarding the employers, and besides the non-transferability of their responsibility for the safety and health of their workers in every aspect related to the work, their obligations include, *inter alia*: risk's assessment and prevention; provision of information and training; provision of the necessary internal or external OSH services organization and means; to take the necessary measures for first aid, fire-fighting and evacuation of premises; to consult workers; and to ensure that workers receive appropriate health surveillance (European Council, 1989a).

In addition to the framework Directive No. 89/391/EEC, the EU OSH acquis also comprises around 30 individual directives, focusing on specific aspects of OSH and tailoring the principles of that framework directive to specific tasks (e.g. manual handling of loads), specific hazards at work (e.g. exposure to dangerous substances or physical agents), specific workplaces and sectors (e.g. temporary work sites, extractive industries, fishing vessels), specific groups of workers (e.g. pregnant women, young workers, workers with a fixed duration employment contract) and certain work-related aspects (e.g. organisation of working time).

Among these individual directives, it is worth to highlight the following: 89/654/EEC, on workplace requirements; 2009/104/EC, on the use of work equipment; 89/656/EEC, on personal

protective equipment; 90/269/EEC, on manual handling of loads; 90/270/EEC, on work with display screen equipment; 91/322/EEC, 98/24/EC and 2000/39/EC, on exposure to chemical agents; 91/383/EEC, on fixed-duration or temporary employment relationship; 92/29/EEC, on medical treatment on board vessels; 92/57/EEC, on temporary or mobile construction sites; 92/58/EEC, on safety and/or health signs; 92/85/EEC, on pregnant workers; 92/91/EEC, on mineral-extracting industries (drilling); 92/104/EEC, on mineral-extracting industries; 93/103/EC, on work on board fishing vessels; 94/33/EC, on young workers; 1999/92/EC, on the risks from explosive atmospheres; 2000/39/EC, 2006/15/EC and 2009/161/EU, on indicative occupational exposure limit values; 2000/54/EC, on the exposure to biological agents at work; 2002/44/EC, on exposure to mechanical vibration; 2003/10/EC, on exposure to noise; 2004/37/EC, on carcinogens or mutagens at work; 2006/25/EC, on exposure to artificial optical radiation; 2009/148/EC, on exposure to asbestos at work; 2010/32/EU, on prevention from sharp injuries in the hospital and healthcare sector; 2013/35/EU, on exposure to electromagnetic fields; and 2013/59/Euratom, on protection against ionising radiation (European Commission, 1991, 2000, 2006a, 2006b, European Council, 1992b, 1992c, 1992d, 1992e, 1992f, 1993, 1994, 1998, 2010, 2014, 1989b, 1989c, 1990a, 1990b, 1991b, 1992a, European Parliament & European Council, 2000a, 2000b, 2002, 2003a, 2004, 2009a, 2009b, 2013a, 2013b).

As far as the EU Strategic Framework on Health and Safety at Work 2014-2020 (European Commission, 2014) is concerned, it addresses the following three major safety and health at work challenges: to increase the implementation of existing health and safety rules, mainly in micro enterprises and SMEs; to improve the prevention of work-related diseases; and to tackle the ageing of the EU's workforce. These main challenges, in turn, are expected to be addressed mainly through: the strengthening of national OSH strategies; the provision of practical support to micro enterprises and SMEs; the improvement of the EU legislation enforcement (e.g. by evaluating the performance of national labour inspectorates); the simplification of existing legislation; the consideration of the trend towards the ageing of EU workforce; the progress on statistical data collection; and the reinforcement of the coordination between the EU institutions and other international organizations (e.g., the ILO, the WHO and the OECD) and partners, in order to reduce work-related accidents and occupational diseases (European Commission, 2014).

4. Labour inspection key role within the OSH international and European legal frameworks

The concerns regarding the high incidence rates of occupational accidents and diseases and their overwhelming and damaging consequences, have been leading the policy makers around the world, over the last 100 years, to develop joint efforts to improve the OSH conditions at the workplaces as a mean to prevent the occurrence of work-related accidents (Hämäläinen et al., 2009).

These efforts, moreover, have been embodied in several international labour standards (European Council, 1989a; ILO, 1947a, 1969a, 1978, 1981, 2006a).

However, and despite the importance commonly recognized to such international and national standards and regulations, the truth seems to be that, without proper implementation and enforcement, they are pointless and will remain just pieces of paper (Anderson, 2007; ILO, 2007; Jensen, 2004; Richthofen, 2002; Suard, 2016). Especially taking into account the results of the Second European Survey of Enterprises on New and Emerging Risks (EU-OSHA, 2014), which found that the major reason for addressing OSH in the EU 28 countries' establishments is the fulfillment of legal obligations (85% of the establishments) and the third driver is avoiding fines from the labour inspectorates (78%), as noted Suard (2016), Irastorza et al. (2016) and the European Parliament (2015).

In this context, within this international labour and OSH legal frameworks, it was assigned to the labour inspection the key role of promoting the improvement of working conditions and the monitoring and enforcing of the compliance with labour and OSH regulations (European Council, 1989a; European Parliament, 2014; ILO, 1947a, 1969a, 1978, 1981). In this connection, the European Parliament underlines the need for a stronger focus on the implementation and enforcement of OSH legislation as an important component in the protection of workers' health and productivity, which considers an indispensable prerequisite for compliance with OSH requirements that protect workers' health, whereas labour inspections play an important role (European Parliament, 2015). Moreover, and considering that the violation of OSH legal requirements often leads to accidents at work (Frick, 2011), labour inspection is understood as an important instrument to promote safer and healthier working conditions and, in this way, to prevent work-related accidents and occupational diseases (Alli, 2008; ILO, 1996, 2003, 2005, 2006b, 2007, 2011; Richthofen, 2002; Jukka Takala, 2005).

Indeed, and despite the recognition that OSH conditions and their impact on the occurrence of work-related accidents and occupational diseases are influenced by multiple factors (Tösine & Wedege, 2013) and that a coherent national system of occupational risk prevention involves the cooperation of several actors besides the labour inspection (e.g. employers, trade unions, industry representatives, OSH professional organizations and other government agencies and departments), it is widely acknowledged that the labour inspectorates play a central, indispensable and critical role in the improvement of the working conditions at the workplaces (Tösine & Wedege, 2013) by enforcing the law, working in partnership with the other actors and coordinating the implementation and evaluation of policy measures, within the framework of such national system (ILO, 1947a, 1969a, 1978, 1981).

As such, it is generally accepted and expected that the labour inspectorates, provided with the necessary resources and carrying out their duties effectively (monitoring and enforcing the labour legislation, giving information and technical advices, promoting awareness-raising campaigns and implementing occupational risks prevention policies), should be able to positively influence the working conditions of workers, improving their OSH conditions at the workplaces and, consequently, producing positive outcomes, in particular in terms of reducing the number of work-related accidents and occupational diseases (Anderson, 2007; Frick, 2011; ILO, 2007; Jensen, 2004; Levine, Toffel, & Johnson, 2012; Niskanen, Louhelainen, & Hirvonen, 2014; Richthofen, 2002; Suard, 2016; Tösine & Wedege, 2013).

5. Key OSH challenges to be addressed in Ukraine

Since 2017, the economy of Ukraine demonstrates stability that is the basis for the increasing of the business activity of the enterprises. However, the economic growth and the consequent increase of workers, employers and workplaces is likely to increase the number of workers exposed to occupational risks and, consequently, the number of work-related accidents and occupational diseases in Ukraine. As such, it becomes somehow more urgent the need for the introduction of new and more efficient and effective approaches to improve the OSH conditions of the workers, in order to save lives and promote the health, safety and well-being of the workers.

The current labour protection management system (OSHMS) was implemented in the times of the so-called “planned-administrative” economic system. Such OSHMS demonstrated its effectiveness in the conditions of state-owned monopolies in all sectors of the national economy, and is essentially based on the planning and development of technical systems and on the high regulation, through procedures and norms, of the use of work equipment and work performance.

Unfortunately, such OSHMS seems no longer correspond to the demands of the modern economy development system. It does not allow the introduction of effective mechanisms for economic incentives for employers to create proper, safe and healthy working conditions for their employees. It also does not provide the employers with the opportunity to choose the most adequate method of enterprise management, taking into consideration the modern advances in the management, in particular concerning OSH and, most especially, concerning the need to ensure the full integration of OSHMS into the other management systems of the employers.

Moreover, the occurrence of work-related accidents and occupational diseases, as seen before, strongly suggests the existence of dysfunctions and non-conformities in the OSH at the workplaces (ILO, 2003), and calls for the urgent need for the improvement of the OSH conditions at the workplaces.

Although unexpected, unanticipated and undesirable, the work-related accidents do not occur spontaneously, but as a result of a set of logical and real causes (Nunes, 2010). More often, due to a multiplicity of causes and, in most cases, tend to emerge from deeper problems than those identified as their direct causes (Roxo, 2004). The identification, study and understanding of these causes have proved to be an indispensable tool for understanding the accident (Nunes, 2010), as well as for isolating or eliminating the factors that contributed to their occurrence (Roxo, 2011), for better designing preventive and protective measures (Nunes, 2010) and for boosting the establishment of benchmarks and standards that allow the implementation of adequate strategies of intervention (Roxo, 2011). Notwithstanding the latter, the relative low quality of the work-related accidents and occupational diseases inquiries have also been reported. This is a very worrying situation, as it may induce the misidentification of the causes of the work-related accidents and, consequently, to misleading results of their analysis and, most especially, to the adoption of inadequate measures and policies to tackle their occurrence. In fact, in most cases, the response to their occurrence tends to be the issuance of more strict regulations and requirements, without taking into consideration the occupational risk factors that caused the work-related accidents. In other cases, the analysis of the work-related accidents investigation reports show that introduction of extra briefings on OSH was the only corrective action recommended. The adoption of such monotypic approach to tackle the occurrence of work-related accidents, regardless of their root causes, does not exclude the probability of the occurrence of similar cases in the future. As a result, the employers plan their preventive measures and scatter material and financial resources in an ineffectively and inefficiently way, and found themselves overloaded with a number of requirements, most of which are not relevant for the improvement of the OSH conditions in that particular case. The latter is somehow more serious, when also considering the absence, in Ukraine, of a comprehensive and reliable State

system for gathering and reporting data and relevant information and statistics on work-related accidents and occupational diseases. The absence of such system prevents the Government, the workers, the employers, the representative associations of the workers and of the employers and other stakeholders, from obtaining the necessary information and data to study, analyze and understand the OSH current situation and, most especially, to develop and implement the more adequate policies and to take the most appropriate measures to improve it. In particular, they are not able to obtain timely, reliable, feasible and comparable statistical data on the number and incidence rates of work-related accidents and occupational diseases, about their causes, as well as about the nature of their victims (by age, gender, occupationla, employment status, etc.), employers (economic activity sector, size, location, type of employer, etc.), as well as about the existing working conditions, OSH risks present, direct and indirect costs associated to the work-related accidents and occupational diseases, etc. This situation also prevents the existence the necessary data for the performance of scientific studies regrading OSH (e.g., associations between risk factors and the occurrence of work-related accidents or occupational diseases, OSH cost-benefit analysis, etc.). The situation described reveals some difficulties on the implementation of the provisions of some international labour standards and guidelines, such as: articles 14 and 21 of the ILO Convention No. 81 (ILO, 1947a); points 5, 9/f) and 9/g) of the ILO Recommendation No. 81, concerning Labour Inspection (ILO, 1947b); article 26/2 of the ILO Convention No. 121 (ILO, 1964b); articles 19 and 27 of the ILO Convention No. 129 (ILO, 1969a); lines c) to e) of article 11 of ILO Convention No. 155 (ILO, 1981); articles 2 to 7 of the ILO Protocol No. 155, of 2002, to the Occupational Safety and Health Convention (ILO, 2002); Resolution concerning statistics of occupational injuries (resulting from occupational accidents), adopted by the Sixteenth International Conference of Labour Statisticians (ILO, 1998); and the ILO Code of Practice on Recording and Notification of Occupational Accidents and Diseases (ILO, 1996).

The draft OSH Concept argues that “the organizational causes of the accidents, which take place at production, prevail and make 70 % of the total. This state of affairs has remained for a long time and is the proof that current OSHMS is of low efficiency. At the same time the technical reasons of accidents make only 10 % of the total”. It is therefore recommended, in order to adequately substantiate these conclusions, to refer to the statistical data or scientific research or studies that support this conclusions. If that is not possible, this paragraph should be removed, because it can be misleading.

Moreover, the current OSHMS does not allow the micro and small enterprises to fastly adapt to the modern technological changes of the market of goods and services, due to the high number and complexity of laws within the current Ukrainian OSH legislation and their resulting administrative, bureaucratic and financial burdens, when compared to the necessary resources (human, know-how, financial, etc.) to ensure its compliance, specially tacking into account, as argued by several research studies (Baldock, James, Smallbone, & Vickers, 2006; Cagno, Micheli, Masi, & Jacinto, 2013; Cagno, Micheli, & Perotti, 2011; European Parliament, 2014; Gallagher, Underhill, & Rimmer, 2001; Hasle, Kines, & Andersen, 2009; Hasle, Kvorning, Rasmussen, Smith, & Flyvholm, 2012; Hasle & Limborg, 2006; Hasle, Limborg, Kallehave, Klitgaard, & Andersen, 2012; Laird, Olsen, Harris, Legg, & Perry, 2011; Legg, Olsen, Laird, & Hasle, 2015; Mayhew & Peterson, 1999; Micheli & Cagno, 2010; Morse et al., 2004; Okun, Lentz, Schulte, & Stayner, 2001; Sørensen, Hasle, & Bach, 2007; Stevens, 1999; Targoutzidis et al., 2014; Walters, 2006), the SMEs increased difficulties in complying with the labour and OSH regulations and their higher problems in ensuring decent and safe working conditions to their workers, due to their specific characteristics and usual resource constraints. The latter, also seems to occur with the EU 28 micro enterprises and SMEs, according to the EU Strategic Framework on Health and Safety at Work 2014-2020 (European Commission, 2014). Furthermore, and besides the profoundly devastating consequences of the work-related accidents and occupational diseases for their victims and their families, they have also become an heavy

burden for the enterprises, for the social protection system, for the State budget and for the Ukrainian society in general.

Moreover, as the Ukrainian workforce gets older, successful continuation of the workers' career depends significantly on the relevant adaptation of the workplaces and of production methods, including in what concerns a better organization of the working time and the adaptation of the workplaces to the different needs, abilities and capabilities of the elder workers. Tackling the ageing of the EU's workforce is, incidentally, one of the three major health and safety at work challenges identified in the EU Strategic Framework on Health and Safety at Work 2014-2020 (European Commission, 2014).

In addition, one of the main principles of the current OSHMS (concerning provision of the 100 percent safety of life and health of the hired employees through the strict regulation of works and of the use of work equipment) has led to the accumulation of considerable volume of norms and legal acts occupational safety and health. Their revision and updating requires significant financial and human resources and is quite time consuming. Such an approach to provide the safe and healthy working conditions does not give a chance to promptly and timely respond to the rapid development of technologies and economy, and is also characterized by the inefficient use of funds. In 2015, in order to develop a modern legal OSH framework, the State Labour Service of Ukraine, in partnership with the representatives of other state authorities, trade unions' and employers' organizations, research institutions and other interested parties, conducted an analysis of the Ukrainian OSH legal framework. It was concluded that over 400 regulations were outdated, a number of them do not correspond to the new contextual conditions of the social and economic development of Ukraine, and other were superfluous, duplicated or contradictory with each other. As such, it was taken the decision to eliminate them, recognized them as non-applicable or revised them.

On the other hand, the current OSHMS is based on the prevailing principle of "corrective actions" (i.e. reacting to dangerous cases and situations, which have already happened, applying a mere reactive principle), instead of the principle of "preventive actions" (i.e. their prevention, in accordance to a proactive principle), at all management levels. In particular, the current OSH policy does not follow the three most important General Principles of Prevention, as laid down on the article 6/2 of the EU OSH framework Directive: 1) To avoid risks; 2) To assess the risks that cannot be avoided; and 3) To combat the risks at source (European Council, 1989a). Moreover, it does not foresee to give priority to OSH prevention measures (as foreseen in paragraphs 1 and 2 of the article 6 of the EU OSH framework Directive), nor it defines, as a non-transferable responsibility of the employers, to ensure the safety and health of workers in every aspect related to the work and taking into account the nature of all the activities of the enterprise and/or establishment (as foreseen in paragraphs 1 and 2 of article 5 and paragraph 3 of articles 6 of the EU OSH framework Directive).

Furthermore, the lack of funding for the implementation of OSH measures and for its appropriate monitoring and enforcement (which, by the way, contrasts with the provisions of paragraph 1 of article 4, article 8, paragraph 1 of article 9, and paragraph 1 of article 16, all of the ILO Convention No. 155, as well as with articles 10 and 11 of the ILO Convention No. 81 and articles 14 and 15 of the ILO Convention No. 129), the low quality expertise needed to improve the OSH conditions at the workplaces (which should be improved through the effective implementation of the provisions of articles 10 to 12 of the EU OSH framework Directive, as well as of line c) of article 5, article 14 and lines c) to e) of article 19, all of the ILO Convention No. 155) and the failure to adapt the working processes and equipment to the technical progress (as foreseen in line e) of paragraph 2 of article 6 of the European Council OSH framework Directive, as well as in the line a) of article 5, lines a), b) of article 11, article 12 and paragraphs 1 and 2 of article 16, all of the ILO Convention No. 155), remain as the main unsolved challenges.

Moreover, the current limitations on the powers and autonomy of labour inspection (e.g., prior notice to perform inspection visits, limitations on the frequency and deepness of the inspection visits, restriction to the issuance of infraction notices when the employers meets the demands of a notification to take measures) are considered major obstacles to its efficiency, effectiveness and deterrence effect. Besides their violation of the provisions of articles 12 and 16 to 18 of the ILO Convention No. 81 and articles 16, 21, 22 and 24 of the ILO Convention No. 129, these restrictions prevent labour inspection to control and enforce the labour relations and OSH regulations and, consequently, its ability to improve the working conditions and to promote a fair competition between enterprises.

In addition, the working conditions of the labour inspection officials, specially of the labour inspectors (mainly in what regards their salary, recruitment process, career path, inception and continuous training, equipment, instruments to support the inspection activity, transportation means, as well as in what concerns the status, as civil servants, of the municipalities' labour inspectors, etc.) are also aspects that should be addressed. Not only in order to comply with the provisions of articles 6, 7 and 9 to 11 of the ILO Convention No. 81 and articles 8, 9, 11, 14 and 15 of the ILO Convention No. 129, but, and mostly especially, as mean to increase labour inspection ability to ensure the compliance with the law and the promotion of decent work to all.

On the other hand, the high level of undeclared work in Ukraine, is also a very serious obstacle to the improvement of the Ukrainian working conditions. Indeed, the undeclared work, increasingly seen as a real threat to the working and living conditions of the majority of citizens, has deeply negative impacts in the progressive degradation of both the labour relations and OSH working conditions, mainly through the so-called *social dumping*, as well as via its extremely negative impact on the balance of public finances, on the sustainability of social security and on the distortion of the competition in the labour and corporate markets. Moreover, the undeclared workers, which are usually not protected by either the labour law or the OSH regulations, are precisely the ones that are more commonly exposed to occupational risks and who usually have the most degrading, unhealthier and unsafe working conditions, normally involved in the most hazardous works in the economic activity sectors that usually present the highest numbers and incidence rates of work-related accidents and occupational diseases, such as the mining industry, construction, agriculture, etc. However, their non-declared nature, make it very difficult, if not impossible, to monitor and enforce the labour and OSH regulations, in order to improve their working conditions.

Furthermore, in the recent Ukrainian National Report on Enabling Environments for Sustainable Enterprises (ESEE), the representatives of businesses concluded that the weak control over the compliance with the law and the unfair competition were two of the seven major obstacles to the development of an more enabling environment for the sustainable grow of the enterprises in the country (ILO, 2017e).

Moreover, the current legal framework does not provide for obligatory collaboration and coordination on OSH actions between employers whose employees share the same workplace, nor it provides for the mandatory exchange of information between employers and with the employees about the occupational risks in presence and the most suitable prevention and protective measures that should be adopted in order to tackle them. This situation contradicts the provisions of the article 6/4 of the EU OSH framework Directive, that foresees that *where several undertakings share a workplace, the employers shall cooperate in implementing the safety, health and occupational hygiene provisions and, taking into account the nature of the activities, shall coordinate their actions in matters of the protection and prevention of occupational risks, and shall inform one another and their respective workers and/ or workers' representatives of these risks* (European Council, 1989a).

In addition, the principles of participation of all interested parties in the implementation of OSH legislation (workers and their representatives at the local level, representatives of the parties of social dialogue as well as representatives of micro and small enterprises and professional associations) need

to be improved.

Finally, the failure to use adequately the mass-media, internet resources, online applications and social networks is preventing the improvement of the efficiency and effectiveness of the OSH information actions and awareness raising efforts on targeting workers, employers and their respective associations.

6. Fundamental principles for the development of the new Ukrainian national system for occupational risk prevention and OSH promotion

The implementation of a national OSHMS, based essentially on the principles of elimination of hazards and on risk assessment, control and management, is the main mechanism used by many countries to efficiently and effectively ensure and promote the occupational safety and health at state, regional, local sectoral, enterprise and workplace levels.

More than a increase on government or employers expenditures, the implementation of such OSH system will require a radical reform of the current OSHMS at all levels (state, regional, local sectoral, enterprise and workplace levels), a dramatic change of the traditional OSH approaches and the adoption of a different set of guiding principles.

6.1. Reform main guidelines

The main guidelines for the reform of the current Ukrainian OSHMS should comprise, *inter alia*:

1. The formulation and implementation of a Ukrainian national strategy for the promotion of safety and health at work;
2. The simplification of the current OSH legislation, whilst reinforcing the level of protection of the workers' OSH working conditions. The simplification of the existing OSH legislation constitutes, by the way, one of the seven key objectives of the EU Strategic Framework on Health and Safety at Work 2014-2020 (European Commission, 2014), and is also envisaged by the Action Programme for Reducing Administrative Burdens in the EU (European Commission, 2012). Especially through the elimination of duplicated, outdated and contradictory provisions, alignment/approximation of the national legislation with the international labour standards and with the European Union OSH acquis and also through the change of the current Ukrainian OSH legislation architecture. In particular, through the adoption of a general law that establishes the legal framework for the national system for occupational risk prevention and promotion of safety and health at work and defines the general roles and the main obligations and rights of every OSH interested parties (the State, workers, employers, workers' and employers' representative associations and other stakeholders) in relation to OSH. Besides its necessary alignment with the Ukrainian Constitution and labour code, such legal regime should also incorporate the applicable provisions of the ILO Conventions and EU relevant Directives. It should be applicable to all economic activities, within the private, cooperative and social sectors, as well as in the public administration, whenever special legal provisions do not foresee it differently. Moreover, such general OSH law should act as a kind of umbrella law, with a series of special regimes articulated beneath it, regulating safety and health at work in specific situations, particularly in view of:
 - a. The nature of the risks to which the workers are (or can be) exposed (e.g. noise, mechanical vibrations, manual handling of loads, explosive atmospheres, serious accidents with hazardous substances, cut-perforating medical devices, optical radiation, ionizing radiation, chemical agents, carcinogenic or mutagenic agents, asbestos, biological agents, genetically modified micro-organisms, resulting from the use of display screen equipment or arising from the use of machines and work equipment);
 - b. The nature of the workplace and/or of the economic activity sector concerned (e.g. minimum health and safety requirements applicable to workplaces, commerce and services establishments, industrial establishments, construction sites, mines and quarries and to the work on board fishing vessels);

- c. The special nature of the workers concerned (e.g., women that are who are pregnant, have recently given birth or are breastfeeding, minors, temporary workers, workers with term labour contract, self-employed workers); or
 - d. Involving special risks (e.g. fire safety, serious industrial accidents or involving dangerous substances).
- 3. Simplification of the OSH and licensing legislation, whilst ensuring the some level of OSH conditions, in order to reduce its administrative, regulatory and bureaucratic burdens to the economic agents and to better adapt them to the specific characteristics and needs of the micro enterprises and SMEs, in line with the European Union commitments to the reduction of the administrative burdens in the EU, to the simplification of the business environment and to facilitate the compliance of the OSH regulations by the micro enterprises and SMEs (European Commission, 2012, 2014; European Parliament & European Council, 2006). To facilitate compliance with OSH legislation, particularly by micro and small enterprises, constitutes one of the seven key objectives of the EU Strategic Framework on Health and Safety at Work 2014-2020 (European Commission, 2014).
- 4. The shift from a reactive OSH approach, focused on the reparation, to a proactive risk prevention and OSH promotion approach, based on a correct and constant risk assessment and developed according to the principles, policies, standards and programmes that ensure, in particular:
 - a. The design and implementation of the National Strategy for Occupational Health and Safety;
 - b. The definition of the technical conditions governing the design, manufacture, import, sale, assignment, installation, organization, use and processing of the material components of the work according to the nature and degree of the risks, as well as the obligations of the persons responsible for such;
 - c. The definition of substances, agents or processes that should be prohibited, limited or subject to authorization or the supervision of the competent authority, as well as the definition of worker exposure limits to chemical, physical and biological agents and the technical standards for the sampling, measurement and evaluation of results;
 - d. The promotion and monitoring of the health of the worker;
 - e. The increase of the technical and scientific research applied in the field of occupational health and safety, with particular reference to the emergence of new risk factors;
 - f. Education, training and information for promoting improvements in occupational health and safety;
 - g. Raising the awareness of society in order to create a genuine culture of prevention;
 - h. The reinforcement of the legal powers (e.g., to perform inspections visits to any workplace, at any time of day or night, without prior notice; to make inspection visits with the frequency and deepness deemed necessary), autonomy (e.g., to adopt the inspection procedures considered more suitable, including the imposition of fines, even if the employer carries out the determined measures) and resources (e.g., human, financial, material, equipment, information and communication technologies, training, etc.) of the public system of labour inspection, in order to:

- i. Align the Ukrainian labour inspection system legal framework with the International and European Union Labour Standards, in particular, with the provisions of the ILO Conventions Nos. 81, 129, 155 and 187, and with the EU framework Directive No. 89/391/EEC.
 - ii. Ensure the effective improvement of the working conditions, in line with the provisions of the European Parliament Resolution No. 2013/2112(INI), of 14 January 2014, on effective labour inspections as a strategy to improve working conditions in Europe and with the EU key objective of improving the enforcement of OSH legislation by Member States, as foreseen in its Strategic Framework on Health and Safety at Work 2014-2020.
 - iii. Remove some of the major obstacles to the development of businesses in Ukraine, such as the high level of non-compliance and the unfair competition, as identified by the employers representatives, within the recent Ukrainian National Report on Enabling Environments for Sustainable Enterprises (ILO, 2017e).
 - iv. Promote the improve of the working conditions in Ukraine, as well as the efficiency and effectiveness of the labour inspection in the performance of its main duties, namely in:
 - The enforcement of the compliance with the law on working conditions and occupational safety and health;
 - The provision of information and technical advices to the subjects of the labour relations (workers, employers and their representative associations) on the best way to comply with the legislation;
 - Bringing to the attention of the competent authority the defects or abuses not specifically covered by the existing legal provisions.
5. The interiorization of the principle that the improvement of working conditions, besides the prevention of occupational risks and of the occurrence of work-related accidents and occupational diseases, also involves the promotion of the safety, health and well-being of the workers. In short, is not only about protecting the safety and health of the workers, but, most especially, is about improving it!
6. The improvement of the efficiency and effectiveness of the overall national system for occupational risk prevention and OSH promotion, mainly through:
- a. Clear definition of the responsibilities and legal competencies of the State bodies currently responsible for OSH, with particular emphasis on eliminating overlapping overlap of legal powers and on the definition of their coordination and cooperation mechanisms;
 - b. The consideration of outsourcing some of the current OSH activities and functions which are performed by the State (e.g., training, medical examinations, risk assessments) to the private sector, whilst maintaining the State its fundamental authority role of supervision, inspection and control over the performance of such activities and functions as well as over the compliance with the law;
 - c. The creation of a legal framework, regulating a repair scheme for work-related accidents and occupational diseases, including rehabilitation and professional reintegration, based on an mandatory insurance system, through entities legally authorized to perform this insurance, to which the employers would be obliged to transfer their responsibility for damages arising from work-related accidents and occupational disease.

7. The development and implementation (in accordance with the the ILO Code of Practice on Recording and Notification of Occupational Accidents and Diseases, ILO Conventions Nos. 81, 121, 129 and 155, ILO Recommendation No. 81, ILO Protocol No. 155, of 2002 and the ILO Resolution concerning statistics of occupational injuries), of a national policy and system for the recording, notification and investigation of occupational accidents, occupational diseases, commuting accidents, dangerous occurrences and incidents for all branches of economic activity and all enterprises, and for all workers, regardless of their status in employment, aimed at ensuring:
 - a. The recording, notification and investigation of occupational accidents and diseases;
 - b. The recording, notification and investigation of commuting accidents, dangerous occurrences and incidents; and
 - c. The compilation, analysis and publication of statistics on such accidents, diseases and occurrences.

It is worth mentioning, in this regard, that the improvement of the collection and use of statistical data on OSH, besides being a key objective of the EU Strategic Framework on Health and Safety at Work 2014-2020, have also been elected as the theme for the ILO World Day for Safety and Health at Work.

8. The introduction of mechanism and economic incentives for workers, employers and their representatives associations in order to induce and promote their involvement and commitment in the creation of safer and healthier working conditions and, consequently, to prevent the occurrence of work-related accidents and occupational diseases.

6.2. General principles of the national system for occupational risk prevention and OSH promotion

The main principles that should guide the development of the Ukrainian national system for occupational risk prevention and OSH promotion are as follows:

1. The national system for occupational risk prevention and OSH promotion should be applied to all branches of activity of the private, public, cooperative and social sectors (except to the extent that special systems establish otherwise) and to all workers (including self-employed workers; practitioner, apprentice, trainee and other situations that should be considered as vocational training; administrator, director, manager or treated as such, without an employment contract but paid for this activity; and to situations in which one person works for another without a formal worker-employer relationship, when the provider of work should be considered in the economic dependence of the activity's beneficiary) and respective employers (including nonprofit legal persons governed by private law);
2. The worker is entitled to perform the work in conditions that respect his/her safety and health, ensured by the employer or, in the situations identified in the law, by the natural or legal person which manages the premises in which the activity is undertaken;
3. The workers and their families are entitled to compensation for damages arising from work-related accidents and occupational diseases;
4. The economic development should promote the humanization of work in healthy and safe conditions;

5. The employer's non-transferable obligation to ensure workers safety and health conditions in all aspects related to work, applying all the necessary prevention measures (including technical prevention, training, information and consultation of workers and the organization of internal or external OSH services) and considering the general principles of prevention, enshrined in paragraphs 2-a) to 2-i) of article 6 of the framework Council Directive No. 89/391/EEC, of 12 June 1989 (European Council, 1989a):
 - a. To avoid the risks;
 - b. To evaluate the risks which cannot be avoided;
 - c. To combat the risks at source;
 - d. To adapt the work to the individual, especially as regards the design of workplaces, the choice of work equipment and the choice of working and production methods, with a view, in particular, to alleviate the monotonous work and work at a predetermined work-rate and to reduce their effect on health;
 - e. To adapt to technical progress;
 - f. To replace the dangerous by the non-dangerous or the less dangerous;
 - g. To develop a coherent overall prevention policy which covers technology, organization of work, working conditions, social relationships and the influence of factors related to the working environment;
 - h. To give collective protective measures priority over individual protective measures; and
 - i. To give appropriate instructions to the workers.
6. The prevention of occupational risks must be based on a correct and constant risk assessment and be developed according to the principles, policies, rules and programs aimed at, in particular:
 - a. The definition of the technical conditions governing the design, the manufacture, importation, sale, disposal, installation, organization, use and transformation of the material components of the work according to the nature and degree of the risks, as well as the obligations of the persons responsible for such;
 - b. The determination of substances, agents or processes that should be prohibited, limited or subject to authorization or the supervision of the competent authority, as well as the definition of worker exposure limits to chemical, physical and biological agents and the technical standards for the sampling, measurement and evaluation of results;
 - c. The promotion and surveillance of workers' health;
 - d. The development of technical and scientific research applied in the field of OSH;
 - e. Education, training and information for promoting improvements in safety and health at work;
 - f. Raising awareness of the society in order to develop a genuine culture of prevention; and
 - g. The improvement of the effectiveness and efficiency of the public system of labour inspection.

7. The obligation of the State to promote the development of a national system (or network) for occupational risk prevention, in order to ensure the implementation of the right to safety and health at work, by safeguarding the coherence of the measures and the intervention effectiveness of public, private or cooperative entities which exercise powers and competencies in the areas of regulation, licensing, certification, standardization, research, training, information, consultation and participation, technical services of prevention and health surveillance and inspection.
8. The State can also support and enter into agreements with private entities or cooperatives with technical capacity for carrying out actions in the field of occupational health and safety.
9. In the occupational health and safety fields, cooperation between the State and the representative organizations of workers and employers must be developed and also at the company, establishment or service level, between the employer and the representatives of workers and employers.
10. There should be established appropriate and sufficient penalties to sanction the non-compliance, both monetary (fines) and accessory, more directed linked to the vital interests of the employers, namely:
 - a. The loss to the State of objects belonging to the agent;
 - b. The prohibition of the exercise of professions or activities whose exercise depends on title or public authorization or approval of a public authority;
 - c. The deprivation of the right to grant or benefit granted by entities or public services;
 - d. The deprivation of the right to participate in trade fairs or markets;
 - e. The deprivation of the right to participate in public tenders relating to the contract or the award of public works, supply of goods and services to the State, the provision of public services, and the allocation of licenses or permits;
 - f. The closure of an establishment whose operation is subject to authorization or license of administrative authority;
 - g. The suspension of permits, licenses and permits;
 - h. Advertising of the condemnatory decisions; and
 - h. The individual registration of the subject responsible for the infringements.
11. The amount and/or nature of the foreseen fines and/or accessory sanctions should take into account, *inter alia*:
 - a. The business turnover, gross income or budget of the employer, depending on its juridical nature;
 - b. The seriousness of the offenses;
 - c. The number of workers affected;
 - d. The nature of the affected workers (minor worker, women who are pregnant, have recently given birth or are breastfeeding, worker with disability, irregular immigrant worker, undeclared worker, etc.);
 - e. Recidivism;
 - f. The economic gain of the employer resulting from the the non-compliance; and
 - g. The non-compliance with the instructions or determinations of the labour inspectors.

12. The employer whose conduct may have contributed to a dangerous situation should be accountable for civil and criminal liability;
13. In the occupational health and safety fields, cooperation between the State and the representative organizations of workers and employers must be developed and also at the company, establishment or service level, between the employer and the representatives of workers and employers.

6.3. Policy definition, coordination and evaluation of results

Regarding the OSH policy development and implementation coordination, and notwithstanding the need for an integrated and coherent approach:

1. The ministries responsible for the labour and health areas propose the definition of the policy to promote and monitor occupational health and safety, which should also be aimed at developing the complementarities and interdependencies between the fields of OSH and the social security system, the national health service, the protection of the environment and the Ukrainian quality system;
2. The public services responsible for licensing, certification or other authorization for the undertaking of an activity or the assigning of an asset to such undertaking should perform their duties in order to promote OSH;
3. The coordination of the implementation of the policy measures and the evaluation of their results, in particular those relating to the inspection activity, is the responsibility of the competent body of the ministry responsible for the labour area;
4. The policy measures adopted and the evaluation of the results of those policies and of inspections undertaken in the OSH field as well as the statistical information on work-related accidents and occupational diseases must be annually published and adequately disclosed, and should allow the description of the work-related accidents and occupational diseases in order to contribute to epidemiological studies, enabling the adoption of appropriate criteria and methodologies to design nationwide and sector-specific prevention programmes and measures and the periodic control of results.

6.4. Consultation and participation

The Ukrainian national system for occupational risk prevention and OSH promotion must ensure and promote the continuous consultation, social dialogue and participation on OSH policy formulation and implementation, between the State representatives, the workers, the employers, as well as their representative organizations, at all relevant levels, namely:

1. Within the Ukrainian National Tripartite Social and Economic Council, and most especially during the discussion of law proposals and always before their approval;
2. Within the tripartite organs of the State services responsible for OSH matters (e.g., the SLS Advisory Collegium and Civil Council);
3. Within the enterprises and organizations, between the employers, the workers and their OSH and union representatives.

6.5. Education, training and information for occupational health

The Ukrainian national system for occupational risk prevention and OSH promotion should also foresee that the State:

1. Ensures the inclusion of OSH contents in the school curricula at the various levels of the education system, with a view to develop, in the general framework of the education system, a genuine culture of prevention of occupational risks in preparation for working life;
2. Promotes the inclusion of OSH contents in vocational education and training initiatives to enable the acquisition of knowledge and habits for the prevention of work-related accidents and occupational diseases;
3. Support training and information initiatives aimed at employers and workers, as well as public information and explanation sessions in OSH matters.

6.6. Research and specialised training

The Ukrainian national system for occupational risk prevention and OSH promotion shall also provide that the State ensures the necessary conditions to the development of knowledge and research in the area OSH, which should be focus predominantly on the improvement of occupational risk prevention and the protection of workers' health and must be guided, in particular, by the following principles:

1. Support for the creation of research and postgraduate training structures for specialists and researchers;
2. Collaboration between the various national structures concerned;
3. Dissemination of scientific and technical information that contributes to advancing the knowledge and progress of research;
4. Encouraging national participation in international programmes;
5. Encouraging the study of good practices in the field of organization and operational systems of prevention activities.

6.7. Standardisation

The Ukrainian national system for occupational risk prevention and OSH promotion must also consider that:

1. The technical standards and specifications in the area of occupational safety and health relating, in particular, to the methodologies and procedures, sampling criteria, and the certification of products and equipment should be approved under the Ukrainian quality system;
2. The practical guidelines developed by the International Labour Organization and the World Health Organization, as well as the Ukrainian technical standards and specifications are indispensable references to be taken into account in procedures and measures adopted in compliance with the OSH legislation as well as in the production of goods and equipment.

6.8. Licensing and operating permits for businesses

The Ukrainian national system for occupational risk prevention and OSH promotion must also ensure that the Ukrainian legislation on licensing and operating permits for businesses contains the specifications appropriate to occupational risk prevention and health protection.

6.9. Safety of machinery and work equipment

Regarding the machinery and work equipment, the Ukrainian national system for occupational risk prevention and OSH promotion should provide that:

1. All natural or legal persons that manufactures machinery, apparatus, tools, plant and other equipment for professional use have to perform the investigations and operations required so as to, at the design stage and during manufacturing, could be eliminated or reduced to its minimum, any risks that such products might pose for the safety and health of persons and ensure, by appropriate certification, before launch on the market, their compliance with the applicable OSH requirements.
2. All natural or legal persons that import, sell, rent, assign in any form or place in exhibition machinery, apparatus, tools, plant and other equipment for professional use, must:
 - a. Carry out or commission the necessary checks and tests to ensure that the construction and state of such work equipment do not pose a risk to the safety and health of workers, provided that such equipment is used correctly and as intended, except when such equipment is duly certified;
 - b. Take the necessary measures to ensure that attached to such machinery, apparatus, tools, and other equipment for professional use are attached instructions, in Ukrainian, concerning their installation, use, preservation and repair, stating, in particular, how the workers responsible for carrying out these tasks shall proceed in order to prevent risks to their safety and health and that of other people.
3. All natural or legal persons that assemble, place, repair or adapt machines, apparatus, tools or facilities for professional use shall ensure, to the extent possible, that as a result of those operations, such equipment does not pose a risk to the safety and health of persons, provided that they are used correctly.
4. The machines, apparatus, tools or facilities for professional use may only be supplied or made operational provided that they contain a safety marking, the name and address of the manufacturer or the importer, as well as other information that may allow them to be clearly identified and prevent the risks in their use.
5. In the case of fairs, demonstrations and exhibitions, when the machines, apparatus, tools or facilities for professional use are without the normal safety protections, the safety precautions must be indicated in such a way as to be clearly visible, as well as the impossibility of acquiring the equipment in the manner presented.
6. The competent authorities shall periodically publish the specifications to be complied with in the area of occupational safety, in order to ensure prevention in the design and facilitate the relevant administrative procedures.

6.10. Inspection and inquiries

The Ukrainian national system for occupational risk prevention and OSH promotion should also ensure that:

1. The body with labour inspection competence of the ministry responsible for the labour area ensures the monitoring, control and enforcement of the OSH legislation and the imposition of the corresponding penalties for the breach thereof, without prejudice to the specific duties of other entities.

2. The body with labour inspection competence of the ministry responsible for the labour area is also responsible for conducting investigations and inquiries regarding:
 - a. Fatal work-related accidents;
 - b. Serious non-fatal work-related accidents, in the sense of “serious physical injury” advocated by the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) of the United Kingdom (UK Government, 2013);
 - c. Non-fatal work-related accident which reveal a particularly serious situation from the perspective of OSH, with reference to RIDDOR (UK Government, 2013); and
 - d. Occupational diseases or other health damage occurred during work or related thereto. Concerning the latter, the competent body of the ministry responsible for the health area, through the health authorities, and the competent body of the ministry responsible for the social security field may also promote the investigation or inquiry.
3. The workers' representatives or the trade unions labour inspectors may submit their comments to the body with labour inspection competence of the ministry responsible for the labour area or to any other competent authority, on the occasion of a visit or supervision of the company or establishment.
4. Workers' representatives or the trade unions labour inspectors may also request the intervention of the body with labour inspection competence of the ministry responsible for the labour area whenever they verify that the measures adopted and the means provided by the employer are insufficient to ensure their occupational safety and health.

6.11. External OSH services provision and OSH technicians

The Ukrainian national system for occupational risk prevention and OSH promotion should also foresee and regulate the possibility for the employers, instead of organizing internal OSH services, as a general rule, can also organize their OSH services through the use of external OSH services providers (provided by associations, cooperatives or private companies) and/or OSH technicians, subject to the verification of certain prerequisites (related to the number of workers; the nature of the risks to which the workers are exposed; the non-existence of high risk activities; the number and incidence rates of work-related accidents and occupational diseases; absence of convictions for violations of OSH regulations; etc.), upon request to the labour inspection, and to be granted by the labour inspection only if the requirements for derogation of such internal OSH services general rule are met.

This regulations should consider, *inter alia*:

1. Maintaining the principle of the non-transferability of the employer responsibility regarding its workers' OSH working conditions, even in the case of the use of external OSH services providers, in accordance with the EU OSH framework Directive provisions;
2. The conditions, requirements (technical personal, equipment, know-how, etc.) and procedures for the licensing (or its revocations) of the activity of external OSH providers and for the monitoring and control of the quality of their activity, which should be ensured by the labour inspection;
3. The conditions, requirements (technical personal, equipment, know-how, etc.) and procedures for the training and certification (or its revocation) of the activity of the OSH technicians, which should be ensured either by the labour inspection services or by the State vocational training services.

6.12. General obligations of the employer

In accordance with articles 16 to 18 and 20 to 21 of ILO Convention No. 155 and articles 5 to 12 of the EU OSH framework Directive 89/391/EEC, the Ukrainian national system for occupational risk prevention and OSH promotion should also consider the following provisions:

1. The employer must ensure to the workers safety and health conditions in all aspects of their work;
2. The employer must ensure, continuously and permanently, that the activity is conducted in conditions of occupational safety and health for the workers, taking into account the following general principles of prevention:
 - a. Avoid the risks;
 - b. Plan the prevention as a coherent system that integrates the technical developments, the organization of work, working conditions, social relationships and the influence of environmental factors;
 - c. Identify the foreseeable risks in all activities of the company, establishment or service, in the design or construction of facilities, locations and work processes, as well as in the selection of equipment, substances and products, with a view to eliminating the risks or, when that is not feasible, to reduce their effects;
 - d. Integration of the assessment of risks to the safety and health of the workers in the set of activities of the company, establishment or service and adopt the appropriate protection measures;
 - e. Combat risks at the source, in order to eliminate or reduce exposure and increase protection levels;
 - f. Ensure, in the workplace, that exposure to chemical, physical, biological agents and to psychosocial risk factors do not constitute a risk to the safety and health of the workers;
 - g. Adaptation of the work to the workers, especially in what concerns the design of workstations, the choice of work equipment, and working and production methods, with a view to, *inter alia*, mitigate monotonous and repetitive work and reduce psychosocial risks;
 - h. Adaptation to technical progress, as well as the new forms of work organization;
 - i. Replacement of what is dangerous by the non-dangerous or the less dangerous;
 - j. Prioritization of collective protection measures in relation to the individual protection measures;
 - k. Elaboration and dissemination of understandable and appropriate instructions to the activity developed by the worker.
3. The implemented prevention measures must be preceded and correspond to the result of the assessment of the risks associated with the various stages of the production process, including the preparatory activities, maintenance and repair, in order to obtain, as a result, effective levels of protection of the safety and health of the workers.
4. Whenever tasks are assigned to a worker, their knowledge in safety and health issues should be taken into account, and the employer is required to provide the information and training necessary for the development of the activity in safety and health conditions.

5. Where it is necessary to access to high risk areas, the employer must allow access only to workers with adequate skills and training, and just for the minimum time necessary.
6. The employer must adopt measures and give instructions to enable the worker, in the event of serious and imminent danger that cannot be technically avoided, to cease the activity or move away immediately from the workplace, and not resuming work while the danger persists, except in exceptional cases and provided that adequate protection is guaranteed.
7. When organizing the means of prevention, the employer must take into account not only the worker but also third parties likely to be covered by the risk of carrying out the work, whether on the premises or off-premises.
8. The employer must ensure the surveillance of workers' health in the light of the risks to which they are potentially exposed in the workplace.
9. The employer must establish the measures that must be adopted in the field of first aid, fire-fighting and evacuation of premises and identify the workers responsible for their implementation, as well as to ensure the necessary contacts with the competent external entities to perform those operations and the ones of medical emergency.
10. In the implementation of preventive measures, the employer must organize appropriate services, internal or external to the company, establishment or service, mobilizing the necessary resources, particularly in the fields of prevention technical activities, training, information, as well as regarding the protection equipment that may need to be used.
11. The OSH provisions established to be applied in the company, establishment or service must be also observed by the employer.
12. The employer should bear all the costs of the organization and operation of the OSH services and other systems of prevention, including health surveillance tests, exposure assessments, tests and all necessary actions within the framework of the promotion of OSH, without imposing any financial charges on workers.
13. In accordance with the article 14 of the ILO Convention No. 81 and article 19 of the ILO Convention No. 129, the employer should notify the body with labour inspection competence of the ministry responsible for the labour area of the occurrence of any fatal work-related accident, serious non-fatal work-related accident or occupational disease as soon as possible and, in any case, no later than 24 hours from its occurrence.
14. The employer, in order to obtain an opinion, should consult in writing the workers' representatives for OSH (or, in their absence, the workers themselves), namely on what concerns:
 - a. The assessment of the OSH risks, including those related to groups of workers subjected to special risks;
 - b. OSH measures before they were implemented or, in the case of their urgent implementation, as soon as possible afterwards;
 - c. The measures which, by their impact on technologies and functions, have repercussions on OSH;
 - d. The planning and the organization of training in the field of OSH;
 - e. The appointment of the representative of the employer who accompanies the activity of the adopted type of OSH services;

- f. The appointment and dismissal of workers performing specific functions in the fields of OSH;
 - g. The appointment of workers responsible for implementing the measures of first aid, fire-fighting and evacuation of premises;
 - h. The modality of the OSH services to be adopted, as well as the use of external OSH services providers and qualified technicians to ensure the undertaking of all or part of the OSH activities;
 - i. The protective equipment that must be used;
 - j. The occupational risks to the safety and health of the workers, as well as regarding the protection and prevention measures and how they should be applied, whether in relation to the activity developed or in relation to the company, establishment or service;
 - k. The list and report of the fatal and serious non-fatal work-related accidents occurred;
15. The employer should ensure that the consultations and its results are recorded in a specific book for that purpose. Moreover, workers and their OSH representatives should be allowed to submit proposals, in order to minimize any occupational risk may, at any time.
16. The employer must ensure that the workers, as well as their OSH representatives within the company, establishment or service, have updated information about:
- a. The occupational risks to the safety and health of the workers, as well as regarding the protection and prevention measures and how they should be applied, whether in relation to the activity developed or in relation to the company, establishment or service;
 - b. The measures and the instructions to adopt in the event of serious and imminent danger;
 - c. The emergency, first aid, fire-fighting and evacuation of premises measures, as well as the identification of the workers or services in charge of their implementation.
17. The employer has to ensure that the information is always given to the workers in the following cases:
- a. Admission;
 - b. Change of workplace or duties;
 - c. Introduction of new work equipment or modification of existing ones;
 - d. Adoption of a new technology;
 - e. Activities involving workers from several companies.
18. The employer has to inform the workers with specific OSH duties namely on the following matters:
- a. The assessment of the OSH risks, including those related to groups of workers subjected to special risks;
 - b. OSH measures before they were implemented or, in the case of their urgent implementation, as soon as possible afterwards;
 - c. The list and report of the fatal and serious non-fatal work-related accidents occurred.

19. The employer must inform the external qualified technicians and service providers engaged in OSH activities within the company, as well as other employers and respective workers which are providing services within the employer facilities, about:
 - a. The factors that are suspected or known to affect the safety and health of the workers;
 - b. The assessment of the OSH risks, including those related to groups of workers subjected to special risks;
 - c. The appointed workers for implementing the measures of first aid, fire-fighting and evacuation of premises.
20. Regarding the training of the workers, and in a manner that should not result in any kind of loss to the workers, the employer must:
 - a. Provide workers with adequate training in the field of OSH, taking into account the workstation and the exercise of high-risk activities;
 - b. Ensure that the workers assigned to undertake all or some of the OSH activities, as well as the workers' representatives for OSH, are provided with permanent training by the employer or other entities, in order to exercise their duties;
 - c. Train the sufficient number, given the size of the company and the existing risks, the workers responsible for the implementation of the preventive and protective measures for first aid, fire-fighting and evacuation of premises, as well as to provide them with the appropriate material.

6.13. Concurrent or successive activities in the same workplace

The Ukrainian national system for occupational risk prevention and OSH promotion should also provide that when several companies, establishments or services conduct, at the same time, activities with their workers in the same workplace:

1. The respective employers have to, taking into account the nature of the activities each one conducts, cooperate in order to ensure safer and healthy working conditions;
2. The following entities must ensure, notwithstanding their own responsibility for the safety and health of their own workers, the safety and health in relation to all the workers engaged in activities at the same workplace:
 - a. The user company, in the case of temporary workers;
 - b. The accepting company, in the case of staff on sporadic loan;
 - c. The company in which facilities other workers provide services under a contract to provide services;
 - d. In all other cases, the company awarding a contract for works or a service, in which it should guarantee the coordination of other employers through the organization of OSH activities.
3. The user company or the company awarding the contract for works or services must ensure that the successive exercise of activities by third parties on its premises or with the equipment used does not pose a risk to the health and safety of its workers or temporary workers, or those sporadically loaned or workers employed by service provision companies.

6.14. Obligations of the worker

Moreover, the Ukrainian national system for occupational risk prevention and OSH promotion should also foresee the obligations of the workers in terms of OSH, which may include the following:

1. Comply with the occupational health and safety requirements laid down in the laws and collective bargaining instruments, as well as the instructions of the employer;
2. Ensure their own safety and health, as well as the safety and health of other people who might be affected by their actions or omissions at work, especially when exercising managerial or supervision roles, in relation to services under their technical and hierarchical responsibility;
3. Comply with established work procedures and use correctly and in accordance with the instructions conveyed by the employer, the machines, apparatus, instruments, dangerous substances and other equipment and means placed at their disposal, in particular regarding the collective and personal protective equipment;
4. Actively cooperate in the company, establishment or service for the improvement of OSH, taking note of the information provided by the employer and attending the appointments and examinations defined by the occupational physician;
5. Immediately report to their superior officer or, if not possible, to the worker assigned to perform specific functions in the field of OSH, any failures and deficiencies detected that are likely to result in serious and imminent danger, as well as any defect verified in protection systems;
6. In the event of serious and imminent danger, adopt the measures and instructions previously established for such situation, without prejudice to the duty to contact, as soon as possible, the immediate hierarchical superior or the workers performing specific roles in the field of OSH.

The Ukrainian national system for occupational risk prevention and OSH promotion should also provide that:

1. The workers cannot be harmed by virtue of having moved away from their workstations or from a dangerous area, in the event of serious and imminent danger or for having adopted measures for their own safety or that of others;
2. The workers' obligations in the field of OSH cannot, in any case, exclude the non-transferable responsibilities of the employer;
3. The workers who deliberately infringes their OSH obligations or whose conduct may have contributed to causing a dangerous situation are disciplinarily, civilly and criminally liable.

7. Improvement path

The planned process from the reform of the current Ukrainian OSHMS include the following 3 stages and their corresponding measures:

7.1. Formulation of the new Ukrainian national system for occupational risk prevention and OSH promotion

This stage includes, in particular, the following measures:

1. To analyze, study and learn the best foreign and national practices in the sphere of introduction and functioning of the systems for occupational risk prevention and OSH promotion;
2. To Collect data on the baseline situation and different aspects of the future reforms;
3. To analyze the information and data gathered, in order to define the activities to be carried out within the scope of the reform, as well as to define the indicators and respective targets for its efficiency and effectiveness assessment;
4. To reinforce the consultation and participation of the social partners on the formulation of the OSH policy at all relevant levels, namely within the framework of the Ukrainian National Tripartite Social and Economic Council, before the approval of any legislation related to or with impact on OSH, as well as at the level of the tripartite advisory councils of the State services with responsibilities for OSH and at company level;
5. To formulate an Ukrainian national strategy for OSH promotion;
6. To raise awareness of the society, through a communication strategy, based both on the traditional mass-media means and on the new communication platforms, such as the State bodies web sites in the world wide web and their social networks platforms (e.g., Facebook, Instagram, Youtube, Tweeter, etc.), involving the social partners and the relevant State entities, on the advantages of changing the approaches to improve the OSH working conditions, in order to develop a genuine culture of prevention;
7. To develop mechanisms and economic incentives for employers and their representative associations, as well as for the worker's representative associations, in order to boost the development of initiatives likely to improve the safety and health in the workplaces and facilitate the implementation of the reform.

7.2. Implementation of the new Ukrainian national system for occupational risk prevention and OSH promotion

This stage involves, essentially, the practical implementation of the Ukrainian national strategy for OSH promotion, outlined in the previous stage, and its continuous monitoring and adjustment. It comprises, in particular:

1. To change the regulations concerning the labour inspection system, in order to ensure the effective implementation of the provisions of the ILO Conventions Nos. 81 and 129 on labour inspection ratified by Ukraine, providing labour inspectors with the necessary powers (e.g., to perform inspections visits to any workplace, at any time, during day or night, without prior notice; to make inspection visits with the frequency and deepness deemed necessary; to adopt the inspection procedures considered more suitable, including the imposition of fines, even if the employer carries out the determined measures) and resources (e.g., human, financial, material, equipment, information and communication technologies, training, etc.), so as to enable the effective enforcement of the Ukrainian labour relations and OSH regulations and the effective improvement of the working conditions in Ukraine.

2. To simplify the current OSH legal framework, whilst reinforcing the level of protection of the workers' OSH working conditions, oriented by the adoption of an approach based on the effective implementation of the general principles of prevention and on a philosophy focused on the promotion of the OSH working conditions, mainly through its alignment with:
 - a. The OSH International Labour Standards set by the ILO, especially in what concerns the ILO Conventions Nos. 155 and 187; and with
 - b. The EU OSH acquis, in particular, in what regards: the EU OSH framework Directive No. 89/391/EEC; Directive No. 89/654/EEC, on workplaces; Directive No. 89/656 EEC, on personal protective equipment; Directive No. 2009/104/EC, on the work equipment; Directive No. 91/533/EEC, on the employers' information obligations; and Directive No. 2003/88/EC, on working time. Especial attention should be to the elaboration of a list of high risk works and work equipment, as well as to the alignment of the Ukrainian laws with the European standards on the launch in the market of machinery and work equipment.
3. To reorganize and define, in precise terms, the responsibilities and legal competencies of the State bodies responsible for OSH, eliminating the overlap of legal powers, considering the outsourcing to the private sector the execution of some non-core functions (except in what concerns the monitor and control powers which constitutes State authority functions) and defining their coordination and cooperation mechanisms;
4. To develop a legal framework, regulating a repair scheme for work-related accidents and occupational diseases, including rehabilitation and professional reintegration, based on an mandatory insurance system.
5. To create and implement an effective national policy and system for the recording, notification and investigation of occupational accidents, occupational diseases, commuting accidents, dangerous occurrences and incidents for all branches of economic activity and all enterprises, and for all workers, regardless of their status in employment.
6. To promote the articulation of the relevant State bodies, responsible for the areas of labour, education and vocational training, in order to ensure the inclusion of contents regarding OSH in the curriculum of all education levels of the regular and vocational education and training;
7. To improve the compliance level and the deterrent effect of labour inspection system and its enforcement effectiveness, through the revision of the Ukrainian penalties system, mainly through the increase of the fines and the legal provision and effective implementation of accessory sanctions;
8. To develop a legal framework concerning the activity of the external OSH services providers and OSH technicians;
9. To setup, through the labour inspection service communication systems (e.g., phone, internet web page and social networks) and delegations network, a nationwide technical information and advice service, in order to provide information, counseling and technical advice to workers, employers and their representative organizations about the best way to comply with the labour relations and OSH regulations.
10. To launch a nationwide information and technical advice campaign, targeting employers, workers and their representative organizations on how to best comply with the legal provisions of the new Ukrainian national system for occupational risk

prevention and OSH promotion.

11. To launch a comprehensive training program on the new OSH system for occupational risk prevention and OSH promotion, targeting workers, employers and their representatives, as well as OSH technicians and the staff of the state entities responsible for OSH policy formulation, implementation, monitoring and control, in order to update and promote the development and improvement of their competencies and know-how on OSH.

7.3. Monitoring, evaluation and feedback

In the scope of the foreseen reform, and in accordance with the formulated strategic plan, this stage mainly encompasses the evaluation of the results of the measures taken and their comparison with the previously defined targets. It includes, in particular:

1. The launch of a nationwide labour inspection campaign, targeting employers, workers and their representative organizations, in order to enforce the compliance with their legal obligations, foreseen in the legal provisions of the new Ukrainian national system for occupational risk prevention and OSH promotion, as well as to provide information and technical advice on the best way to comply with them.
2. Assessment of the efficiency and effectiveness of the reform implementation;
3. Identification of possible deviations of the implementation process, when compared to the outlined strategic plan, and adoption of the most appropriate corrective measures;
4. Reanalysis of the resulting new legal framework for occupational safety and health in Ukraine and identification of any gaps or opportunities for improvement, with the aim of improving it.

The period of the second stage of the Concept realization will be determined based on achievements of the first stage, economic, political and social situation at that time, as well as based on the development of the relations between Ukraine and EU, other economically developed countries.

The third stage shall be continuously implemented simultaneously with the first and second stages of the Concept realization.

The stages of the Concept realization shall be taken into consideration during the development of the Action plan on the reforming the OSHMS in Ukraine.

The Concept shall be realized during 3 years from 2018 till 2020.

8. Timetable and responsibilities

In this section it should be inserted a timetable (e.g. Gantt chart) for the implementation of the several activities and measures foreseen for the implementation of the Ukrainian national system for occupational risk prevention and promotion of OSH, with the identification of the respective beginning and ending dates, as well those responsible (institutions and/or persons) for getting it done.

9. Expected results

The expected results from the implementation of the new Ukrainian national system for occupational risk prevention and OSH promotion comprise essentially the following:

1. To increase the occupational safety and health working conditions of the Ukrainian workplaces and to promote the safe, health and well-being of the Ukrainian workers;
2. To decrease the number and incidence rates of work-related accidents;
3. To reduce the number and incidence rate of occupational diseases;
4. To develop a nationwide genuine culture of prevention;
5. To strengthen the labour inspection powers and resources, in order to ensure its efficiency and effectiveness in enforcing the law and in improving working conditions, as well as to improve compliance level and the fair competition in the market;
6. To implement an effective system for the recording, notification and investigation of occupational accidents and diseases, that can provide realistic and reliable statistical data on the OSH situation in Ukraine;
7. To increase the responsibility of the employers for the creation of proper, safe and healthy working conditions for workers and the working environment;
8. To simplify the OSH legislation, whilst improving its OSH standards, in order to reduce the administrative and regulatory burden to the employers;
9. To introduce mechanisms and economic incentives in order to boost the improvement of the occupational safety and health working conditions of the workers;
10. To increase the fair competition and the access and competitiveness of the Ukrainian enterprises in the international market;
11. To improve the investment climate in Ukraine;
12. To setup priorities and respective stages for gradual implementation of the European Union standards in the national legislation;
13. To ensure the timely and effective implementation of the EU-Ukraine Association Agreement (AA), in particular in what concerns the provisions of its articles 419.^o and 420.^o to 424.^o of chapter 21, as well as the provisions of the Annex XL to chapter 21.

10. Funding

The resources (financial, material, technical and human) to be allocated to the implementation of the OSH Concept will come from the yearly budget appropriations of the state bodies responsible for OSH, from the Social Insurance Fund of Ukraine, as well as from international assistance projects (financial, technical, humanitarian and consultative) and other sources of funding not prohibited by the law.

The needed resources for the implementation of the OSH Concept, shall be specified every year, taking into consideration the State Budget of Ukraine.

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