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Міжнародною організацією праці

EU-ILO Project

“Towards safe, healthy and declared work in Ukraine”



Project is funded by European Union

OSH Forum - Occupational Safety 2021

EU-ILO Project Technical Recommendations
to the ME draft Law “On Occupational Safety and Health of Workers”

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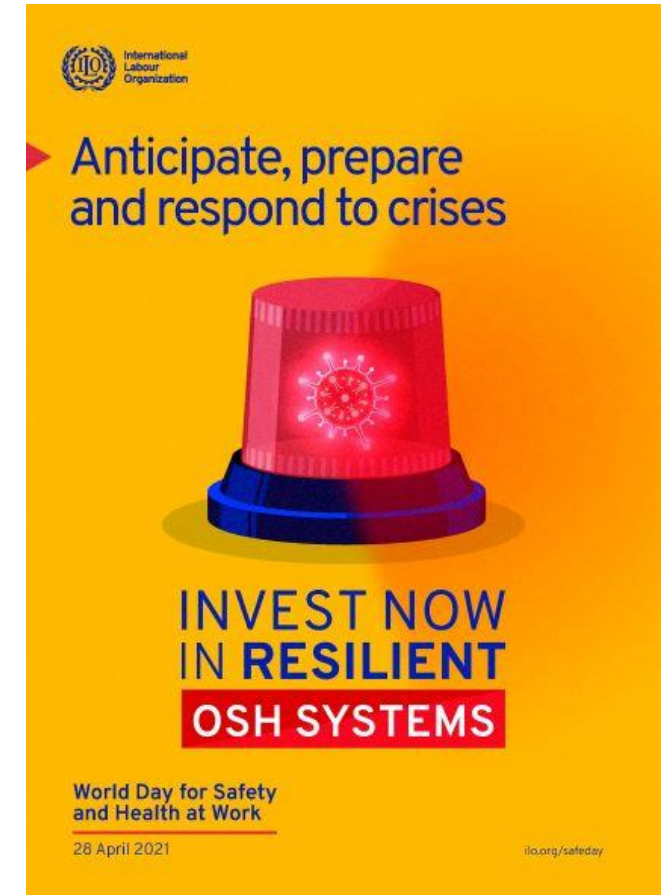
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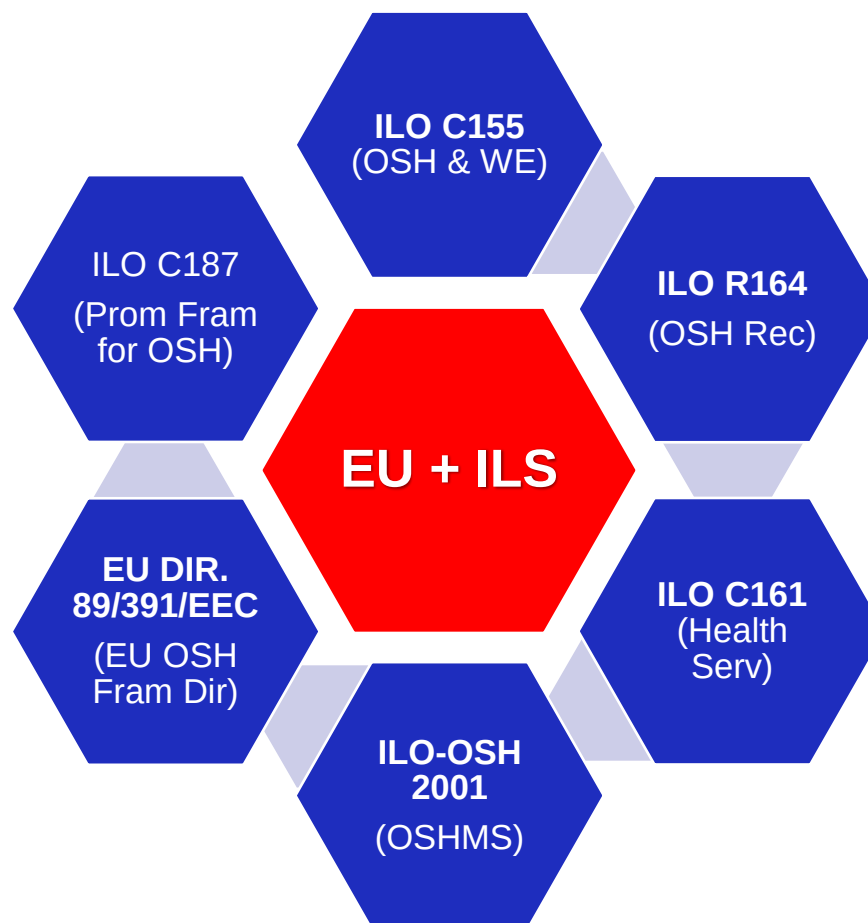
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Based on the EU-ILO Project Technical Recommendations to the ME draft Law “On Occupational Safety and Health of Workers”

► Main applicable International and EU Labour Standards and Guidelines



Positive aspects

Social partners' participation in drafting process

Definition of a National Policy for OSH

Holistic approach to OSH that includes both “safety” + “health”

Shift from protection, correction and compensation to prevention

Positive aspects

Specification of the main employers' obligations on OSH

To organize and ensure functioning of preventive and protective services of OSH

To manage occupational risks (assess + control)

To ensure the consultation and participation of workers

To ensure the workers' health surveillance

To provide information and training on OSH to workers

To plan and organize first-aid, fire-fighting and evacuation of workers

To provide collective and personal protective equipment

Positive aspects

Special protection of most vulnerable (under 18, pregnant, recently given birth, breastfeeding and with disabilities)

Definition of the Labour Inspection functions, activities and powers on OSH

Establishment of employer's liability for non-compliance

Aspects to improve

Better definition, articulation and alignment with ILS of some terms

Establishment of a national system for OSH

Health surveillance of all workers, health data confidentiality and workers' signature on the fitness certificates

OSH information provided before work starts and updated whenever necessary

Aspects to improve

Authorization for performance of high-risk works:

Should not be replaced by insurance

Does not exempt employer from the obligation to take all the necessary measures to minimize, as far as practically possible, occupational risks and their impact

Refused/revoked if employer had fatal or very serious work accidents or violated OSH regulations in prior 2 years or was considered by LI as incapable to ensure OSH

Aspects to improve

Modalities/requirements of organizing/functioning of OSH services should be defined by size and risks of workplaces (not of employers)

Employers' obligations should include expressively the obligation to:

Ensure the safety and health of workers in every aspect related to the work

Implement the necessary measures for safety and health protection of workers according to GPP and adjust them to changing circumstances

Aspects to improve

Workers' obligation to cooperate with employer on OSH should be restricted to their field of activity

Concerning first aid, elimination of breakdowns, fire-fighting, and evacuation of workers it is necessary to provide that the:

Number, training and means of responsible workers take into account the size and risks of workplaces (not the “enterprise’s production facilities”)

Information on the risks involved and OSH preventive measures to be taken is provided ASAP and before the occurrence of any real emergency situation

Aspects to improve

Regarding “expert organizations”, they should:

Be renamed “expert entities”, allow for the appointment of natural persons which are competent, have the necessary means and meet the requirements

Be able to be certified and provide a wider range of OSH services (depending on their competencies, means and verification of requirements)

Be regulated through a specific by-law (not on the law “on OSH of Workers”)

Aspects to improve

Employers' liability should be align with ILO C81, C129, C155 and Dir, 89/391/EEC, in particular, as regards:

Provisions foreseeing that offenders cannot be sanctioned if, when detected, they correct the infraction, should be deleted

Penalties for very serious and serious offenses should be specifically provided for and the use of the residual provision should be kept to a minimum

Amount of fines should depend on the employers' size and include their economic gain with the infraction

Penalties should include accessory (non-monetary) sanctions

Aspects to improve

Provisions on labour inspection should be aligned with ILO C81, C129 and C155 and with Dir. 89/391/EEC, in particular, regarding:

Its main tasks and its placement under the supervision and control of a central authority

Labour inspectors' status (as civil servants) recruitment, training and work conditions

Labour inspectors' powers: to visit workplaces at any hour of day or night without prior notice; to decide the frequency, scope and duration of inspection visits; etc

Workplaces should be inspected as often and thoroughly as it is necessary

Grounds for inspection visits should include the free initiative of labour inspectors

It shall be left to labour inspectors to give warning, advice, or to impose sanctions

Liability and remuneration of labour inspectors should not be addressed here

Critical aspects

Establishment of a national system for OSH

Authorization for high-risk works should not be replaced by insurance

By-laws to regulate this law should be available on its entry into force (lists of high-risk works/work equipment; risk factors to pregnancy and young workers; etc)

OSH services and modalities and requirements based on workplaces' size & risks

Critical aspects

Employers' obligations must include: to ensure workers' OSH in all aspects of work and to take adequate OSH measures (according to GPP) and to adjust them

Sanctions for non-compliance have to be adequate, sufficiently dissuasive and effectively enforced

Labour inspection legal framework alignment with ILO C81, C129, C155 and Directive 89/391/EEC and taken out of the scope of Law 877-V, of 5/4/2007, "On Basic Principles of State Supervision (Control) in the Area of Economic Activities"

Q&A



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[Issue #2 \(December 2020\)](#)



<https://bit.ly/2YKaLfV>

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Дякую за увагу!

Thank you for your attention!





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