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“Towards safe, healthy and declared work in Ukraine”

Draft Law
“On Occupational Safety and Health of Workers”
of the Ministry of Development of Economy, Trade and
Agriculture

**Summary of the 2nd set of recommendations on its
better alignment with International and European
Labour Standards and best practices**

November, 2020

Executive summary

The present technical advices and recommendations to the draft Law “On Occupational Safety and Health of Workers” developed by the Ministry of Development of Economy, Trade and Agriculture are provided within the scope of the EU-ILO Project “Towards safe, healthy and declared work in Ukraine”, under activities 1.1.1, 1.1.2 (of Output 1.1) and 1.2.1 (of Output 1.2).

They follow a first set of recommendations to a previous version of this draft, provided in October 2020. The first recommendations were then discussed within a work group set up by the Ministry of Economy to fine-tune and improve that draft Law, during a 7-days work-retreat in Chernihiv (15 - 23 October 2020), facilitated by the EU-ILO project.

These technical recommendations are therefore intended to promote a further alignment of the draft Law with the main International¹ and the European² labour standards and best practices on Occupational Safety and Health.

They should not be seen as official comments of the ILO or as a replacement of the positions of the supervisory bodies of the ILO.

Its content, moreover, does not reflect the official opinion of the European Union. Responsibility for the information and views expressed therein lies entirely with the author.

When analyzing this new draft that resulted from the discussions held in the aforesaid retreat, it is still possible to identify some remaining gaps and concerns, that need to be properly addressed, as well as some areas that need further improvement. They include, *inter alia*, the following:

¹ Namely, with the following International Labor Standards: Occupational Safety and Health Convention, 1981 (No. 155); Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155); Occupational Health Services Convention, 1985 (No. 161); Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and Night Work Convention, 1990 (No. 171).

² In particular, with the following European Union Directives: Council Directive 89/391/EEC, of 12 June 1989, concerning the introduction of measures to encourage improvements in the safety and health of workers at work; Directive 2003/88/EC, of the European Parliament and of the Council, of 4 November 2003, concerning certain aspects of the organization of working time; Directive 2009/104/EC, of the European Parliament and of the Council, of 16 September 2009, concerning the minimum safety and health requirements for the use of work equipment by workers at work; Council Directive 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; Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace; Council Directive 92/85/EEC, of 19 October 1992, on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding; Council Directive No. 94/33/EC, of 22 June 1994, on the protection of young people at work, as amended by Directive No. 2007/30/EC, of 20 June 2007, of the European Parliament and of the Council; and Council Directive No. 91/383/EEC, of 25 June 1991, supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship.

1. The need to better align some terms defined in Article 1 with some international and already stabilized definitions (e.g., workplace, workstation, occupational accident, occupational disease, night workers) contained in the main applicable International and European Labour Standards.
2. Although offering more flexibility and an easier updating legislative process, the option for regulating, in separate legal acts, several lists which are necessary to apply the law in practice, once adopted, is likely to involve some risks. In particular, the risk that, once the Law is enacted, the necessary regulatory legal acts may not be yet adopted. Such lists include, for example: high-risk works (Article 12); high-risk work equipment (Article 13); factors causing specific impact on health and genetic heritage (Article 14); list of harmful or hazardous occupational factors and working conditions likely to cause harm to health of pregnant workers, their unborn child, workers who have recently given birth, workers who are breastfeeding, and/or their children and list of harmful and hazardous occupational factors and working conditions, given which the work of pregnant workers, workers who have recently given birth, and who are breastfeeding is forbidden (Article 29); list of works and harmful or hazardous occupational factors and working conditions as well as limits for lifting and movement of heavy items by workers under 18 years of age (Article 30); etc.
3. Need to foresee that, even when the performance of a high-risk work (Article 12) or the use of a high-risk equipment (Article 13) is authorized, employer shall remain obliged to take all the necessary and adequate measures foreseen in law to minimize, as far as practically possible, occupational risks of the performance of such works or of use of that work equipment and to minimize their impact on the safety and health of the workers.
4. The references to risk assessment in several articles (e.g., Articles 14, 29 and 30) are not duly accompanied with the clarification on how it should be performed and with the definition of the next steps, in a logic sequence, following its results (for example: inform workers about the results and preventive and protective measures to adopt; health surveillance; to adapt working conditions, etc).

5. Regarding the organization and functioning of the preventive and protective services of safety and health to workers (Article 16 - Authorized entities for safety and health of workers), the proposed wording of the draft under analysis needs to be revised, in order to better align with the provisions of Articles 7(1) and 7(6) of Directive 89/391/EEC, mainly because it establishes the obligation of the employer to set up these services taking into account his/her number of workers and the fact that the employer has, or not, high-risk works. This solution takes out the employers the opportunity given by the Directive to better adapt the organization of the safety and health services to the specific needs of his/her workplace, defining to them the obligation to ensure the same modality of those services to each workplace without taking into account the specifics of the workplace size and occupational risks services. In fact, Article 7(6) of the Directive provides employers some degree of flexibility on the modalities of organization of the preventive and protective services. In particular:
- a. The services may be provided through just one joint service (for safety and health) or through separate services (one for safety and other for health);
 - b. The services of safety, for one side, and the services of health, for the other (or both) may be provided internally or by external entities, depending on the requirements that the country decides to establish in terms, for example, of the number of workers employed at each workplace and the risks to which they are or may be exposed in such workplace.

According to Article 7(6) of the Directive, the employer, depending on the requirements to be defined, may organize different types of services (internal or external) for the safety services, for the health services or for both, depending on the type of the workplace (in particular, taking into account the number of workers in that workplace and the natures of the risks to which they are or may be exposed to - for example, if they have to perform high risk works). This possibility is particularly useful, as it allows an employer that has several high-risk works workplaces (or workplaces with a lot of workers - above the limit to be established in the law) and other workplaces that do not have high-risk works (or that have less number of workers than the defined limit), to

adopt the modality of internal safety and health services in the workplaces that have high risk works (or a number of workers above the limit) but, at the same time, the employer will be able to adopt the modality of external safety and health services for the workplaces that do not have high-risk works or that have less number of employees than the defined limit.

6. In the draft under analysis, employers' obligations regarding first aid, fire-fighting, elimination of breakdowns, and evacuation of workers (Article 26) are mainly focused on their obligations once a breakdown (or any other event) happens and requires emergency measures, to the detriment of the measures aimed at ensuring preparedness to deal with such events, if they occur (e.g., set up and train the team responsible for carrying up the measures, provide the team with the necessary means, inform the workers about the measures and actions that should be implemented in case of an emergency and about the workers responsible for implementing them, etc.), as foreseen in paragraphs 1 to 3 of Article 8 of Directive 89/391/EEC. For this reason, these recommendations substantially change this Article, including the order of the legal provisions, in order to better clarify the obligations regarding prevention/preparedness and differentiate them from the emergency measures that should be implemented if such emergency situation materializes itself.
7. The obligation of the employer to subordinate his/her actions regarding OSH to the strict observance of the hierarchical and sequential general principles of prevention was neglected. With the exception of the obligation of the employer to organize, and ensure functioning of the occupational safety and health of workers system on the basis of the general principles of prevention (Article 15), no other employer obligation is subjected to the observance of the GPP. This situation puts into question the alignment of the draft law on OSH with Article 6(2) of EU Directive 89/391/EEC.
8. Employers' obligation to formulate and implement an overall plan for the prevention of occupational risks that integrates technical developments, organization of work, working conditions, social relations and the influence of environmental factors, is absent from this draft law and, in particular, from its Article 26, on the employers' obligations.

9. The draft Law provisions regarding labour inspectors' powers (see Article 33) should be reviewed in order to better align them with ILO C81 and C129 provisions and, by this way, also ensuring that "The enforcement of laws and regulations concerning occupational safety and health and the working environment shall be secured by an adequate and appropriate system of inspection", as established in Article 9(1) of ILO C155.
10. Regarding employer's liability for violation of the legislation on safety and health at work (Article 36) the recommendations of the EU-ILO project to adjust the amount of the fines to the size of the employers and to introduce, in addition to the fines, accessory sanctions, were not considered. Moreover, in the draft under analysis, the infractions are not sufficiently differentiated by level of severity, being left out of specific reference several serious or very serious offenses. The bulk of the violations, moreover, are only covered by a residual provision that establishes a fine in the amount of half minimum wage. As such, the sanctions for non-compliance with the provisions of this draft law on OSH should be further reviewed, in order to ensure that "The enforcement system shall provide for adequate penalties for violations of the laws and regulations", as foreseen in Article 9(2) of ILO C155.

It is our expectation that, by the end of this process, Ukraine may benefit from a better and modern law on occupational safety and health, properly aligned with the international and European labour standards and best practices, which contributes to the improvement of the working conditions in the country.

Kyiv, 21 November 2020

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"Towards safe, healthy and declared work in Ukraine"

ILO Office for Central and Eastern Europe

EU-ILO Project recommendations

OSH draft Law provision's wording	Recommended wording	Rationale
Article 1. Main terms and definitions		
1. The terms herein shall have the following meanings:		
workstation appraisal in terms of working conditions – a comprehensive assessment of the working environment and work flow factors that affect health and working capacity of workers at work;	1) workplace appraisal in terms of working conditions – a comprehensive assessment of the working environment and work flow factors that affect health and working capacity of workers at work;	The appraisal refers to “workplace” and not “workstation” (see, below, the different definitions for the terms “workplace” and “workstation”. Moreover, the paragraphs should be numbered.
.....	2)	Numbering of paragraph.
.....	3)	Numbering of paragraph.
.....	4)	Numbering of paragraph.
.....	5)	Numbering of paragraph.
.....	6)	Numbering of paragraph.
.....	7)	Numbering of paragraph.
.....	8)	Numbering of paragraph.
.....	9)	Numbering of paragraph.
.....	10)	Numbering of paragraph.
worker safety and health signs (hereinafter referred to as safety signs) – signs that set out a prohibition to take hazardous actions or actions likely to cause hazard or that give a direction to take measures concerning safety and/or health of workers at work by means of graphic symbols, colours, light or acoustic signals, verbal or hand signals;	11) worker safety and health signs (hereinafter referred to as safety signs) – signs referring to a specific object, activity or situation and providing information or instructions about safety and/or health at work by means of a signboard, a colour, an illuminated sign or acoustic signal, a verbal communication or a hand signal, as the case may be;	To align with definition of Article 2(a) of Directive 92/58/EEC, on the minimum requirements for the provision of safety and/or health signs at work. Moreover, to number the paragraph.
.....	12)	Numbering of paragraph.
.....	13)	Numbering of paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
.....	14)	Numbering of paragraph.
.....	15)	Numbering of paragraph.
.....	16)	Numbering of paragraph.
.....	17)	Numbering of paragraph.
accident - a time-bounded event or a sudden impact upon the worker of a hazardous or harmful occupational factor or working environment that occurred during, or in connection with, the worker's performance of their work and resulted in any damage to their health or in their death;	18) occupational accident - an occurrence arising out of, or in the course of, work which results in fatal or non-fatal injury;	To align with the definition of the Article 1(a) of ILO Protocol No. 155, of 2002; and to number the paragraph.
	19) night time or night work - any period of not less than seven hours which must include, in any case, the period between midnight and 5.00;	To define the term "night time", used in the definition of "night worker" that follows. This definition of "night time" is aligned with Article 2(3) of Directive 2003/88/EC, of the European Parliament and of the Council, of 4 November 2003, concerning certain aspects of the organization of working time. Also, to number the paragraph.
night worker – a worker who, during night time, works at least four hours of their daily working time and no less than ¼ of their annual working time standard;	20) night worker – a worker who, during night time, works at least <u>three</u> hours of their daily working time <u>or that works</u> no less than ¼ of their annual working time during night time;	To align with Article 2(4)(a) of Directive 2003/88/EC and to number the paragraph.
.....	21)	Numbering of paragraph.
.....	22)	Numbering of paragraph.
.....	23)	Numbering of paragraph.
.....	24)	Numbering of paragraph.
.....	25)	Numbering of paragraph.
.....	26)	Numbering of paragraph.
occupational disease – a disease (poisoning)	27) occupational disease – any disease	To align the definition with Article 1(b) of ILO

OSH draft Law provision's wording	Recommended wording	Rationale
caused solely or mainly by the worker's exposure to work-related hazardous and/or harmful occupational factors;	contracted as a result of an exposure to risk factors arising from work activity;	Protocol No. 155, of 2002; and to number the paragraph.
.....	28)	Numbering of paragraph.
.....	29)	Numbering of paragraph.
	30) workstation – the location in the employer's workplace (building, work process, work equipment or territory) to which the worker is assigned to and within which s/he performs work activities;	To clarify the difference between workstation and workplace. One workplace contains one or more workstations. Also, to number the paragraph.
workstation – the place in the premises, building, structure or territory used and/or owned by the employer to which the worker has access during work, and any other place under the direct or indirect control of the employer where workers should be or go to by reasons of their work;	31) workplace – the place intended to house workstations in the premises, building, structure or territory used and/or owned by the employer to which the worker has access during work, and any other place under the direct or indirect control of the employer where the worker is or from where or to where he must go in the course of his employment;	To better align with Article 3(c) of ILO Occupational Safety and Health Convention, 1981 (No. 155) and Article 2 of EU Directive 89/654/EEC, concerning the minimum safety and health requirements for the workplace. In addition, to number the paragraph.
.....	32)	Numbering of paragraph.
.....	33)	Numbering of paragraph.
.....	34)	Numbering of paragraph.
workers' health surveillance – examination of workers to determine their state of health and detect early signs of chronic diseases;	35) workers' health surveillance – examination of worker's health condition to determine their state of health, evaluate their physical and mental fitness to the work, as well as its repercussions and the conditions within which it is performed on the health of workers;	To better define the term “worker's health surveillance” and its objectives and to number the paragraph.
.....	36)	Numbering of paragraph.
.....	37)	Numbering of paragraph.
.....	38)	Numbering of paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
.....	39)	Numbering of paragraph.
.....	40)	Numbering of paragraph.
.....	41)	Numbering of paragraph.
	42) national preventive safety and health culture - a culture in which the right to a safe and healthy working environment is respected at all levels, where government, employers and workers actively participate in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties, and where the principle of prevention is accorded the highest priority.	To define the term “national preventive safety and health culture”, referred to in sub-paragraph 8) of paragraph 2 of Article 4 and aligning its definition with the one contained in Article 1(d) of the ILO Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). In addition, to number the paragraph.
Article 4. State policy on safety and health of workers		
1. The goal of the state policy on safety and health of workers shall be to prevent occupational risks, accidents, occupational diseases and other damage to the worker's health and life that can occur during work, by means of removing, as much as possible, the hazards inherent in the working environment.	1. The purpose of the state policy on occupational safety and health of workers shall be to prevent occupational injuries , occupational diseases and work-related deaths, by minimizing occupational risks as far as practically possible and by promoting worker's safety, health and well-being at work.	In order to better align with International and European Labor Standards and best practices, the purpose of the State policy, besides the prevention of occupational injuries, diseases and deaths, should also include the promotion of the safety, health and well-being of workers, as the latter constitutes means to prevent work-related accidents and occupational diseases.
2.....		
1).....		
2) full responsibility of the employer for provision of safe working conditions;	2) full responsibility of the employer for ensuring safe and healthy working conditions;	Employers should ensure not only safe, but also healthy, working conditions, as foreseen in Directive 89/391/EEC.
3).....		
4).....		
5).....		
6).....		

OSH draft Law provision's wording	Recommended wording	Rationale
7).....		
8) development on the national level of the culture of safety and prevention of occupational risks, accidents and occupational diseases;	8) development of a national preventive safety and health culture aimed at promoting safety and health at work and preventing occupational risks, work-related accidents and occupational diseases;	The national preventive safety and health at work culture should not be only aimed at preventing occupational risks, accidents and diseases, but should also be aimed at promoting, more generally, the safety and health at work.
9)		
3.		
1)		
2)		
3)		
4)		
5)		
6)		
7)		
8)		
9)		
10)		
Article 7. Recording and investigation of accidents, occupational diseases, and breakdowns		
1.		
2.		
3.		
4.		
5.		
6.		
8.	7.	To renumber the paragraph.
9.	8.	To renumber the paragraph.
10.	9.	To renumber the paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
Article 9. Insurance against risks concerning safety and health of workers		
1. The employer shall be required to maintain compulsory state social insurance of workers against an industrial accident and an occupational disease that caused loss of working capacity, according to the legislation.	1. The employer shall be required to maintain compulsory state social insurance of workers against an occupational accident and an occupational disease that caused loss of working capacity, according to the legislation.	The terms used across the law should have the same term and meaning as the ones defined in Article 1. In this case, the expression to use is "occupational accident", as defined in subparagraph 18) of paragraph 1 of Article 1.
	2. The employer has the obligation to declare to the compulsory state social insurance, with the periodicity specified in the legislation, all the amounts paid to each worker as remuneration and other benefits.	In order to allow the calculation of the insurance premiums and, where applicable, compensation for the damages arising from an occupational accident or disease.
2. The employer may, at their own expense or with workers' voluntary partial involvement in payment of insurance premiums under an insurance programme, additionally insure:	3.	
workers' life and health;	1) workers' life;	For clarity and to number paragraph.
	2) workers' health;	For clarity and to number paragraph.
workers' liability (including third party liability for consequences of the employment duties performed by workers).	To delete	It should be deleted because the responsibility should always be of the employer, even if the damages result from actions or omissions of his/her workers. Is the principle of the non-transferability of employers' responsibility for the safety and health of workers. Workers responsibility should be assessed within a disciplinary procedure regulated by procedural labour law.
	4. In the case foreseen in paragraph 3 of this Article, the employer, in addition to the provision of the paragraph 2 of this Article, has the obligation to declared to the concerned insurance institution, with the periodicity specified in the respective insurance policy, all	In order to allow the calculation of the insurance premiums and, where applicable, the amount of reparation/compensation that is due to the occurrence of the covered eventuality.

OSH draft Law provision's wording	Recommended wording	Rationale
	the amounts paid to each worker as remuneration and other benefits which risk is to be covered by the mentioned insurance policy.	
	5. In cases where the employer did not transferred her/his responsibility for the reparation of damages arising from occupational accidents and occupational diseases to the compulsory state social insurance under paragraph 1, s/he will be responsible for ensuring the reparation of the damages arising from occupational accidents and occupational diseases, without prejudice to the liability for the practice of a very serious administrative offense.	In order to ensure that the employer shall be the responsible for the reparation of the damages arising from occupational accidents and occupational diseases when s/he does not transfer her/his responsibility for such reparation to the compulsory state social insurance under paragraph 1.
	6. In cases where the employer did not declared to the compulsory state social insurance all the amounts paid to each worker as remuneration and other benefits pursuant paragraph 2 of this article, s/he shall be responsible for the reparation of damages arising from occupational accidents and occupational diseases regarding the part of the remuneration and other benefits of the worker not declared for the purposes of calculation of the employer's contribution to the compulsory state social insurance, without prejudice to the liability for the practice of a serious administrative offense.	In order to ensure that the employer shall be the responsible for the reparation of the damages arising from occupational accidents and occupational diseases regarding the part of the remuneration and other benefits of the worker not declared for the purpose of calculation of the employer's contribution to the compulsory state social insurance mentioned in paragraph 1.
3. Governance and management of compulsory state social insurance against an occupational accident and an occupational disease shall be provided according to law	7. Governance and management of compulsory state social insurance against an occupational accident and an occupational disease shall be provided according to law	To replace industrial accident by occupational accident to align the term with the international standards and the definition of the term laid down in subparagraph 18) of paragraph 1 of Article 1 of this recommendation (above).

OSH draft Law provision's wording	Recommended wording	Rationale
		Also, to renumber the paragraph.
Article 11. Ensuring sanitary rules and regulations		
1. The central executive authority that ensures the formulation of the state policy on health care, as agreed upon with the central executive authority that ensures the formulation of the state policy on safety and health of workers, shall define and set forth sanitary rules and regulations, sanitary and hygienic and sanitary and anti-epidemic rules and regulations, sanitary and epidemiological rules and regulations, anti-epidemic rules and regulations, hygienic and anti-epidemic rules and regulations, state sanitary and epidemiological standards, and sanitary regulations in the field of safety and health of workers.	1. The central executive authority that ensures the formulation of the state policy on health care, as agreed upon with the central executive authority that ensures the formulation of the state policy on safety and health of workers, shall define and set forth sanitary, hygienic, epidemiological and anti-epidemic rules and regulations, as well as state sanitary and epidemiological standards in the field of safety and health of workers.	To eliminate several duplications of the previous wording.
2.		
3.		
4.		
5.		
Article 12. Special conditions for performance of works		
1. In cases where the nature and level of hazard of works performance of which is connected with an objectively higher risk of the impact of hazardous and harmful occupational factors on workers' health and life (high-risk works) so require, such works may only be performed subject either to additional life and health insurance of the workers performing such works or to an authorization for performance of such works according to this Article.	1. In cases where the nature and level of hazard of works performance of which is connected with an objectively higher risk of the impact of hazardous and harmful occupational factors on workers' health and life (high-risk works) so require, such works may only be performed subject to an authorization for performance of such works according to this Article and subject to additional life and health insurance of the workers performing such works.	Should be changed because stating that, in case of high-risk works the workers can perform them "subject <u>either</u> to additional life and health insurance of the workers performing such works <u>or</u> to an authorization for performance of such works" is likely to put into question one of the main EU principles, which, moreover, justified the EU OSH Framework Directive 89/391/EEC: the principle that "the improvement of workers' safety, hygiene and health at work is an objective

OSH draft Law provision's wording	Recommended wording	Rationale
		which should not be subordinated to purely economic considerations". In fact, the proposed wording <u>allows workers to perform high-risk workers only with an additional health and life insurance</u>. Is like saying that "you can do such works and, if you die or get injured, there is no problem: your damages will be covered....". It is, again, the adoption of a reparation, compensation and protection approach, instead of an approach based on the PREVENTION! As such, this wording should be changed to subject the performance of such high-risk works to the following alternative conditions: when such performance is authorized; or when the performance of such high-risk works is authorized AND there is an additional health and life insurance. In addition, it should be inserted another paragraph stating that, in case of authorization for the performance of such high-risk works, employer shall take all the adequate and necessary measures to minimize their impact on the safety and health of the workers.
	2. Where the authorization for the performance of such high-risk works mentioned in the previous part have been issued, employer shall take all the necessary and adequate measures, as foreseen in this law, to minimize as far as practically possible the occupational risks and their impact on the safety and health of the workers.	In order to ensure that the high-risk works which performance is authorized are carried out in a way that minimizes, as far as practically possible, the occupational risks to which workers will be exposed to.
2. Workers' life and health insurance for performance of the works mentioned in the first part of this Article shall provide for	3. Workers' life and health insurance for performance of the works mentioned in the first part of this Article shall provide for	To replace industrial accident by occupational accident to align the term with the international standards and the definition of the term laid

OSH draft Law provision's wording	Recommended wording	Rationale
reimbursement of insurance premiums to workers or their family members in the amount no less than those established by the legislation on compulsory state social insurance against industrial accidents and occupational diseases	reimbursement of insurance premiums to workers or their family members in the amount no less than those established by the legislation on compulsory state social insurance against occupational accidents and occupational diseases	down in subparagraph 18) of paragraph 1 of Article 1 of this recommendation (above). Also to renumber the paragraph.
3.	4.	Renumbering of the paragraph.
.....	5.	Numbering of the paragraph.
4. The authorizations shall be issued free of charge and shall remain in force without time limit except for cases provided for in the ninth part of this Article.	6. The authorizations shall be issued free of charge and shall remain in force without time limit except for cases provided for in the eleven and twelve parts of this Article.	In order to clarify that the authorizations will be issued and remain in force without any limit except in the cases of refusal to issue them (part eleven) or in case they are revoked (part twelve).
5.	7.	Renumbering of the paragraph.
6.	8.	Renumbering of the paragraph.
7.	9.	Renumbering of the paragraph.
.....	10.	Numbering of the paragraph.
8.	11.	Renumbering of the paragraph.
1)		
2)		
3)		
	4) Within the two years prior to the request of the authorization occurred a breakdown, explosion, fire, fatal occupational accident, occupational accident resulting in absence for more than three working days due to incapacity to work or demonstrating a particularly serious situation in terms of Safety and Health at Work, due to the performance of the high-risk works for which the authorization is requested;	To penalize and dissuade unsafe and unhealthy working conditions and non-compliance with OSH regulations and, at the same time, to promote the adoption of good practices in the field of OSH, to ensure the safety and health of the workers and to prevent work-related accidents and occupational diseases.
	5) If the employer has been convicted for the practice of infringement to this law, in connection with the performance of high-risk	To penalize and dissuade unsafe and unhealthy working conditions and non-compliance with OSH regulations and, at the same time, to

OSH draft Law provision's wording	Recommended wording	Rationale
	works, within the two years prior to the request of the authorization;	promote the adoption of good practices in the field of OSH, to ensure the safety and health of the workers and to prevent work-related accidents and occupational diseases.
	6) If, following an inspection visit, the central executive authority that implements the state policy on safety and health disagrees with the expert organization's opinion or believes that the employer has no capacity to perform the concerned works in conditions that ensure the safety and health of workers.	To penalize and dissuade unsafe and unhealthy working conditions and non-compliance with OSH regulations and, at the same time, to promote the adoption of good practices in the field of OSH, to ensure the safety and health of the workers and to prevent work-related accidents and occupational diseases.
9.	12.	Renumbering of the paragraph.
1)		
2) a document-supported fact of denying a labour inspector's access or obstructing a labour inspector's exercise of control activities.	2) Employer denied access of a labour inspector to his/her workplace or obstructed the exercise of his/her functions.	Should be changed because, in most of the cases, the denial of the access or the obstruction to labour inspectors cannot be proved by any document, but only by witnesses.
	3) If the employer has been convicted for the practice of infringement to this law, in connection with the performance of the concerned high-risk works or activities;	To penalize and dissuade unsafe and unhealthy working conditions and non-compliance with OSH regulations and, at the same time, to promote the adoption of good practices in the field of OSH, to ensure the safety and health of the workers and to prevent work-related accidents and occupational diseases.
	4) If a labour inspector of the central executive authority that ensures the implementation of the state policy on occupational safety and health, following an inspection visit, concludes that the employer does not perform the concerned high-risk works or activities in conditions that ensure the safety and health of the workers.	To penalize and dissuade unsafe and unhealthy working conditions and non-compliance with OSH regulations and, at the same time, to promote the adoption of good practices in the field of OSH, to ensure the safety and health of the workers and to prevent work-related accidents and occupational diseases.
10.	13.	Renumbering of the paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
11.	14.	Renumbering of the paragraph.
12.	15.	Renumbering of the paragraph.
Article 13. Special conditions for the use of work equipment	Article 13. Conditions for the use of work equipment	To delete "Special", because this Article does not address exclusively high-risk work equipment.
.....	1. The employer shall take the necessary measures to ensure that the work equipment made available to workers in the undertaking or establishment is suitable for work to be carried out or properly adapted for that purpose and may be used by workers without impairment to their safety or health.	To better systematize the Article and to better align it with Article 3(1) of Directive 2009/104/EC, of the European Parliament and of the Council, of 16 September 2009, concerning the minimum safety and health requirements for the use of work equipment by workers at work.
.....	2. In selecting the work equipment which he proposes to use, the employer shall pay attention to the specific working conditions and characteristics and to the hazards which exist in the undertaking or establishment, in particular at the workplace, for the safety and health of the workers, and any additional hazards posed by the use of the work equipment in question.	To better systematize the Article and to better align it with part 2 of Article 3(1) of Directive 2009/104/EC.
.....	3. Where it is not possible in this way to fully ensure that work equipment can be used by workers without risk to their safety or health, the employer shall take appropriate measures to minimize the risks.	To better systematize the Article and to better align it with Article 3(2) of Directive 2009/104/EC.
1. Natural and legal persons, institutions and organizations shall have the right to use high-risk work equipment subject to its registration and mandatory technical inspections according to the legislation.	4. Without prejudice to the preceding paragraphs, employers may make available high-risk work equipment subject to its prior registration and mandatory technical inspection according to the legislation.	To better align it with Article 3 of Directive 2009/104/EC.
2.	5.	To renumber the paragraph.
3.	6.	To renumber the paragraph.
4. The employer shall be required to take necessary measures to ensure that the	Should be moved to paragraph 1 (above) and changed as follows: "1. The employer shall take	"production equipment" should be replaced by "work equipment"

OSH draft Law provision's wording	Recommended wording	Rationale
production equipment used by workers is suitable for work being carried out or properly adapted for carrying out	the necessary measures to ensure that the work equipment made available to workers in the undertaking or establishment is suitable for work to be carried out or properly adapted for that purpose and may be used by workers without impairment to their safety or health” .	To better systematize the Article and to better align it with Article 3(1) of Directive 2009/104/EC. Please see the rationale of the proposed paragraph 1 (above).
5.		
6.		
7. The minimum safety and health requirements for the use of work equipment by workers shall be set forth by the central executive authority that ensures the formulation of the state policy on safety and health of workers.	7. The minimum safety and health requirements for the use of work equipment by workers shall be set forth by the Cabinet of Ministers of Ukraine, as submitted by the central executive authority that ensures the formulation of the state policy on safety and health of workers.	To ensure that the legislation on the minimum safety and health requirements for the use of work equipment (that, <i>inter alia</i> , will transpose the Directive 2009/104/EC, of the European Parliament and of the Council, of 16 September 2009, concerning the minimum safety and health requirements for the use of work equipment by workers at work) will: • Have the necessary legal power (as a CMU Decree) to allow that its provisions prevail over contrary or contradictory provisions of other current or future legal acts with lower legal power (such as Ministry Orders); • Is sustainability and stable and will not be easily revoke or repealed each time the competent Minister changes.
Article 14. Protection of genetic heritage		
	1. The chemical, physical and biological agents or other factors that may cause heritable genetic effects, non-heritable adverse effects in progeny or that affect the male or female reproductive functions and abilities are likely to entail risks for the genetic heritage.	To better align with EU Directives 2004/37/EC, 2000/54/EC and 98/24/EC.
1. Protection of genetic heritage shall assume the need to analyze presence at workstations of	2. The employer must verify the existence at the workplace of agents or factors that may	To better align with EU Directives 2004/37/EC, 2000/54/EC and 98/24/EC.

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any factors likely to cause adverse inherited genetic consequences in descendants and affect the reproductive function of men and women.	have harmful effects on genetic heritage and assess the corresponding risks.	
2. In that regard, the risk assessment to be undertaken by the employer must take into account all available information about harmful and hazardous work environment factors, actual conditions and nature of work, interaction with other risks, and recommendations by the competent bodies in the field of occupational safety and health.	3. Risk assessment must take into account all available information, in particular: 1) The collection of information on the agents or factors; 2) The study of jobs to determine actual exposure conditions, in particular the nature of the work, the characteristics of the agents or factors, periods of exposure and interaction with other risks; 3) The recommendations of the competent bodies in the occupational safety and health field.	To better align with EU Directives 2004/37/EC, 2000/54/EC and 98/24/EC.
3. The risk assessment should identify the workers exposed as well as those who, being particularly sensitive, may need special protection measures.	4.	To renumber the paragraph.
	5. Risk assessment must be repeated when there is a change in the working conditions likely to affect workers' exposure, when the results of health monitoring so justify or there is development of scientific research in this area.	To better align with EU Directives 2004/37/EC, 2000/54/EC and 98/24/EC.
	6. Without prejudice to the other employers' obligations in the field of information and consultation, the employer must provide updated information to workers, their representatives for occupational safety and health and to the occupational physician on: 1) The hazardous substances and mixtures, work equipment and materials or raw	To better align with EU Directives 2004/37/EC, 2000/54/EC and 98/24/EC.

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	materials present in workplaces that may pose danger of aggression to genetic heritage; 2) The results of the risk assessment; 3) The identification of exposed workers.	
	7. Without prejudice to the other employers' obligations on occupational health, the employer must ensure the appropriate surveillance of the health of workers in respect of which the result of the assessment reveals risks for genetic heritage, through health examinations, the first of which shall be carried out before the first exposure.	To better align with EU Directives 2004/37/EC, 2000/54/EC and 98/24/EC.
	8. As a result of health surveillance, the occupational physician: 1) Informs the worker of the result; 2) Gives indications about the possible need to continue monitoring health, even after exposure; 3) Communicate to the employer the results of health surveillance with interest to risk prevention, without prejudice to the obligation of professional secrecy to which s/he is bound to.	To better align with EU Directives 2004/37/EC, 2000/54/EC and 98/24/EC.
	9. The employer, having regard to that referred to in sub-paragraph 3) of the preceding paragraph: 1) Repeats the risk assessment; 2) On the basis of the opinion of the occupational physician, adopts any individual measures of protection or prevention and, if necessary, gives the worker another compatible task where	To better align with EU Directives 2004/37/EC, 2000/54/EC and 98/24/EC.

OSH draft Law provision's wording	Recommended wording	Rationale
	there is no risk of exposure; 3) Promotes prolonged surveillance of the worker's health; 4) Ensures that any worker who has been exposed to agents or risk factors to the genetic heritage has a health exam, including, if necessary, additional exams.	
4. The list of factors causing specific impact on health and genetic heritage of workers shall be defined by the central executive authority that ensures the formulation of, and implements, the state policy on health care.	10.	To renumber the paragraph.
Article 15. Occupational safety and health of workers system		
1. The employer shall organize, and ensure functioning of, the occupational safety and health of workers system which shall be based on the following principles:	1. The employer shall organize, and ensure functioning of, the occupational safety and health of workers system on the basis of the following hierarchical and sequential general principles of prevention :	Should be changed to ensure the alignment with Article 6(2) of Directive 89/391/EEC, clarifying: • That is not just the system that should be based in the indicated principles, but also the employer's decisions and the implementation of the preventive and protective measures regarding occupational safety and health; • That the principles are hierarchical and sequential, and not aleatory; • That the mentioned "principles" are the "general principles of prevention".
1)		
2)		
3)		
4) adapting the working conditions to the worker's needs, especially as regards the design of workstations and the choice of working methods and work equipment, with a view to	4) adapting the working conditions to the individual , especially as regards the design of workplaces and the choice of working methods and work equipment, with a view to alleviating	Should be changed, because: • The working conditions should be adapted not just to the <u>worker's needs</u>, but also to the worker's capacities, competencies, state of

OSH draft Law provision's wording	Recommended wording	Rationale
alleviating monotonous work and work at a predetermined work-rate and to preventing or reducing the impact of hazardous and harmful occupational factors and occupational risks on the worker, including with account of gender specifics.	monotonous work and work at a predetermined work-rate and to preventing or reducing the impact of hazardous and harmful occupational factors and occupational risks on the worker, including with account of gender specifics	health, etc. That is why the Article 6(2)(d) of Directive 89/391/EEC states “adapting the work to the <u>individual</u> ”; • Article 6(2)(d) of Directive 89/391/EEC refers generically to the design of <u>workplaces</u> , and not the design of the <u>workstations</u> contained on the workplaces (which are, obviously, included)
5) adapting the working conditions to technical progress;		
6) replacing the work equipment by non-dangerous or less dangerous equipment;	6) replacing the dangerous by the non-dangerous or the less dangerous ;	Should be changed, because Article 6(2)(f) of Directive 89/391/EEC states “replacing the dangerous by the non-dangerous or the less dangerous”, meaning that all types of agents (physical, chemical, biological, <u>including but not restricted to work equipment</u> , etc.) which are dangerous should be substituted by others that are non-dangerous or less dangerous.
7)		
8)		
9)		
10)		
2.		
3.		
Article 16. Authorized entities for safety and health of workers		
1. In order to organize and ensure proper operation of the safety and health of workers system, the employers:	1. In order to organize and ensure the proper functioning of the safety and health of workers system according to Article 15, and without prejudice to other obligations of this law , the employers shall ensure the provision of	Should be changed to better align with provisions of Articles 7(1) and 7(6) of Directive 89/391/EEC, according to which employers’ obligations to organize the provision of preventive and protective safety and health services is without

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	preventive and protective safety and health services to workers, organizing them for each workplace, undertaking and/or establishment, through one service for safety and health or through separate services - one for safety and other for health -, whether with internal or outside, according to the following:	prejudice to other employers' obligations and, most especially, to give employers some flexibility on the modalities of organization. In particular: 1. The provision of services may be provided through just one joint service (for safety and health) or through separate services (one for safety and other for health); 2. The services of safety, for one side, and the services of health, for the other (or both) may be provided internally or by external entities, depending on the requirements that the country decides to establish; 3. The employer, depending on the requirements to be defined may, according to Article 7(6) of the Directive, organize different types of services (internal or external) depending on the type of the workplace (in particular, taking into account the number of workers in that workplace and the natures of the risks to each they are or may be exposed to - for example, if they have to perform high risk works). This possibility is particular useful, as it allows an employer that has several high-risk works workplaces (or workplaces with a lot of workers) and other workplaces that do not have high-risk works (or that have less number of workers), to adopt the modality of internal safety and health services in the workplaces that have high risk works (or a higher number of workers) but, at the same time, he will be able to adopt the modality

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		of external safety and health services for the workplaces that do not have high-risk works or that have less number of employees.
a) employing more than 300 persons, or more than 50 persons in case of high-risk works, shall establish (designate) one or more authorized structural units for safety and health of workers;	1) for workplaces, undertakings and/or establishments employing more than 300 persons, or more than 50 persons in case of high-risk works, employers shall establish (designate) one or more authorized structural units for safety and health of workers;	Should be changed to better align with provisions of Article 7(6) of Directive 89/391/EEC. In particular, to ensure that the services of safety, for one side, and the services of health, for the other (or both) should be established internally or through external service providers) by workplace, taking into account the number of workers of each workplace and the risks to which they are exposed in each workplace. Also, to renumber the paragraph (for consistency reasons).
b) employing more than 50 persons, or regardless of the number of workers in case of high-risk works, shall designate an authorized person from among its employees on whom responsibilities for organizing the operation of the safety and health of workers management system shall be placed, or shall establish an authorized structural unit for safety and health of workers.	2) for workplaces, undertakings and/or establishments employing more than 50 persons, or regardless of the number of workers in case of high-risk works, employers shall designate an authorized person from among its employees on whom responsibilities for organizing the operation of the safety and health of workers management system shall be placed, or shall establish an authorized structural unit for safety and health of workers.	
2.		
3. The employers employing not more than 50 persons shall designate an authorized person from among its employees on whom responsibilities for organizing the operation of the safety and health of workers management system shall be placed, or shall establish an authorized structural unit for safety and health of workers, or shall engage economic entities providing services on safety and health of workers	3. Regarding workplaces, undertakings and/or establishments employing not more than 50 persons, employers shall designate an authorized person from among its employees on whom responsibilities for organizing the operation of the safety and health of workers management system shall be placed, or shall establish an authorized structural unit for safety and health of workers, or shall engage economic entities providing services on safety and health of workers	Should be changed to better align with provisions of Article 7(6) of Directive 89/391/EEC. In particular, to ensure that the services of safety, for one side, and the services of health, for the other (or both) should be established internally or through external service providers) by workplace, taking into account the number of workers of each workplace and the risks to which they are exposed in each workplace. Also, to renumber the paragraph (for consistency reasons).
4. The qualifications and composition of the	4. In all the cases mentioned in the preceding	To better align with Article 7(5) of Directive

OSH draft Law provision's wording	Recommended wording	Rationale
staff of the authorized structural unit and the authorized person shall correspond to the nature of the duties and functions performed.	paragraphs of this Article, the designated workers, authorized structural unit, authorized person and engaged economic entities providing services on safety and health of workers must have the necessary qualification, capabilities, aptitudes, means and must be sufficient in number to deal with the organization of protective and preventive measures, taking into account the size of the undertaking and / or establishment and the hazards to which the workers are exposed and their distribution throughout the entire undertaking and / or establishment.	89/391/EEC.
Model regulations on the authorized structural unit for safety and health of workers and on the authorized person from among the employer's employees on whom responsibilities for organizing the operation of the safety and health of workers management system are placed shall be defined by the central executive authority that ensures the formulation of the state policy on safety and health of workers.	5. Model regulations on the authorized structural unit for safety and health of workers and on the authorized person from among the employer's employees on whom responsibilities for organizing the operation of the safety and health of workers management system are placed shall be defined by the central executive authority that ensures the formulation of the state policy on safety and health of workers.	To number the paragraph.
5.	6.	To renumber the paragraph.
1)		
2) organize, and participate in, identification of hazards, analysis and assessment of occupational risks; take part in analysis of accidents and occupational diseases;	2) organize and participate in the identification of the hazards and analysis and assessment of occupational risks, drawing up the respective reports;	To better align with Articles 5(a) and 5(k) of Occupational Health Services Convention, 1985 (No. 161) and Article 9(1)(a) of Directive 89/391/EEC. In addition "to take part in analysis of accidents and occupational diseases" was deleted, as it is repeated in subparagraph 9 of this paragraph.
3)		

OSH draft Law provision's wording	Recommended wording	Rationale
4)		
5)		
6)		
7) organize observation of work environment factors likely to adversely affect health of workers;	7) monitor the work environment and working practices which may adversely affect the health of workers, including sanitary installations, canteens and housing, when these facilities are provided by the employer;	To better align with Articles 5(b) of ILO C161.
8)		
9)		
10)		
	11) advice on planning and organization of work, including the design of workplaces, on the choice, maintenance and condition of machinery and other work equipment and on substances used at work;	To incorporate Article 5 (c) of ILO C161.
	12) participation in the development of programmes for the improvement of working practices as well as testing and evaluation of safety and health aspects of new work equipment;	To incorporate Article 5 (d) of ILO C161.
	13) promoting the adaptation of work to the worker;	To incorporate Article 5 (g) of ILO C161.
	14) contribution to measures of vocational rehabilitation.	To incorporate Article 5 (h) of ILO C161.
When performing the functions listed above, the authorized entities for safety and health of workers or their personnel shall enjoy full professional independence from employers, workers and their representatives.	7. When performing the functions listed above, the designated workers, authorized structural units and their personnel, authorized persons and engaged economic entities providing services on safety and health of workers and	To better align with Article 10 of ILO C161 and to number the respective paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
	their personnel shall enjoy full professional independence from employers, workers and their representatives.	
6.	8.	To renumber the paragraph.
6.	9.	To renumber the paragraph.
7.	10.	To renumber the paragraph.
8. If an economic entity is engaged, according to the procedure set forth in this Article, the employer shall provide to such an economic entity information necessary to organize the occupational safety and health management system, to identify hazards and to assess occupational risks at all workstations and all stages of the employer's activities.	11. If an economic entity is engaged in the provision of safety and health services to workers, as foreseen in this Article, they shall cooperate and the employer shall provide to such economic entity information necessary to organize the occupational safety and health management system, to identify hazards and to assess occupational risks at all workplaces and at all stages of the employer's activities.	Should be changed to better clarify the Article, better align it to Articles 7(4) and 7(6) of Directive 89/391/EEC. Also to renumber the paragraph.
9. Engagement of an economic entity providing services on safety and health of workers by the employer according to the procedure set forth by this Article shall not release the employer from liability for violations of the legislation on safety and health of workers and for any damage to health and life of workers caused due to such violations.	12. Engagement by the employer of an economic entity to provide services on safety and health of workers shall not release the employer from its liability for violations of the legislation on safety and health of workers and for any damage to health and life of workers caused due to such violations.	Should be changed in order to better align with Article 5(2) of Directive 89/391/EEC. The expression " <i>according to the procedure set forth by this Article</i> " should be deleted because, otherwise, the employers that subcontract safety and health services outside the procedure set forth by this Article would not be responsible and would not be liable. It should also be changes as proposed, in order to improve clarity and to renumber the paragraph.
10.	13.	To renumber the paragraph.
Article 17. Occupational risk management		
1.		
2.		
1) identification of hazards, including by means of workstation appraisal in terms of working	1) identification of hazards, including by means of workplace appraisal in terms of working	In order to ensure consistency of the definition of the terms "workplace" and "workstation", as

OSH draft Law provision's wording	Recommended wording	Rationale
conditions;	conditions;	defined in the proposed subparagraphs 1), 30) and 31), of paragraph 1, of Article 1.
2) analysis: assessment of all the identified occupational risks, determination of their extent and rating, definition of personnel groups exposed to such risks for all workstations of workers;	2) analysis: assessment of all the identified occupational risks, determination of their extent and rating, definition of personnel groups exposed to such risks for the workplace in general and all workstations of workers in particular ;	In order to ensure consistency of the definition of the terms “workplace” and “workstation”, as defined in the proposed subparagraphs 1), 30) and 31), of paragraph 1, of Article 1 of this draft. In addition, to better align with the provisions of Articles 6(3)(a) and 10(1)(a) of Directive 89/391/EEC.
3)		
4)		
5)		
3.		
	1) Avoid occupational risk from the outset;	Because is the most effective preventive measure. Also to align with Article 6(2)(a) of Directive 89/391/EEC.
	2) Assess the occupational risks that cannot be avoided;	To better align with Article 6(2)(a) of Directive 89/391/EEC.
	3) Control the occupational risks, through the implementation of the following measures:	To better align with Articles 6(2) and 6(3) of Directive 89/391/EEC.
1) elimination – applying the measures aimed at preventing occupational risks identified due to the risk assessment, by means of eliminating the risks completely;	i.	To renumber the paragraphs.
2) replacement – applying the measures aimed at removing and/or reducing hazards by means of replacing dangerous work processes by non-dangerous or less dangerous ones;	ii. replacement – applying the measures aimed at removing and/or reducing hazards by means of replacing the dangerous - such as, but not limited to, work processes, work equipment, physical agents, chemical agents and biological agents -, by the non-dangerous or less dangerous;	Should be changed, because work processes are not the only sources of danger at workplaces. Also to renumber the paragraph.

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3) engineering (technical) measures – applying measures aimed at isolating the source of danger, using protection and interlocking systems, and installing collective protection equipment at workstations;	iii. engineering (technical) measures – applying measures aimed at isolating the source of danger, using protection and interlocking systems, and installing collective protection equipment at the workplace and or concerned workstations ;	Because technical measures can be applied to a workplace in general and / or to a specific workstation within a given workplace. Also to renumber the paragraph.
4)	iv.	To renumber the paragraph.
- considering each worker's suitability and capability for the work assigned thereto, from the perspective of safety and health of workers;	a. considering each worker's suitability and capability for the work assigned thereto, from the perspective of safety and health of workers;	To renumber the paragraph.
- organizing and ensuring compulsory health examinations for workers;	b. organizing and ensuring compulsory health examinations for workers;	To renumber the paragraph.
- organizing, and ensuring that workers receive, proper instructions and training on occupational safety and health of workers;	c. organizing, and ensuring that workers receive, proper instructions and training on occupational safety and health of workers;	To renumber the paragraph.
- informing and consulting workers and their representatives;	d. informing and consulting workers and their representatives;	To renumber the paragraph.
5)	v.	To renumber the paragraph.
4.		
5.		
Article 18. Collective and personal protective equipment		
1. The employer shall determine the need for use of collective protective equipment for workers at workstations and/or in workplaces subject to hazardous and harmful occupational factors, instruments of labour to be used, and risk analysis.	1. The employer shall determine the need for use of collective protective equipment for workers at workstations and/or in workplaces, on the basis of the hazardous and harmful occupational factors to which the workers are or may be exposed to and of the results of the risks assessment.	In order to better align with Articles 6(1) and 6(2) of Directive 89/391/EEC.

OSH draft Law provision's wording	Recommended wording	Rationale
2.		
3.		
4.		
5. The minimum requirements to safety and health for the use of personal protective equipment by workers at work shall be set forth by the central executive authority that ensures the formulation of the state policy on labour.	5. The minimum safety and health requirements for the use by workers of personal protective equipment at the workplaces shall be set forth by the Cabinet of Ministers of Ukraine, as submitted by the central executive authority that ensures the formulation of the state policy on safety and health of workers.	Should be changed to ensure that the legislation on minimum safety and health requirements for the use by workers of personal protective equipment at the workplaces (that, <i>inter alia</i> , will transpose the Directive 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) will: • Have the necessary legal power (as a CMU Decree) to allow that its provisions prevail over contrary or contradictory provisions of other current or future legal acts with lower legal power (such as Ministry Orders); • Is sustainability and stable and will not be easily revoke or repealed each time the competent Minister changes.
6.		
Article 19. Audit of the safety and health of workers systems		
1. Audit of the safety and health of workers system shall be used to assess its operating efficiency. Audit may be internal or external.	1. Audit of the safety and health of workers system shall be used to assess its effectiveness in ensuring the safety and health of workers.	Should be changed because “efficiency” is a measure of the inputs consumed by unit of output; whereas “effectiveness” is a measure of the extension with which the objectives were attained. In this case, what is relevant to measure is not if the system is efficient but if the system is effective in ensuring the safety and health of workers - which is the main objective of that system.

OSH draft Law provision's wording	Recommended wording	Rationale
	2. Audit of the safety and health of workers system may be internal or external.	For clarity.
2.	3.	To renumber the paragraph.
.....	4.	To renumber the paragraph.
3.	5.	To renumber the paragraph.
4.	6.	To renumber the paragraph.
5.	7.	To renumber the paragraph.
Article 20. Workers' health surveillance and health examinations		
1. The employer shall ensure surveillance of the health of workers and development of measures aimed at preventing occupational risk impact on the health of workers.	1. The employer shall ensure surveillance of the health of workers and development of measures aimed at preventing occupational risks and their impact on the health of workers.	The measures should not be aimed only on preventing the impact of occupational risks on worker's health but also on preventing the occupational risks themselves from the outset.
2.		
-	1)	To renumber the paragraph.
- health care facilities of the medical aid degrees I and II, having a relevant licence for medical practice in occupational pathology;	2)	To renumber the paragraph.
- specialized health care facilities of the medical aid degree III, having a relevant licence for medical practice in occupational pathology.	3)	To renumber the paragraph.
3.		To renumber the paragraph.
4.		To renumber the paragraph.
The fact of having undergone a health examination shall be confirmed by a medical certificate of health examination. The certificate may contain recommendations and/or warnings on whether performance by a person of the employment duties proposed to them is safe and with no loss to their health.	5. The fact of having undergone a health examination shall be confirmed by a medical fitness certificate of health examination. 6. The medical fitness certificate should inform if a person is medically fit for the job and, if necessary to ensure her/his safety and health, it may contain recommendations on the measures	To align with European acquis and best practices on the protection of the privacy of individuals in relation to the processing and dissemination of personal data, on the protection of confidentiality of individual records and on the protection of medical professional confidentiality.

OSH draft Law provision's wording	Recommended wording	Rationale
	that should be adopted to ensure her/his safety and health.	
	7. The medical fitness certificate cannot contain medical data and information covered by professional confidentiality.	
	8. The employee must be informed of the content of the fitness certificate, and it must contain his/her signature with the date it was made aware of its content.	
.....	9.....	To renumber the paragraph.
5.	10.....	To renumber the paragraph.
6. The employer shall be required to ensure health examinations of:	11. Without prejudice of other provisions of this law or of other legislation on occupational safety and health of workers , the employer shall be required to ensure health examinations of:	Should be changed to ensure the validity of other legal provisions (of this law or of other OSH regulations) on health examinations that require different frequency and / or scope that the ones foreseen in this paragraph. For example, in what respects: pregnant workers and workers who have recently given birth or are breastfeeding (as foreseen in Directive 92/85/EEC); workers exposed to specific risks, such as chemical agents (98/24/EC) or biological agents (2000/54/EC); etc. Also to renumber the paragraph.
1)		
2) workers whose workstations and working conditions whereof contain or are likely to contain health risks – when concluding a labour contract and periodically, according to the schedule of compulsory health examinations of workers approved by the employer;	2) workers that are or maybe be exposed to occupational risks at work – when concluding a labour contract and periodically, according to the schedule of compulsory health examinations of workers approved by the employer;	To better clarify what type of workers should be ensured health examination, as the health risks may come from different material components of work.
3) night workers – when concluding a labour contract and periodically, according to the schedule of compulsory health examinations of	3) night workers – before their assignment and thereafter at regular intervals , according to the schedule of compulsory health examinations of	To better align with Article 4(1)(a), (b) and (c) of ILO Night Work Convention, 1990 (No. 171) and Article 9(1)(a) of Directive 2003/88/EC of the

OSH draft Law provision's wording	Recommended wording	Rationale
workers approved by the employer;	workers approved by the employer and when they experience health problems during such an assignment which are not caused by factors other than the performance of night work;	European Parliament and of the Council, of 4 November 2003, concerning certain aspects of the organization of working time.
4)		
5)		
	6) each worker, if s/he so wishes - at regular intervals.	To align with Article 14(2) of Council Directive 89/391/EEC.
7.	12.	To number the paragraph.
8.	13.	To number the paragraph.
9. The worker who refuses to undergo a health examination within the time limit set by the employer may be suspended from employment duties without pay for the period of such suspension.	14. The worker who refuses to undergo a health examination within the time limit set by the employer may be suspended from employment duties without pay until undergoing a health examination during the working hours agreed upon with the employer, following a disciplinary procedure carried out in accordance with procedural labour law.	Should be changed in order to: (a) defend workers from abuses on the application of such suspensions; to give them the right to proper defense; ensure that the period of suspension should be "until the date the worker undergoes the health examination", as it happens in the preceding paragraph, when the worker cannot undergo the health examination by reasons beyond his/her control, for example, due to employer's failure to ensure it; and to renumber the paragraph.
10. Recommendations based on health examination findings shall be binding on the employer in further organization of the worker's working conditions.	15. Recommendations based on health examination findings shall be binding on the employer.	Should be changed because the recommendations resulting from health examination should be binding for the employer since the moment he is informed of such recommendations and not only since any "further organizations of the worker's working conditions" (which might not happen anyway...). Also to renumber the paragraph.
11. If, according to a medical opinion based on health examination findings, continuation by a worker of the work prescribed by their labour	16. If, according to a medical opinion based on health examination findings, continuation by a worker of the work prescribed by their labour	Should be changed because the obligation of the employer to maintain the employment relationship and to find a suitable function for a

OSH draft Law provision's wording	Recommended wording	Rationale
contract is impossible due to a threat of further deterioration of their health, the employer shall give the worker some other paid work for the period and with the pay defined by the labour and/or collective contract but no less than the worker's average monthly pay and for the period of no less than two month s.	contract is impossible due to a threat of further deterioration of their health, the employer shall give the worker some other suitable paid work to which the worker is fit with the pay defined by the labour and/or collective contract but no less than the worker's average monthly pay.	worker that, for reasons of health, is no longer fit for the original work, should not be just for two months, but for the period foreseen in the worker's labour contract or employment relationship. If it is impossible to find another suitable work, including through retraining, the employer may therefore terminate the employment relationship by his/her initiative with the foreseen legal consequences for both. Also to renumber the paragraph.
.....	17.	To number the paragraph.
12. The procedure for workers' health examinations, control of their quality, and the form of the health examination certificate shall be defined by the central executive authority that ensures the formulation of the state policy on health care.	18. The procedure for workers' health examinations, control of their quality, and the form of the health examination fitness certificate shall be defined by the central executive authority that ensures the formulation of the state policy on health care.	Should be changed, because the certificate to be issued following the health examination should be a <u>fitness certificate</u> and not a medical report containing private data or private medical information. Also to renumber the paragraph. Also to renumber the paragraph.
Article 21. Training of workers		
1.		
1)		
2)		
3)		
4)		
5)		
This list shall not be exhaustive.	2. The list of situations in which employer is required to ensure training to workers mentioned in the preceding paragraph shall not be exhaustive.	Should be changed to numerate the paragraph and to clarify what list it refers to.
.....	3.	To numerate the paragraph.
1)		
2)		

OSH draft Law provision's wording	Recommended wording	Rationale
3)		
3.		
1)		
2)		
3)		
.....	4.	To number the paragraph.
4.	5.	To number the paragraph.
5.	6.	To number the paragraph.
6. If a worker fails, for reasons beyond their control, to receive instruction and/or undergo training and knowledge testing on safety and health of workers within the time limit set by the employer, the worker shall have the right to refuse to perform employment duties.	7. If a worker fails, for reasons beyond their control, to receive instruction and/or undergo training and knowledge testing on safety and health of workers within the time limit set by the employer, the worker shall have the right to refuse to perform employment duties until the necessary training is provided.	To establish a time-limit for the refusal to work and also to renumber the paragraph.
7. The employer shall have the right to suspend from employment duties the worker who refuses to receive instruction and/or undergo training and knowledge testing on occupational safety and health of workers within the time limit set by the employer.	8. The employer may have the right to suspend from employment duties the worker who refuses to receive instruction and/or undergo training and knowledge testing on occupational safety and health of workers within the time limit set by the employer, until such obligation is complied with, following a disciplinary procedure carried out in accordance with procedural labour law.	Should be changed in order to defend workers from abuses on the application of such suspensions, giving them the right to proper defense. Should also be change to ensure that the suspension should only apply until the moment the worker complies with the omitted obligation. Moreover, it should be changed to renumber the paragraph.
8.	9.	To renumber the paragraph.
9.	10.	To renumber the paragraph.
1) workers of other employer if they are engaged in work at the given employer's workstations;	1) workers of other employer if they are engaged in work at the given employer's workplace;	To substitute the term "workstations" by "workplace".
2) persons engaged in work under civil law contracts using the employer's instruments of	2) persons engaged in work under civil law contracts using the employer's instruments of	To substitute the term "workstations" by "workplace".

OSH draft Law provision's wording	Recommended wording	Rationale
labour or equipment and/or at the employer's workstations.	labour or equipment and/or at the employer's workplace .	
Article 22. Provision of information to workers		
1.		
1).....		
2).....		
3).....		
The above-mentioned information shall be provided to workers prior to commencement of work.	2. The above-mentioned information shall be provided to workers prior to commencement of work.	To number the paragraph.
2.	3.	To renumber the paragraph.
1).....		
2).....		
3).....		
3.	4.	To renumber the paragraph.
1).....		
2).....		
3).....		
4).....		
5).....		
4.	5.	To renumber the paragraph.
1).....		
2).....		
3).....		
5.	6.	To renumber the paragraph.
6.	7.	To renumber the paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
Article 23. First aid, elimination of breakdowns, and evacuation of workers	Article 23. First aid, fire-fighting , elimination of breakdowns, and evacuation of workers	To better align with Article 8 of Directive 89/391/EEC
	1. The employer shall take the necessary measures for first aid, fire-fighting, elimination of breakdowns and evacuation of workers, adapted to the nature of the activities and the size of the undertaking and/or establishment and taking into account other persons that might be present.	Should be changed in order to ensure that, as foreseen in Article 8(1) of Directive 89/391/EEC, this obligation of the employer is not only when this situations occur but, most especially, <u>to ensure the preparedness of the undertaking and/or establishment to deal with them if they occur.</u>
	2. The employer shall arrange any necessary contacts with external services, particularly as regards first aid, emergency medical care, elimination of breakdowns, rescue work and firefighting.	
2. For that purpose the employer shall:	3. For that purpose the employer shall:	To renumber the subparagraph.
3. The employer shall designate responsible workers to implement the measures for first aid, elimination of breakdowns and evacuation of workers.	1) Designate the workers responsible for the implementation of the measures for first aid, fire-fighting , elimination of breakdowns and evacuation of workers, which number, their training and the equipment available to them shall be adequate, taking into account the size and/or specific hazards of the undertaking and/or establishment.	To better align with Article 8(2) of Directive 89/391/EEC.
The responsible workers shall be required to undergo appropriate training, instruction and advanced training according to the procedure set forth by law.	2) Ensure that the designated workers underwent appropriate training, instruction and advanced training according to the procedure set forth by law.	To better align with Articles 8(2) and 12(1) and (3) of Directive 89/391/EEC. Also to renumber the subparagraph.
The number of the responsible workers shall be determined by the employer taking account of the enterprise's (production facility) size or of specific hazards present there.	To delete.	To delete, because this provision is already incorporated in the provision of the subparagraph 1) (above).
4 paragraphs below are from the item 2 of the	3)	To renumber the subparagraph.

OSH draft Law provision's wording	Recommended wording	Rationale
Article 23. provide instructions to workers concerning actions in emergencies;		
inform as soon as possible the workers who are, or may be, exposed to danger of the steps to be taken for their protection;	4)	To renumber the subparagraph.
allow the workers to stop work, leave the workplace, and proceed to a place of safety;	5)	To renumber the subparagraph.
refrain from asking workers to resume performance of their employment duties where there is still a danger likely to affect workers or other persons, save in properly substantiated situations related to preventing the escalation of a breakdown or danger and to saving life of workers and/or third persons;	6)	To renumber the subparagraph.
1. If a breakdown occurs at a workstation or in a workplace, the employer shall be required to ensure provision of first aid, implementation of measures for elimination of the breakdown and evacuation of workers in danger, as well as information and interaction with external services, particularly the emergency medical aid systems and the rescue services of the central executive authority that ensures the formulation of, and ensures, the state policy on civil defence.	4. If a breakdown occurs at a workstation or in a workplace, the employer shall: 1) Ensure the implementation of the measures for fire-fighting, elimination of breakdowns and evacuation of workers, as well as, if necessary, the communication and interaction with external services, particularly the emergency medical aid systems, firefighting and the rescue services of the central executive authority that ensures the formulation of, and ensures, the state policy on civil defense.	To clarify the different obligations of the employer while there is not yet any emergency situation (of ensuring the preparedness) from the situations where the emergency situation occurred (where he has to ensure that the planned measures are properly implemented).
organize and implement, during emergence of adverse consequences of economic activities, the measures provided for in the plan of localization and elimination of hazard consequences or in the instruction on actions in emergency at the employer's facilities;	2)	To renumber the subparagraph.

OSH draft Law provision's wording	Recommended wording	Rationale
take measures to provide first aid, eliminate the breakdown, and evacuate workers; where necessary, engage external services, in particular: the emergency medical aid systems and the rescue services of the central executive authority that ensures the formulation of, and ensures, the state policy on civil defence.	To delete	Because is already included in the subparagraph 1) of the new paragraph 4.
4.	5.	To renumber the paragraph.
5. If any circumstances arise that endanger safety of workers and/or of other persons, and where workers cannot contact the immediate supervisor responsible for taking relevant response measures, the workers shall have the right to take steps to avoid consequences of such danger by themselves.	To delete.	Because the next paragraph already provides for it, in a manner better aligned with Article 8(5) of Directive 89/391/EEC.
The employers shall ensure that all the workers, in the event of serious and imminent danger to safety of the workers and/or of other persons, and where workers cannot promptly contact the immediate supervisor can take the appropriate steps, in the light of their knowledge and the technical means at their disposal, to avoid the consequences of such a danger.	6. The employer shall ensure that all the workers are able , in the event of serious and imminent danger to safety of the workers and/or of other persons, and where workers cannot promptly contact the immediate supervisor, to take the appropriate steps, in the light of their knowledge and the technical means at their disposal, to avoid the consequences of such a danger.	Should be changed to better align with Article 8(5) of Directive 89/3941/EEC. In fact, this Article of the Directive foresees not only the right of the worker to take the appropriate measures in the absence of the immediate supervisor, but also the obligation of the employer to ensure that the workers are able (have authorization, capacity, knowledge, instruments and means) to do it if necessary. Also to number the paragraph.
Workers shall not be liable for such actions unless they acted carelessly or there was negligence on their part.	7. In the situation foreseen in the previous paragraph, workers shall not be liable for such actions unless they acted carelessly or there was negligence on their part.	To better clarify the scope (the situation in which it should be applied) of the proposed provision. Also to number the respective paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
Article 24. Involvement of workers in the matters of safety and health of workers	Article 24. Consultation and participation of workers in the matters of safety and health of workers	To better align with the content of the proposed Article itself and with Article 11 of Directive 89/3941/EEC.
1.		
2.		
1).....		
2)		
3)		
4)		
5)		
6)		
7)		
8)		
9)		
10)		
11)		
The above-mentioned consultations shall be held at least once a year.	3. The consultations referred in the previous paragraph shall be held at least once a year.	To number the paragraph and better specify what consultations.
3.	4.	To renumber the paragraph.
4.	5.	To renumber the paragraph.
5.	6.	To renumber the paragraph.
6. Workers and/or their representatives shall have the right to submit to competent authorities complaints concerning the employer's failure to provide adequate safe working conditions.	7. Workers and/or their representatives shall have the right to submit to competent authorities complaints concerning the employer's failure to provide adequate safe and healthy working conditions.	To also include "healthy" working conditions and to renumber the paragraph.
Workers' representatives shall have the right to submit their comments during state control	8.	To number the paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
measures.		
7.	9.	To renumber the paragraph.
If the above-mentioned commission is established, it shall be formed on a parity basis involving workers' representatives and authorized entities for safety and health of workers.	10.	To number the paragraph.
Article 25. Employers' rights		
1. Employers shall have the right to:		
1) demand that workers care for their personal safety and health as well as for safety and health of people around them when performing their employment duties and/or during their stay at workstations;	1) demand that workers, in accordance with their training and the instructions given by his employer, take care for their personal safety and health as well as for safety and health of people around them when performing their employment duties and/or during their stay at the workplace ;	Should be changed, to be better aligned with Article 13(1) of Directive 89/391/EEC, which establishes that this right of the employer (and, thus, obligation of the employee) should be "in accordance with their training and the instructions given by the employer". In fact, employer cannot expect or demand from the worker to take care of his own safety and that of the others if he does not explain regarding what and how should the workers proceed in order to achieve that result. Moreover, it should be changed to substitute "the term "workstation" by "workplace".
2)		
3)		
4)		
5)		
Article 26. Employers' obligations		
1. Employers shall be required to continually ensure the safety and health of workers in all aspects related to work. For that purpose, employers shall:	1. Employers shall be required to continually ensure the safety and health of workers in all aspects related to work, implementing the adequate preventive and protective measures,	To better align with Articles 6(1) and 6(2) of Directive 89/391/EEC.

OSH draft Law provision's wording	Recommended wording	Rationale
	in accordance with the general principles of prevention laid down in Article 15(1) of this law. For that purpose, employers shall:	
1) ensure safe working conditions;	1) ensure safe and healthy working conditions;	The obligations of the employers should also include ensuring “healthy” working conditions, not just “safe” working conditions, as foreseen in Directive 89/391/EEC
2)		
3) manage occupational risks, record occupational factors and occupational risks;	3) assess and manage occupational risks, record occupational factors and occupational risks;	To better align with Article 6(3)(a) of Directive 89/391/EEC.
4)		
5)		
6)		
7)		
8)		
9) if employment duties are performed at the same workstation or in the same work area by workers of different employers, interact with each other in the matters of safety and health of workers, coordinate their actions to prevent and protect the workers against hazardous and harmful occupational factors and occupational risks, and inform each other and their workers or workers’ representatives about those hazardous and harmful occupational factors and occupational risks as well as about preventive and protective measures to be taken;	9) if employment duties are performed at the same workplace by workers of different employers, cooperate with each other in the matters of safety and health of workers, coordinate their actions to prevent and protect the workers against hazardous and harmful occupational factors and occupational risks, and inform each other and their workers or workers’ representatives about those hazardous and harmful occupational factors and occupational risks as well as about preventive and protective measures to be taken;	To better align with Article 6(4) of Directive 89/391/EEC.
10) carry out workstation appraisal in terms of working conditions according to legislative requirements;	10) carry out workplace appraisal in terms of working conditions according to legislative requirements;	To better specify it refers to workplace and not workstation appraisal (the appraisal of the workstations is, of course, included in the

OSH draft Law provision's wording	Recommended wording	Rationale
		workplace appraisal).
11) involve workers in consultations and decision-making related to their occupational safety and health;	11) ensure the participation and consultation of workers in the decision-making related to their occupational safety and health;	To better clarify the text and align it with Article 11 of Directive 89/391/EEC.
12)		
13) when designing workstations, work equipment, work organization and work processes, using or producing substances, adapt to technical progress and new forms of work organization by means of continuous control and use of technological achievements and scientific discoveries for the purpose of improving safety and preserving health of workers;	13) when designing workplaces , work equipment, work organization and work processes, using or producing substances, adapt to technical progress and new forms of work organization by means of continuous control and use of technological achievements and scientific discoveries for the purpose of improving safety and preserving health of workers;	Confusion with the term "workplaces". Substitute the term "workstations" by the term "workplaces" (which is wider).
14)		
15)		
16)		
17)		
18)		
occupational risks and preventive measures taken by the employer to eliminate, minimize, or protect against, the risks;	i. occupational risks and preventive measures taken by the employer to eliminate, minimize, or protect against, the risks;	To number the paragraph.
measures to be taken for first aid, fire-fighting, and evacuation of workers;	ii. measures to be taken for first aid, fire-fighting, and evacuation of workers;	To number the paragraph.
19)		
20)		
21)		
22)		
23)		

OSH draft Law provision's wording	Recommended wording	Rationale
	24) To formulate and implement an overall plan for the prevention of occupational risks that integrates technical developments, organization of work, working conditions, social relations and the influence of environmental factors.	To better align with Article 6(2)(g) of Directive 89/3941/EEC.
2.		
3.		
4.		
	5. Where employer contracts competent external services or persons to ensure the functioning of the occupational safety and health service, including in the cases foreseen in Articles 11, 16, 17(2)(1), 19, 20 and 37 of this law, this shall not discharge her/him from her/his responsibilities on the safety and health of workers in every aspect related to the work.	To better align with Article 5(2) of Directive 89/3941/EEC.
Article 27. Workers' rights		
1.		
1)		
2)		
3)		
4)		
5)		
6) obtain redress, according to law, for any damage and loss caused to the worker's health due to the employer's failure to ensure safe working conditions;	6) obtain redress, according to law, for any damage and loss caused to the worker's health due to the employer's failure to ensure safe and healthy working conditions;	Should be changed, in order to improve clarity.
7) be consulted and take part, directly or via workers' representatives, in the employer's decision-making related to their safety and	7) be consulted and take part, directly or via workers' representatives, in the employer's decision-making related to their safety and health at work;	Should be changed, in order to improve clarity.

OSH draft Law provision's wording	Recommended wording	Rationale
health;		
8)		
9)		
10)		
11)		
2.		
Article 28. Workers' obligations		
1.		
2.		
1)		
2)		
2)	3)	To renumber the subparagraph.
3)	4)	To renumber the subparagraph.
4)	5)	To renumber the subparagraph.
5)	6)	To renumber the subparagraph.
6)	7)	To renumber the subparagraph.
7) cooperate with the employer and/or authorized entities for safety and health of workers, for as long as may be necessary to enable the employer to ensure safe working conditions;	8) cooperate, within their field of activity, with the employer and/or authorized entities for safety and health of workers, for as long as may be necessary to enable the employer to ensure that the working environment and working conditions are safe and pose no risk to safety and health.	Should be changed, to better align with the provisions of Article 13(2)(f) of Directive 89/391/EEC. Should be also changed to renumber the subparagraph.
8)	9)	To renumber the subparagraph.
9)	3)	To renumber the subparagraph.
2. The worker's obligations listed in the first part of this Article shall not be exhaustive. Other obligations may ensue from the rules, recommendations and instructions intended to	2. The worker's obligations listed in the first part of this Article shall not be exhaustive. Other obligations may result from the rules, recommendations and instructions intended to	To better clarify the sense of the provision.

OSH draft Law provision's wording	Recommended wording	Rationale
ensure safety and health of workers established according to law and/or by the employer.	ensure safety and health of workers established according to law and/or by the employer.	
3. The worker's having responsibilities as regards safety and health of workers and/or failing to comply therewith may not constitute a ground for the employer to fail to meet their obligations.	3. The workers' obligations in the field of safety and health at work, or their failure to comply with them, shall not affect the principle of the responsibility of the employer.	To better align with Article 5(3) of Directive 89/391/EEC.
Article 29. Safety and health of pregnant workers, workers who have recently given birth, and workers who are breastfeeding		
1. Pregnant workers, workers who have recently given birth, and workers who are breastfeeding shall not be obliged to perform the work declared by the competent authorities as causing harm to their health or posing a considerable risk to their health and/or that of a child of such workers.	1. Pregnant workers, workers who have recently given birth, and workers who are breastfeeding shall not be obliged to perform the work declared by the competent authorities as endangering their safety and health or posing a considerable risk to their safety and health and/or that of a child of such workers.	To better clarify the sense of the provision.
2.		
3.		
1) carry out, by themselves or assisted by the authorized entities for safety and health of workers, assessment of risks to the safety or health of such workers as well as any possible effect on the pregnancy, unborn child, breastfeeding of such workers, and on safety and health of their children;	1) carry out, by themselves or assisted by the authorized entities for safety and health of workers, an assessment of the nature, degree and duration of exposure of pregnant workers, workers who have recently given birth and who are breastfeeding to such harmful or hazardous occupational factors and working conditions in the undertaking and/or establishment concerned , an assessment of the occupational risks to the safety or health of such workers and of any possible effect on the pregnancy, unborn child, breastfeeding of such workers, and on safety and health of their	To better align with Article 4(1) of Directive 92/85/EEC.

OSH draft Law provision's wording	Recommended wording	Rationale
	children;	
2)		
3) take measures to prevent any harm to health of such workers and any adverse effect on the pregnancy or breastfeeding by temporarily adjusting the working conditions and/or the working hours, and to avoid the exposure of those workers to such risks.	3) take the necessary measures to ensure that the exposure of pregnant workers, workers who have recently given birth and who are breastfeeding to such risks is avoided , by temporarily adjusting the working conditions and/or the working hours of the worker concerned.	To better align with Article 5(1) of Directive 92/85/EEC.
4. If the adjustment of the working conditions and/or working hours of pregnant workers or workers who are breastfeeding is not technically and/or objectively feasible, or cannot reasonably be required on the grounds duly substantiated by the employer, the employer shall take measures to move the workers concerned to another job according to the medical opinion.	4. If the adjustment of the working conditions and/or working hours of pregnant workers, workers who have recently given birth and who are breastfeeding is not technically and/or objectively feasible, or cannot reasonably be required on the grounds duly substantiated by the employer, the employer shall take measures to move the workers concerned to another job according to the medical opinion.	To better align with Article 5(2) of Directive 92/85/EEC.
5. If the adjustment of the working conditions and/or working hours of a pregnant worker is not technically and/or objectively feasible, or cannot reasonably be required on the grounds duly substantiated by the employer, the worker concerned shall be granted leave with average pay of necessary duration according to a medical opinion.	5. If moving the pregnant workers, workers who have recently given birth and who are breastfeeding to another job, as foreseen in the previous paragraph , is not technically and/or objectively feasible or cannot reasonably be required to employer on duly substantiated the grounds, the workers concerned shall be granted leave with average pay of necessary duration according to a medical opinion.	To better align with Article 5(3) of Directive 92/85/EEC.
6.		
7.		
	8. The provisions of this Article shall apply <i>mutatis mutandis</i> to the case where a worker	To align with Article 5(4) of Directive 92/85/EEC.

OSH draft Law provision's wording	Recommended wording	Rationale
	pursuing an activity which is forbidden pursuant to paragraph 6 becomes pregnant or starts breastfeeding and informs her employer thereof.	
Article 30. Safety and health of workers under 18 years of age		
1.		
	2. In particular, the employer shall take the measures necessary to protect the safety and health of young people, taking into account the specific risks to which they are or may be exposed to.	To concretize how the safety and health of the persons under 18 years shall be ensured by employers and to align with Articles 6(1) and 6(2) of Council Directive 94/33/EC, of 22 June 1994, on the protection of young people at work.
	3. The employer shall implement the measures provided for in paragraph 2 on the basis of an assessment of the risks to young people in connection with their work.	To correct the omission.
2.	4.	To renumber the paragraph.
1) organization of the workstation;	1) the fitting-out and layout of the workplace and the workstation;	To align with Article 6(2)(a) of Directive 94/33/EC.
2) adaptation of work organization, work processes or their execution;	2) the arrangement of work processes and operations and the way in which these are combined in the work organization;	To better align with Article 6(2)(d) of Directive 94/33/EC.
3)		
4) choice of work equipment, materials and substances, machinery, appliances, and methods of their use;	4) form, range and use of work equipment, in particular materials, substances, machinery, appliances, and methods of their use;	To better align with Article 6(2)(c) of Directive 94/33/EC.
5) degree of knowledge and competences of the minor.	5) the level of training and instruction given to the minor and his/her degree of knowledge and competence.	To align with Article 6(2)(e) of Directive 94/33/EC.
3.	5.	To renumber the paragraph.
4.	6.	To renumber the paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
1)		
2)		
3)		
	4) work involving harmful exposure to radiation;	To align with Article 7(2)(c) of Directive 94/33/EC.
	5) work involving the risk of accidents which it may be assumed cannot be recognized or avoided by young persons owing to their insufficient attention to safety or lack of experience or training;	To align with Article 7(2)(d) of Directive 94/33/EC.
	6) work in which there is a risk to health from extreme cold or heat, or from noise or vibration.	To align with Article 7(2)(e) of Directive 94/33/EC.
5.	7.	To renumber the paragraph.
6. Derogation shall be permitted from the provisions of the fourth part of this Article when persons or workers under 18 years of age are receiving vocational (vocational and technical) or labour training provided that their safety and health is ensured by the fact that the work is performed under the supervision of a competent person according to requirements and provided that the protection afforded hereby is guaranteed.	8. Derogation from the sixth part of this Article shall be permitted in the case of young persons of at least 15 years of age but less than 18 years of age who are no longer subject to compulsory full-time schooling, provided that: 1) such derogation is indispensable for the vocational training of the concerned minors; 2) the protection of the safety and health of the concerned minors is ensured by the fact that the work is performed under the supervision of a competent person; and 3) the protection afforded by this law and other labour legislations is guaranteed.	Should be changed to align with Article 7(3) of Directive 94/33/EC. This Directive only allows derogations from its paragraph 7(2) in the case of <u>young persons of at least 15 years of age but less than 18 years of age who are no longer subject to compulsory full-time schooling</u> , and only provided that provided that the mentioned conditions are present. Also to renumber the paragraph and the reference to (now) paragraph six.
7.	9.	To renumber the paragraph.
8.	10.	To renumber the paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
Article 32. The central executive authority that implements the state policy on state control of compliance with the labour legislation		
1.		
2.		
3. Main objectives of the central executive authority that implements the state policy on state control of compliance with the labour legislation shall include, but not limited to:	3. Main functions of the central executive authority that implements the state policy on state control of compliance with the labour legislation shall include, but not limited to:	It should be changed, to substitute the term “objective” by “functions”, not only to better align with Article 3(1) of ILO C81 and Article 6(1) of ILO C129, but also because the function may include several tasks.
1)		
2) providing employers, workers, and workers’ representatives with technical information and advice concerning the most efficient means of complying with legal provisions;	2) providing employers, workers and their representatives with technical information and advice concerning the most efficient means of complying with legal provisions;	Should be changed, because the central executive authority that implements the state policy on state control of compliance with the labour legislation should also provide the <u>employers’ representatives</u> with technical information and advice, <u>and not just the workers’ representatives</u> .
3)		
Article 33. Ensuring the application of the legislation on safety and health of workers	Article 33. Ensuring and promoting the application of the legislation on safety and health of workers	
1. In order to ensure proper application of the legislation on occupational safety and health of workers, labour inspectors shall carry out, as often and as thoroughly as is necessary to ensure the application of the relevant legal provisions, inspection visits during which they shall have, upon producing an official ID card, the right to:	1. In order to ensure the discharge of the main functions of the central executive authority that implements the state policy on state control of compliance with the labour legislation, laid down in the previous Article, labour inspectors, provided with proper official ID card, shall be empowered to:	To better align with the provisions of Article 12 of ILO C81 and Article 16 of ILO C121, the following powers of labour inspectors are necessary for them to discharge <u>all</u> the main functions of labour inspection (exercised in Ukraine by the central executive authority that implements the state policy on state control of compliance with the labour legislation), and not just the ones regarding proper application of the legislation on occupational safety and health of

OSH draft Law provision's wording	Recommended wording	Rationale
		workers. Moreover, as regards the frequency and scope of the visits, it should be included in a specific paragraph, for law systematic and clarity reasons.
1) visit, without prior notice, at any hour of the day or night, workstations of employers to carry out an inspection visit solely on the matters likely to endanger safety and health of workers;	1) to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection;	Should be changed in order to better align with Article 12(1)(a) of ILO C81 and Article 16(1)(a) of ILO C129. The term “workstation” should be changed by the term “workplaces”. Moreover, the inclusion of “solely on the matters likely to endanger safety and health of workers” should be deleted as a precondition. Not only because such pre-condition does not exist in ILO C81 and C129, but also it limits the powers of labour inspectors, as only after the inspection visit takes place is possible to know if there was any aspect that could endanger the safety and health of the workers.
	2) to enter by day any premises which they may have reasonable cause to believe to be liable to inspection;	Should be changed in order to better align with Article 12(1)(b) of ILO C81 and Article 16(1)(b) of ILO C129.
2) carry out any examination or inspection or find out reasons of violations of the legislation on safety and health of workers, in particular:	3) to carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the legal provisions on safety and health of workers are being strictly observed, in particular:	Should be changed in order to better align with Article 12(1)(c) of ILO C81 and Article 16(1)(c) of ILO C129. Also to renumber the subparagraph.
a)		
b)		
c)		
	d) to enforce the posting of notices required by the legal provisions;	Should be included in order to better align with Article 12(1)(c)(iii) of ILO C81.
3)	4)	To renumber the subparagraph.
4) obtain assistance from law-enforcement	5) request assistance to, and obtain it from, law-	Should be changed to ensure the possibility of

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bodies to stop any unlawful actions of the employer and/or persons who prevent them from discharging their official duties.	enforcement bodies to stop any unlawful actions of the employer and/or persons who prevent them from discharging their official duties, or if such is expected to occur.	requesting and obtaining the assistance of law-enforcement bodies not only when the situations occur but also when they are expected to occur, in order to better dissuade them from happening, preventing their occurrence and/or minimizing their consequences. Also to renumber the subparagraph.
2. When carrying out an inspection visit, labour inspectors shall notify the employer or the employer's representative of their presence, unless such a notification is prejudicial to the performance of their duties.	2. When carrying out an inspection visit, labour inspectors shall notify the employer or the employer's representative of their presence, unless they consider that such a notification may be prejudicial to the performance of their duties.	Should be changed in order to better align with Article 12(2) of ILO C89 and Article 16(3) of ILO C129.
3.		
1)		
2)		
	4. Workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions.	To better align with Article 16 of ILO C81 and Article 21 of ILO C129.
4. In order to prevent violations of the legislation on safety and health of workers, employers may initiate awareness-raising campaigns, to be conducted by labour inspectors, concerning the most efficient ways of complying with the provisions of the legislation on safety and health of workers.	To move to the next Article (as paragraph 8.) and to change it.	Should be changed and moved to the next Article, because: a) the employer can always initiate and carry out himself such information actions or awareness-raising campaigns; b) stating that employers may initiate them and that they have to be conducted by labour inspectors is creating an obligation on labour inspectors which might not be in accordance with the priorities and resources of the central executive authority that implements the state policy on state control of compliance with the labour legislation; c) taking into account the

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		nature of the subject of this provision.
The labour inspector shall themselves make a decision on the need to visit the employer to inform them and their workers about the most efficient ways of complying with the legislation on safety and health of workers and on the need to monitor compliance therewith.	5. The labour inspector shall themselves make a decision on the need to visit the employer to inform them and their workers about the most efficient ways of complying with the legislation on safety and health of workers and on the need to monitor compliance therewith.	To number the paragraph.
	6. It shall be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending proceedings	To better align with Article 17(2) of ILO C89 and Article 22(2) of ILO C129.
Article 34. Providing technical information and advice to employers and workers		
1.		
2. In order to obtain technical information and advice on enhancement of safety and health of workers, the employers may also initiate a state audit of the situation concerning the use of the legislation on safety and health of workers.	2. In order to obtain technical information and advice on enhancement of safety and health of workers, the employers may also request request a state audit of the situation concerning the application of the legislation on safety and health of workers.	To better clarify the sense of the provision.
3.	3. A state audit of the situation concerning the use of the legislation on safety and health of workers by the employer shall be carried out free of charge by officials of the central executive authority that implements the state policy on state control of compliance with the labour legislation, depending on its priorities and subject to available resources.	As the resources are always scarce and need to be assign according to priorities, the decision to carry out an audit at the request of a given employer should not only consider the resources needed to carry it out (and its availability) but also its level alignment with the priorities of the central executive authority that implements the state policy on safety and health of workers and its relevance in terms of, for example, the nature of the occupational risks, number of workers potentially exposed, etc.
4.		
5.		

OSH draft Law provision's wording	Recommended wording	Rationale
6.		
7. Based on results of the analysis of requests for technical documentation, advice and the state audit, also on the bases of occupational accidents and diseases and results of inspection visits the central executive authority that implements the state policy on safety and health of workers shall conduct awareness-raising campaigns concerning the most efficient ways of using the provisions of the legislation on safety and health of workers.	7. The central executive authority that implements the state policy on safety and health of workers shall conduct national, sectoral and/or thematic awareness-raising campaigns concerning the most effective ways of complying with the provisions of the legislation on safety and health of workers, based on the occupational accidents and diseases statistics, results of the inspections visits and results of the analysis of requests for technical documentation, advice and State audits.	Should be changed, in order to better align it with the best international and EU best practices.
(of previous article 33): 4. In order to prevent violations of the legislation on safety and health of workers, employers may initiate awareness-raising campaigns, to be conducted by labour inspectors, concerning the most efficient ways of complying with the provisions of the legislation on safety and health of workers.	8. In order to improve safety and health at work and to better comply with the legislation on safety and health of workers, employers may conduct information actions and awareness-raising campaigns.	Should be changed because: a) the employer can always initiate and carry out himself such information actions or awareness-raising campaigns; b) stating that employers may initiate them and that they have to be conducted by labour inspectors is creating an obligation on labour inspectors which might not be in accordance with priorities and resources of the central executive authority that implements the state policy on state control of compliance with the labour legislation.
	9. Employers may request to the central executive authority that implements the state policy on state control of compliance with the labour legislation support for carrying out the actions and campaigns referred to in the previous paragraph.	
	10. The provision of the requested support, mentioned in the previous paragraph, shall depend on the relevance of the intended actions and campaigns and on the priorities and resources of the central executive authority that implements the state policy on state control of compliance with the labour legislation.	

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Article 35. Public information in the field of safety and health of workers		
1.		
2. The annual report published by the central executive authority that implements the state policy on state control of compliance with the labour legislation shall highlight the matters including, but not limited to:	2. The annual report published by the central executive authority that implements the state policy on state control of compliance with the labour legislation shall provide information at least, but not limited to, the following relevant subjects:	To better align with Article 21 of the ILO C81.
1) legislation on safety and health of workers;	1) Relevant legislation to the work of the inspection service;	To better align with Article 21(a) of ILO C81.
2) number of officials authorized to exercise state control;	2) Staff of the labour inspection service;	To better align with Article 21(b) of ILO C81.
3) employers which were subject to inspection, and the number of workers they employ;	3) Statistics of workplaces liable to inspection and the number of workers employed therein;	To better align with Article 21(c) of ILO C81.
4) inspection visits;	4) Statistics of inspection visits;	To better align with Article 21(d) of ILO C81.
5) violations found and sanctions imposed;	5) Statistics of violations found and sanctions imposed;	To better align with Article 21(e) of ILO C81.
6) industrial accidents;	6) Statistics of occupational accidents;	To replace “industrial accident” by “occupational accident” to better align the term with the international standards To better align with Article 21(f) of ILO C81.
7) occupational diseases.	7) Statistics of occupational diseases.	To better align with Article 21(g) of ILO C81.
3.		

OSH draft Law provision's wording	Recommended wording	Rationale
Article 36. The employer's liability for violation of the legislation on safety and health of workers		The provisions (paragraphs and subparagraphs) indicated below (which violation is sanctioned) are identified by their proposed number in the present recommendations and not to their ORIGINAL number in the draft law under analysis. In addition to the specific comments bellow, and as already suggested by the EU-ILO project: 1. The amount of fines should also be based on the size of the employer; 2. It should also be introduced non-monetary accessory sanctions, more directed to the vital interests of the employers
1.		
2.		
3. To reimburse losses, the employer may, in addition to compulsory social insurance against industrial accidents and diseases, maintain insurance against the employer's liability for the damage caused to the worker's life and health due to the latter's performance of their employment duties	3. To reimburse losses, the employer may, in addition to compulsory social insurance against occupational accidents and diseases, maintain insurance against the employer's liability for the damage caused to the worker's life and health due to the latter's performance of their employment duties.	To replace "industrial accident" by "occupational accident" to align the term with the international standards and definition of subparagraph 18) of paragraph 1 of Article 1.
4.		
1) using high-risk work equipment without its registration and failure to carry out mandatory technical inspections (Art. 13) – in the amount of one minimum wage for every unit of such equipment;	1) failure to comply with paragraphs 1 to 6 of Article 13, in respect to the work equipment specified in paragraph 7 of this Article or failure to comply with the requirements to be set forth pursuant paragraph 8 of this Article – in the amount of X minimum wages per infraction regarding each unit of concerned work equipment.	Should be changed, to be considered a serious offense and be treated as such. It is important to note that in this recommendations this Article was heavily changed: change of previous paragraph 4 and its renumbering as new paragraph 1; insertion of new paragraphs 2 to 3; change of previous paragraph 1 (now 4); renumbering of previous paragraphs 2 and 3

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		(now 5 and 6); elimination of previous paragraph 5; renumber of previous paragraph 6 (now 7); and change and renumbering of previous paragraph 7 (now 8).
2) failure to inform workers concerning occupational safety and health (Art. 22), multiplied by the number of workers not informed failure to consult workers and/or workers' representatives (Art. 24) – in the amount of one minimum wage; multiplied by the number of situations in which workers should be consulted and were not	2) failure to comply with the legal provisions concerning the obligations of informing workers on occupational safety and health, as foreseen in Articles 22, 26(1)(9), 26(1)(18), 26(1)(19), 27(1)(3) and 27(1)(4) – in the amount of X minimum wage per worker affected; 3) failure to consult workers and/or workers' representatives and/or to ensure their participation, as laid down in Articles 24, 26(1)(11), 26(1)(12) and 27(1)(7) – in the amount of X minimum wage per situation in which employer did not ensure their consultation or participation;	Should be changed, to be considered a serious offense and be treated as such, as well as to better specify what are the legal provisions which violation should be sanctioned with a fine.
3) failure to carry out sanitary and hygienic studies of the production environment and work process factors (workstation appraisal in terms of working conditions) in cases provided for by law (second part of Art. 11) - in the amount of one minimum wage for every workstations concerning which a violation was committed;	4) failure to carry out sanitary and hygienic studies of the working environment and work process factors (workplace appraisal in terms of working conditions) in the cases provided for in paragraph 2 of Article 11 - in the amount of X minimum wages for every workstation concerning which a violation was committed;	Should be changed to replace “production environment” by “work environment) Should also be changed, in order to consider a serious offense and be treated as such, as well as to better specify what are the legal provisions which violation should be sanctioned with a fine. Also to renumber the paragraph.
4) failure to undertake a mandatory audit of the safety and health of workers system (fifth part of Art. 19) – in the amount of five minimum wages;	5) failure to comply with the provisions of Article 19 or with the guidelines to which its paragraph 4 refers to – in the amount of X minimum wages;	To ensure that the non-compliance with the other provisions shall also be sanctioned, for example, not send the results to the central authority or the violation of the guidelines for carrying out such audits (which paragraph was renumbered - as new paragraph 4). Also to renumber the paragraph.
5) allowing the worker to perform high-risk	6) failure to comply with paragraphs 1 to 3 of	

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works without an authorization or without additional insurance of the worker according hereto (Art. 12) – in the amount equal to the lump-sum benefit paid to the family of the victim in case of the latter's death due to an industrial accident, as per the Law of Ukraine "On compulsory state social insurance), for every such worker;	Article 12 – in the amount of X minimum wages plus the amount equal to the lump-sum benefit that would be paid to the family of the victim if the latter's died due to an occupational accident, as per the Law of Ukraine "On compulsory state social insurance), for every such worker;	Should be changed to replace "industrial accident" by occupational "accident". Should be also changed to dully sanction this very serious offenses. It should be noted that paragraphs 1 to 3 of Article 12 includes: the previous paragraph 1 (revised) a newly proposed paragraph 2 and the previous paragraph 2 (now paragraph 3). Also to renumber the paragraph.
6) failure to carry out compulsory health examinations according to the legislation, or failure to comply with the recommendations based on health examination findings (sixth and tenth parts of Art. 20) – in the amount of one minimum wage for every worker for whom health examination was not carried out or its recommendations were not complied with;	7) Failure to ensure the surveillance of the health of workers and development of measures aimed at preventing occupational risks and their impact on the health of workers, as provided for in paragraph 1 of Article 20 - in the amount of X minimum wages.	In order to cover all different types of offenses and to escalate the amount of fines in function of the seriousness of the offense and number of workers affected in order to dissuade non-compliance. It is important to note that the provisions (paragraphs) indicated are the ones proposed in the present recommendations.
	8) failure to comply with paragraphs 2 to 3 and 10 of Article 20 - in the amount of X minimum wages.	
	9) failure to comply with paragraphs 4 to 8 and 11, 12, 13 of Article 20 - in the amount of X minimum wage for every worker in relation to whom the provision was violated.	
	10) violation of paragraphs 15 to 17 of Article 20 - in the amount of X minimum wages for every worker in relation to whom the provisions were not complied with.	
7) failure to provide training to workers on occupational safety and health (Art. 21) – in the amount of one minimum wage for every worker not provided with training;	11) failure to comply with the provisions regarding the provision of training to workers on occupational safety and health, as foreseen in Articles 21, 26(1)(14), 26(1)(15) and 27(1)(4) – in the amount of X minimum wages for every worker in relation of which the violation was committed;	Should be changed, to be considered a serious offense and be treated as such, as well as to better specify what are the legal provisions which violation should be sanctioned with a fine. Also to renumber the subparagraph.
8) failure to provide first aid and/or to ensure	12) failure to comply with the provisions on first	Should be changed, to be considered a serious

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evacuation of workers who were in danger due to a breakdown (first part of Art. 23) – in the amount of three minimum wages for every worker;	aid, fire-fighting, elimination of breakdowns, and evacuation of workers, laid down in Article 23 – in the amount of X minimum wages per infraction times the number of workers concretely affected;	offense and be treated as such, as well as to better specify that the violations of all foreseen provisions of this article should be sanctioned with a fine. Also to renumber the subparagraph.
9) failure to define (designate) an authorized entity for safety and health of workers (Art. 16) – in the amount of five minimum wages;	13) failure to organize and ensure proper operation of the safety and health of workers system pursuant paragraphs 1 to 3 or in violation of paragraphs 5 or 8 to 10 - in the amount of X minimum wages;	To encourage the organization and proper functioning of the safety and health of workers system at undertakings and/or establishments, which is absolutely necessary requirement (although not sufficient) to ensure the improvement of the safety and health at work, taking also into account the differentiated seriousness of the potential infractions.
	14) operation of the safety and health of workers system referred to in Article 16 violating the principles set forth in paragraph 1 of Article 15, in violation of paragraphs 2 or 3 of Article 1, or in violation of any paragraph of Article 17 - in the amount of X minimum wages;	
	15) violation of paragraphs 4, 7 or 11 - in the amount of X minimum wages for each infraction.	
	16) failure to ensure, where needed, the main functions of the authorized entities for safety and health of workers listed in paragraph 6 - in the amount of X minimum wages for each listed function which was not exercised when necessary.	
10) failure to maintain insurance of workers against an industrial accident and an occupational disease that caused loss of working capacity, according to the legislation (first part of Art. 9) - in the amount equal to double the lump-sum benefit paid to the family of the victim in case of the latter's death due to an occupational accident, as per the Law of	17) failure to transfer the responsibility for reparation of damages arising from occupational accidents and occupational diseases to the compulsory state social insurance, violating paragraph 1 of Article 9 and subparagraph 4) of paragraph 1 of Article 26 - in the amount of X minimum wages plus the amount equal to the lump-sum benefit that	Should be changed to replace “industrial accident” by occupational “accident” Should also be changed to ensure the adequate sanctioning of this very serious offense, usually associated with indecent and unsafe working conditions and with situations of fully undeclared work. Also to renumber the paragraph.

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Ukraine "On compulsory state social insurance), for every such worker;	would be paid to the family of the victim if the latter's died due to an occupational accident, as per the Law of Ukraine "On compulsory state social insurance), for every such worker;	
10) failure to maintain insurance of workers against an industrial accident and an occupational disease that caused loss of working capacity, according to the legislation (first part of Art. 9) - in the amount equal to double the lump-sum benefit paid to the family of the victim in case of the latter's death due to an occupational accident, as per the Law of Ukraine "On compulsory state social insurance), for every such worker;	18) failure to declared to the compulsory state social insurance, with the periodicity specified in the legislation, all the amounts paid to each worker as remuneration and other benefits, as provided for in paragraph 2 of Article 9 - in the amount of X minimum wages plus the amount equal to the lump-sum benefit that would be paid to the family of the victim if the latter's died due to an occupational accident, as per the Law of Ukraine "On compulsory state social insurance), for every such worker;	Should be changed to replace "industrial accident" by occupational "accident" Should also be changed to ensure the adequate sanctioning of this very serious offense, usually associated, moreover, with undeclared work. Also to renumber the paragraph.
11) failure to investigate an accident or an occupational disease (third part of Art. 7) – in the amount of 10 minimum wages for every worker concerning whom investigation was not carried out;	19) failure to comply with the provisions of paragraphs 1, 3 and 5 of Article 7, Article 26(1)(21) and Article 26(1)(23), as well as with the provisions of paragraph 2 of Article 7 and Article 26(1)(22) in relation to accidents that resulted in incapacity for work of three or less days – in the amount of X minimum wages for every worker concerning whom the provision was not complied with;	To ensure the adequate sanctioning of the non-compliance with all the relevant provisions of the Article. Also to renumber the paragraph.
12) failure to notify the central executive authority that implements the state policy on safety and health of workers of an accident that resulted in severe injuries or death of the victim (hiding of an accident) (third part of Art. 7) – in the amount of 20 minimum wages for every worker concerning whom such an accident occurred;	20) failure to comply with the obligation set forth in Article 7(2) and Article 26(1)(22) in the cases of accidents that resulted in an incapacity for work for more than three days or death of the victim or of suspected cases of occupational diseases – in the amount of X minimum wages for every worker concerning whom such an accident or such suspected disease was not notified;	To better clarify the violation and the legal provision which violation results in a fine, as the indicated provision is not correct and the correct one (paragraph 2) does not mention the severity of the accidents, as it is referred to in the provision that foresees the fine. Also to renumber the paragraph.

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	21) failure to comply with the provisions of paragraph 3 of Article 11 or failure to comply with subparagraphs 2, 3 or 24 of paragraph 1 of Article 26 – in the amount of X minimum wages;	Should be inserted, to be considered a very serious offense and be treated as such, as well as to better specify what are the legal provisions which violation should be sanctioned with a fine. The subparagraph 24 of paragraph 1 of Article 26 is a newly proposed one (that was inserted in the present recommendations); and the subparagraph 3 of paragraph 1 of Article 26 was changed in these recommendations.
	22) failure comply with the obligation set forth in paragraph 2 of Article 7, in the cases of accidents that resulted in an incapacity for work for more than three days or death of the victim or of suspected cases of occupational diseases – in the amount of X minimum wages for every worker concerning whom such an accident or such suspected disease was not notified;	Should be inserted to better clarify the violation and the legal provision which violation results in a fine, as the indicated provision is not correct and the correct one (paragraph 2) does not mention the severity of the accidents, as it is referred to in the provision that foresees the fine.
13)	23)	To renumber the paragraph.
	24) failure to comply with one of the provisions of paragraphs 2 to 9 of Article 14, concerning the protection of genetic heritage - in the amount of X minimum wages for each violation;	To dissuade the non-compliance and encourage the protection of the genetic heritage.
	25) failure to comply with the provisions of paragraphs 1 to 4 of Article 18, concerning collective and personal protective equipment - in the amount of X minimum wages per each infraction;	To ensure the protection of the safety and health of the workers where the other preventive measures were not sufficiently effective to minimize occupational risks.
	26) failure to comply with paragraphs 1, 3 to 5, 7 and 8 of Article 29, concerning the protection of the safety and health of pregnant workers, workers who have recently given birth or who are breastfeeding - in the amount of X minimum wages per each infraction times the	To prevent the abuse of this special vulnerable group of workers.

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	number of workers regarding which these rights were violated;	
	27) violation of paragraph 6 of Article 30, concerning the work of minor, in cases where paragraph 8 of Article 30 does not apply - in the amount of X minimum wages per each infraction times the number of workers concretely affected;	To prevent the abuse of this special vulnerable group of workers.
	28) violation of paragraphs 1 to 5 of Article 30 - in the amount of X minimum wages per each infraction times the number of workers concretely affected;	To prevent the abuse of this special vulnerable group of workers, whilst calibrating the sanctions in function of the severity of the offenses.
	29) violation of any provision of Article 31, concerning the Safety and health of workers with disabilities - in the amount of X minimum wages per each infraction times the number of workers concretely affected;	To prevent the abuse of this special vulnerable group of workers.
	30) violation of subparagraph 9) of paragraph 1 of Article 26 - in the amount of X minimum wages per infraction;	To encourage employers to cooperate and coordinate their obligations on OSH when they share the same workplace.
	31) violation of the workers' rights provided for in subparagraphs 2), 5), 8), 10 or 11) - in the amount of X minimum wages per infraction times the number of workers affected;	To specifically prevent and dissuade the violation of these workers' rights.
	32) for the refusal to provide labour inspectors, when required, any documents, including electronic ones, the keeping of which is prescribed by the legislation on safety and health of workers, or preventing them from obtain copies of such documents or from making extracts from them - in the amount of X minimum wages per infraction, without prejudice to eventual criminal liability;	To encourage the provision to labour inspectors of the documentation necessary to control and enforce the legislation on safety and health at work.

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	33) for the unlawful obstruction to the discharge of the labour inspectors' duties or unlawful denial of their access to workplaces liable for inspection - in the amount of X minimum wages times the number of labour inspector concretely affected, without prejudice to eventual criminal liability;	To dissuade and prevent, through the imposition of high fines, the obstruction of the work of labour inspectors and preserve the authority of the State.
14) violating other provisions hereof – in the amount of half the minimum wage for every violation.	34) violating of other provisions hereof – in the amount of X minimum wage for every violation times, if applicable, the number of workers concretely affected.	To dissuade non-compliance regarding the remaining provisions, not specifically highlighted.
5.		
6.		
7.		
8.		
9. If the employer has paid 50 percent of the fine within 10 banking days from the day on which a resolution on imposition of a fine for violation of the legislation on safety and health of workers, as provided for by this Article, was served, the resolution shall be deemed as complied with.	9. If the employer has paid 75 percent of the fine within 10 banking days from the day on which a resolution on imposition of a fine for violation of the legislation on safety and health of workers, as provided for by this Article, was served, the resolution shall be deemed as complied with, without prejudice to paragraph 13 of this Article.	In order to maintain the dissuasive effect of the fine and, simultaneously, to ensure that its payment in this form does not relieve the offender from his obligation to eliminate the violations and to comply with the omitted obligation, if still possible.
10.		
11.		
12.		
13. Payment of a fine shall not release from the obligation to eliminate violations of the legislation.	13. Payment of a fine shall not release the offender from the obligation to eliminate violations of the legislation and from complying with the omitted obligation, if still possible.	In order to ensure that, if the infraction consists in an omission, the payment of the fine will not exempt the offender from fulfilling it, if still possible.

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