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Brief notes on the main aspects of the alignment between Ukrainian national legislation and selected EU directives

Working paper for the tripartite workshop

*“Validation of the National OSH Profile for Ukraine.
Degree of concordance of the national legislation
with the selected EU Directives on OSH and labour relations”*

May, 2018

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FOREWORD

The present working material is aimed at facilitating and encouraging the discussion around the process of alignment of the Ukrainian national legislation with a selected number of European Union (EU) directives on occupational safety and health (OSH) and labour relations.

This discussion is expected to take place during the tripartite workshop on the validation of the Ukrainian National OSH Profile and of the Tables of Concordance between the national legislation and the selected EU directives on OSH and labour relations, to be held in May 24th, 2018.

The EU directives under examination within the scope of this working material are the following:

- Directive No. 89/391/EEC, of the Council, of 12 June 1989, on the introduction of measures to encourage improvements in the safety and health of workers at work;
- Directive No. 89/654/EEC, of the Council, of 30 November 1989, concerning the minimum safety and health requirements for the workplace;
- Directive No. 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;
- Directive No. 89/656/EEC, of the Council, of 30 November 1989, on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace;
- Directive No. 2003/88/EC, of the European Parliament and of the Council, of 4 November 2003, concerning certain aspects of the organization of working time; and
- Directive No. 91/533/EEC, of the Council, of 14 October 1991, on an employer's obligation to inform employees of the conditions applicable to the contract or employment.

It is therefore a summary, only focused in a few main aspects regarding each directive, thus leaving behind the considerations of several others.

For a more comprehensive insight and deeper analysis of all the issues regarding the alignment of the Ukrainian national legislation with each one of the above mentioned EU directives, please refer to the concerned table of concordance.

11 May 2018

António J. Robalo dos Santos
EU-ILO Project Manager

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I. GENERAL CONSIDERATIONS

The main challenges concerning the alignment of the Ukrainian national legislation with selected EU *acquis* on OSH and labour relations include, in general, the following:

1. Principles

- a. Transition from the current **downstream** approach to OSH, based on the **inevitability of risks** and on the consequent adoption of a **reparation** and **correction** approach, focused on the **compensation** and **protection** of the safety and health of workers, to an **upstream and proactive** approach, based on a **risk management (avoidance, assessment, prevention and control)** approach, focused on the **prevention and improvement** of the safety and health of workers.
- b. Shift from an approach mainly based on **labour protection**, to a more holistic approach, that **integrates** occupational **safety** with occupational **health**.
- c. **Reduction** of the current **number of legal acts** and their **simplification** and merger into a fewer number;
- d. **Extension** of the **employers' obligations** on OSH that are **currently restricted** to workers engaged in work with harmful and hazardous working conditions or in work connected with contamination or adverse weather conditions (e.g., **information, training, consultation, health surveillance, free of charge PPE**, etc.) **to all workers**.
- e. Establishment of the principle of the **employers' non-transferable responsibility for ensuring the safety and health of workers in every aspect related to work**, so that the OSH obligations legally imposed to others (e.g., workers, external OSH services providers, suppliers, other employers engaged in work at the same workplace, other employer's workers, etc.) shall not discharge the employers responsibility.
- f. **Expansion** of the **employers' responsibility** for the safety and health of workers to include **all phases of the production process**, even during the design of the facilities and the layout of the premises, through the choice of the production methods, technology, work equipment, agents and substances to be used, stored and produced, as well as for the organization of work, working conditions, social relationships and the influence of factors related to the working environment.
- g. Establishment of the **employers' obligation to take**, and continuously **adjust to changing circumstances**, the **necessary measures** to ensure the safety and health protection of workers, including prevention and assessment of occupational risks, consultation and participation of the workers, health surveillance, provision of information, training, consultation, participation and the necessary organization and means, within **strictly compliance** with the following **sequential and hierarchical GPP**:
 - i. To **avoid risks**;

- ii. To **evaluate the risks** which cannot be avoided;
 - iii. To **combat the risks at source**;
 - iv. To **adapt the work to the individual**, especially as regards the design of work places, the choice of work equipment and the choice of working and production methods, with a view, in particular, to alleviating monotonous work and work at a predetermined work rate and to reducing their effect on health;
 - v. To **adapt to technical progress**;
 - vi. To **replace the dangerous** with the non-dangerous or the less dangerous;
 - vii. To **develop a coherent overall prevention policy** which covers technology, organization of work, working conditions, social relationships and the influence of factors related to the working environment;
 - viii. To give **collective protective measures priority over individual** protective measures;
 - ix. To give appropriate **instructions to the workers**.
- a. The definition of the **technical conditions** governing the **design, manufacture, import, sale, assignment, installation, organization, use and processing of the material components of work** according to the nature and degree of the risks, as well as the obligations of the persons responsible for such.
 - b. The **definition of substances, agents or processes that should be prohibited, limited or subject to authorization or the supervision** of the competent authority, as well as the definition of worker exposure limits to chemical, physical and biological agents and the technical standards for the sampling, measurement and evaluation of results.
 - c. The **increase of the technical and scientific research** applied in the field of **OSH**, with particular reference to the emergence of new risk factors.
 - d. **Education, training and information** for promoting improvements in occupational safety and health.
 - e. **Raising the awareness** of society in order to create a genuine culture of prevention.

2. Purpose and scope

- a. The EU directives usually establish **minimum OSH requirements** in order to promote the improvement of the health and safety of workers and, as such, they apply, in general, without prejudice to existing or future national and EU provisions which are more favourable to the workers and their implementation shall not constitute grounds for lowering the level of protection already afforded to workers.
- b. The **minimum OSH requirements** foreseen in the **EU OSH framework directive** apply in full to **all the areas** covered by the individual Directives, **without prejudice to more stringent and/or specific provisions** contained in those **individual directives**.

c. In general, the OSH regulations should apply to:

- i. **All employers** (including not for profit legal persons and self-employed with one or more workers) of all branches of activity in the private, public, cooperative and social sectors, with the exception of specific directives, focused on specific sectors (e.g., such as construction, mining or work on board fishing vessels).
- ii. **All workers**, Including: self-employed workers; practitioner, apprentice, trainee and other situations that should be considered as vocational training; administrator, director, manager or treated as such, without an employment contract but paid for this activity; to situations in which one person works for another without a formal worker-employer relationship, when the provider of work should be considered in the economic dependence of the activity's beneficiary; as well as to workers that have an employment relationship but do not have a formal or written labour contract, such as the total undeclared workers or the partially undeclared workers (e.g., bogus self-employed, bogus service providers or the ones that have the so-called "civil contracts").

3. Enforcement, technical advice and promotion of occupational risk prevention policies

Considering that as relevant as having good laws is to ensure that they are in fact applied on the ground, mainly through the control and enforcement of its compliance, the provision of technical advice on the best way to comply with legal provisions and through the promotion of occupational risk prevention policies, it is of paramount importance for Ukraine to have an effective labour inspection system.

In order to achieve that, it is necessary, in particular:

- a. To refrain from imposing *moratoriums* to the activities of labour inspection.
- b. To ensure that the Ukrainian labour inspectors are legally entrusted with all the necessary powers to discharge their duties, as foreseen in the ILO Convention Nos. 81 and 129, especially the powers to:
 - i. Perform inspection visits to any workplace without prior notice;
 - ii. Conduct inspection visits at any time of day or night;
 - iii. Carry out inspection visits even when the employer (or the employer representative) is not present in the workplace;
 - iv. Perform inspection visits within all the scope of their legal competences (labour relations and/or OSH subjects), and adapt its scope, extension and deepness do the circumstances found at the workplace;
 - v. Make inspection visits with the frequency and depth which they understand as necessary to ensure compliance with labour relations and OSH regulations;
 - vi. Impose fines regarding detected infractions foreseen in law whenever they feel that this is the most adequate procedure to ensure compliance and deter non-compliance.

- vii. Monitor, promote and enforce compliance in employers which are not registered, as well as regarding employers and workers which, in spite of having an employment relationship, does not have a formal or written labour contract;
 - viii. Suspend work in the event of imminent danger to the health or safety of the workers.
- c. To ensure that the current decentralization process is developed in accordance with the ILO Conventions Nos. 81 and 129, in particular in what concerns:
- i. The placement of labour inspection under the supervision and control of a central authority, in order to ensure the development and implementation of a standard labour inspection policy throughout the country and for the consistent application of labour legislation.
 - ii. The labour inspectors having the status of civil servants and adequate working conditions, in order to assure them stability of employment and their independence from changes of government and of improper external influences.
 - iii. Ensuring that labour inspectors are recruited solely on the basis of their qualifications for the performance of their duties.
 - iv. The subjection of the labour inspectors, before initiating their duties and subsequently, to adequate training for the performance of their duties.
 - v. The sufficiency of the means and resources allocated to labour inspection system.
 - vi. The powers of the labour inspectors.

4. Current global alignment level

The global alignment level stats are as follows (cf. Annex I):

- a. Fully provided: 26,7%;
- b. Partially provided: 23,3%;
- c. Non-provided: 48,7%;
- d. Contradictory: 1,3%;

5. Implementation concerns

Considering the relationship established between the EU directives on OSH and labour relations, the need to prevent legislation gaps, the number of potential workers and employers covered, the nature of the risks to which they are or may be exposed to and the convenience for clarification and simplification of the national legislation, the main challenges, concerning the current alignment process, include:

- a. As much as possible, each directive should be transposed through just one national law (the exception being the need to provide for additional technical regulations);

- b. The alignment process should be guided by a Ukrainian National Strategy for the Promotion of OSH, that should be formulated and implemented and, in particular, by an implementation “road map”.
- c. Ideally, the following sequential process should be followed:
 - i. First stage: alignment with the EU OSH framework Directive 89/391/EEC, mainly, which act as an “umbrella directive” that sets the OSH architecture, beneath which will be fleshed out the other specific individual directives and which defines the main building blocks of the EU OSH legal framework, and establishes general provisions applicable to all employers (of all economic activities of both the public and private sectors), to all types of workers and workplaces, to all aspects of the work, and to the exposure of all types of risks, without prejudice to more stringent and/or specific provisions contained in other individual directives.
 - ii. Second stage: transposition of the transversal directives, which regulate aspects that are common to the generality of employers, workers and sectors of activity (e.g., 89/654/EEC, on workplaces; 2009/104/EC, on work equipment; 89/656/EEC, on PPE; 2003/88/EC, on working time; 92/58/EEC, on safety and health signs).
 - i. Third stage: transposition of the directives focused on the protection of safety and health regarding the exposure to specific risks (e.g., 2000/54/EC, on biological agents; 2003/10/EC, on noise; 2002/44/EC, on mechanical vibration; 90/270/EEC, on display screen equipment; 90/269/EEC, on manual handling of loads; 2013/59/Euratom, on ionising radiation; 2013/35/EU, on electromagnetic fields; 2006/25/EC, on artificial optical radiation).
 - ii. Fourth stage: transposition of the directives focused on the protection of workers against the risks arising from the work in specific sectors of activity (e.g., 92/57/EEC, on temporary or mobile constructions sites; 92/104/EEC, on mineral-extracting industries; 92/91/EEC, on mineral-extracting industries through drilling; 93/103/EC, on work on board fishing vessels; 2010/32/EU, on harp injuries in the hospital and healthcare sector).
 - iii. Fifth stage: transposition of the directives focused on the protection of OSH of specific types of workers (e.g., 94/33/EC, on young workers; 92/85/EEC, on pregnant workers; 91/383/EEC, on workers with a fixed-duration or temporary employment relationship).
 - iv. Sixth stage: provision of training on the forthcoming national OSH legal framework to the competent public authorities, social partners and other main national stakeholders in the areas of OSH and labour.
 - v. Seventh stage: launch a nationwide information and awareness-raising campaign on the EU legislation being transposed to Ukraine, in order to facilitate the understanding and, thus, compliance with the forthcoming national OSH legal framework.

II. SPECIFIC COMMENTS:

This section will address the specific challenges concerning the alignment of the national legislation with 6 selected EU directives on OSH and labour relations.

1. Directive No. 89/391/EEC of the Council, of 12 June 1989, on the introduction of measures to encourage improvements in the safety and health of workers at work

a. General stats (cf. Annex II):

- i. Fully provided: 0,0%;
- ii. Partially provided: 26,8%;
- iii. Non-provided: 73,2%;
- iv. Contradictory: 4,1%;

b. Contradictory provisions:

- i. Article 4(1) - legal subjection of all employers, workers and workers' representatives to its provisions (it should apply to all workers - even without a work contract, if they have a work relationship -, and to all employers - public, private, third sector including self-employed and to all sectors of activity). Provisions that foresees that the obligations of the employers to provide training, information, consultation, PPE, medical examinations, etc. is only obligatory in relation to specific workers (workers engaged in works in High-risk facilities or with harmful and hazardous working conditions or in work connected with contamination or adverse weather conditions) or to specific employers (private sector, specific sectors of activity, etc) are in contradiction with this provision.
- ii. Article 4(2) - State obligation to ensure adequate controls and supervision, which do not happen due to the restriction and limitation of the activities and powers of the labour inspectors, mainly through: the imposition of moratoriums to inspection visits (e.g., Law No. 1278-VIII, of 3 November 2016, "On Temporary Specifics of Implementation of the State Supervision (Control) Measures in the Area of Economic Activities"); and the limitation of the activities and powers entrusted to the labour inspectors (e.g., Law No. 877-V, of 5 April 2007, "On Basic Principles of State Supervision (Control) in the Area of Economic Activities"; and "Procedure for State Control of Compliance with Labour Legislation", approved by the CMU Decree No. 295, of 26 April 2017). This national legislation needs to be further aligned with ILO Conventions Nos. 81 and 129 on labour inspection, Article 9(1) of ILO Convention no. 155 on OSH, article 9(1) of the Constitution of Ukraine (regarding the legal power of the provisions of the International Treaties ratified by the Ukraine) and article 3(2) of the Law No. 2694-XII, of 14 October 1992, "On labour protection".

- iii. Article 13(1) - Workers obligations - This national provision imposes an obligation to workers that goes far beyond (e.g. “monitor safe conditions of the workplace”; “personally take feasible measures to eliminate any workplace situation that poses a hazard”) what is expected by this directive provision that clearly states "as far possible" and “in accordance with his training and the instructions given by his employer". The national legislation imposes to workers obligations that are of the employers. Moreover, this provision seems to be in contradiction to the directive articles 8/3(b), 8/3c), 8/4 and 8/5. The workers should have the right (not the obligation) to intervene, in the absence of its supervisor (see article 8/5). Moreover, they should not be placed at any disadvantage for this actions, unless they acted carelessly or there was negligence on their part..
- iv. Article 15(1) - Risk groups - The national provision indicated (Article 10, on “Female labour protection”, of the Law No. 694-XII, of 14 October 1992, “On Labour Protection”; and Articles 174, on “Works on which female labour is prohibited” and 175, on “Restriction of female labour in night time”, both of the Labour Code, approved by the Law No. 322-VIII, of 10 December 1971), do not transpose the directive provision and are contradictory with the provisions of Directive 2006/54/EC. In fact, this national provision seems to be contrary to the Equality between men and women, which is a fundamental principle of Community law under Article 2 and Article 3 (2) of the Treaty and the case-law of the Court of Justice. It also seems contrary to the Directive 2006/54/EC of the European Parliament and of the Council, of 5 July 2006, on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). Indeed, any special preventive or protective measures, targeting a specific sex group (women or men) should only be foreseen in the cases where a specific sex-related situation (e.g. pregnant women, women who have recently given birth or are breastfeeding, whenever there is a specific risk for the genetic heritage for women, men or their descendants, etc.) can objectively and proportionally justify the discrimination of a sex group in relation to the other, as results from the conjugation of Article 15 of the EU Directive 89/391/EEC with the provisions of the EU Directive 2006/54/EC, of 5 July 2006. Moreover, this national provisions are specific (focused on the employment of female workers) and not general as the directive provision. The national legislation should have an equal general provision, applicable to all workers of all sectors of activity. Special provisions, focusing on the special protection of specific groups of workers (young workers, workers with disabilities, pregnant workers and workers who have recently given birth or are breastfeeding, etc.) should therefore be in place.

c. Non-provided for:

- i. Article 1 (Object) - “Principle of non-prejudice over more favorable OSH provisions”. **It is not to transpose, but to ensure that the principle is respected.**
- ii. Article 1 (Scope) - “Application to all sectors of activity, both public and private (industrial, agricultural, commercial, administrative, service, educational, cultural, leisure, etc.)”, with the possibility of exception to certain peculiar and specific activities of the public services, e.g., armed forces, police or civil protection). The national provisions indicated do not ensure this wide scope.
- iii. Moreover, they only foresee its application to “all the legal and natural persons that use hired labour according to legislation as well as all the working individuals”. It should also apply to legal or natural people that use hired labour not according to legislation. In fact, it should also apply to employers that use UDW as well as to their workers. It should also apply to workers that have no labour contract but that have an employment relationship (e.g., total undeclared workers, bogus self-employed, bogus service providers, bogus volunteers, bogus trainees, bogus internships, etc) via, for example, the incorporation, into the labour code and/or OSH regulations, of the provisions of the ILO Recommendation no. 198, on the employment relationship.
- iv. Article 3 (definitions) - worker-partially: someone with an employment relationship with an employer, including trainees and apprentices (and not with an employment contract) → ILO Recommendation 198; Workers representative for OSH; and Prevention.
- v. Article 5 (General provisions regarding the employers) - non-transferable responsibility of the employers to ensure the safety and health of workers in every aspect related to the work. The use of external services or persons and the workers’ OSH obligations do not discharge the employer from his responsibilities.
- vi. Article 6 (General obligations on employers):
 - Article 6(2): Employer’s obligation to take, and continuously adjust to changing circumstances, the necessary measures to ensure the safety and health protection of workers, including prevention and assessment of occupational risks, consultation and participation of the workers, health surveillance, provision of information, training and the necessary organization and means, with strict compliance with the sequential and hierarchical General Principles of Prevention: (a) To avoid risks; (b) To evaluate the risks which cannot be avoided; (c) To combat the risks at source; (d) To adapt the work to the individual, especially as regards the design of work places, the choice of work equipment and the choice of working and production methods, with a view, in particular, to alleviating monotonous work and work at a predetermined work rate and to reducing their effect on health; (e) To adapt to technical progress;

(f) To replace the dangerous with the non-dangerous or the less dangerous; (g) To develop a coherent overall prevention policy which covers technology, organization of work, working conditions, social relationships and the influence of factors related to the working environment; (h) To give collective protective measures priority over individual protective measures; (i) To give appropriate instructions to the workers.

- Article 6(3)(a)(1): To evaluate the risks to the safety and health of workers, *inter alia*, in the choice of: work equipment, the chemical substances or preparations used, and the fitting-out of work place.
 - Article 6(3)(a)(2)(1): Preventive measures and the working and production methods implemented by the employer must result from risk assessment and assure the improvement in the level of OSH protection of the workers.
 - Article 6(3)(a)(2)(2): Preventive measures and the working and production methods implemented by the employer must result from risk assessment and be integrated into all the activities of the undertaking and/or establishment and at all hierarchical levels.
 - Article 6(3)(b): Take into consideration the workers' OSH capabilities when entrusting the tasks..
 - Article 6(3)(c): Ensure that the planning and introduction of new technologies are the subject of consultation with the workers and/or their representatives, as regards the consequences of the choice of equipment, the working conditions and the working environment for the safety and health of workers.
 - Article 6(3)(d): Take appropriate steps to ensure that only workers who have received adequate instructions may have access to areas where there is serious and specific danger.
 - Article 6(4): Where several undertakings share a work place, the employers shall: 1) cooperate in implementing the safety, health and occupational hygiene provisions; 2) coordinate their actions in matters of the protection and prevention of occupational risks; and 3) inform one another and their respective workers and/or workers' representatives of these risks.
- vii. Article 7 (Protective and preventive services): not just for safety but also for health services; designated workers cannot be put in any disadvantage; and shall be allowed enough time; possibility of external services when it lacks competent personnel; to inform service providers of the risks; modalities; cooperation between workers, employer and service providers; requirements on the number, competencies, aptitudes and personal and professional means of the designated workers and external providers.

- viii. Article 8 (First aid, fire-fighting and evacuation of workers, serious and imminent danger): contacts with external services; designate the responsible workers; their number training and equipment depending on size and risks; inform all workers who are, or may be, exposed to serious and imminent danger of the risk involved and of the steps taken or to be taken as regards protection; take action and give instructions to enable workers in the event of serious, imminent and unavoidable danger to stop work and/or immediately to leave the work place and proceed to a place of safety; refrain from asking workers to resume work in a working situation where there is still a serious and imminent danger; in the event of serious, imminent and unavoidable danger, leave their workstation and/or a dangerous area may not be placed at any disadvantage because of their action and must be protected against any harmful and unjustified consequences; ensure that all workers are able, in the event of serious and imminent danger to their own safety and/or that of other persons, and where the immediate superior responsible cannot be contacted, to take the appropriate steps in the light of their knowledge and the technical means at their disposal, to avoid the consequences of such danger; Their actions shall not place them at any disadvantage, unless they acted carelessly or there was negligence on their part.
- ix. Article 9 (Various obligations on employers): possession of an assessment of the risks; decide the prevention measures to be taken and necessary protective equipment; list and reports on work-related accidents.
- x. Article 10 (informing workers): employer shall take appropriate measures so that workers and/or their representatives in the undertaking and/or establishment receive all the necessary information concerning the safety and health risks and protective and preventive measures and activities in respect of both the undertaking and/or establishment in general and each type of workstation and/or job (which may take into account, *inter alia*, the size of the undertaking and/or establishment) - the same applies to employers of workers from any outside undertakings and/or establishments engaged in work in his undertaking and/or establishment; access of the workers and their representative to information on: the designated workers to implement the measures for first aid, fire-fighting and the evacuation of workers; the risk assessment and protective measures and equipment; list and reports on occupational accidents; and yielded by protective and preventive measures, inspection agencies and bodies responsible for safety and health.
- xi. Article 11 (consultation of workers and worker's consultation): Employers shall consult workers and/or their representatives and allow them to take part in discussions on all questions relating to safety and health at work; the right of workers and/or their representatives to make proposals on OSH. The workers shall take part in a balanced way or shall be consulted in advance and in good time regarding: designation of workers' representatives for OSH; risks, preventive and protective measures, list and reports of accidents at work, designated workers to implement the measures for first aid, fire-fighting and

the evacuation of workers, and to the information yielded by protective and preventive measures, inspection agencies and bodies responsible for safety and health; external OSH services providers; planning and organization of the training; etc.

- xii. Article 12 (training workers): obligation of the employer to: adapt training to take account of new or changed risks; to repeat training periodically if necessary; ensure appropriate training to workers' representatives on OSH; provide training that may not be at the expense of workers or their representatives; training of workers should occur during working hours;
- xiii. Article 14 (Health surveillance): the national legislation only foresees health surveillance of at hiring and periodically regarding workers employed on heavy works, works with harmful or hazardous working conditions, or works requiring occupational selection, as well as annual compulsory medical examinations of persons under 21.
- xiv. Article 16 (General scope of this Directive): the national law that will transpose this directive provisions has to foresee that it shall apply in full to all the areas covered by the OSH individual Directives (e.g., workplaces, work equipment, personal protective equipment, work with visual display units, handling of heavy loads involving risk of back injury, temporary or mobile work sites, fisheries and agriculture), without prejudice to more stringent and/or specific provisions contained in the national laws that will transpose those directives provisions.

2. Directive No. 89/654/EEC, of the Council, of 30 November 1989, concerning the minimum safety and health requirements for the workplace

a. General stats (cf. Annex III):

- i. Fully provided: 38,4%;
- ii. Partially provided: 20,3%;
- iii. Non-provided: 41,2%;
- iv. Contradictory: 0.0%;

b. Non-provided for:

- i. Article 1 (Subject): There is no national law addressing specifically the OSH minimum requirements of the workplaces, neither its exceptions (e.g., means of transport; temporary or mobile work sites; extractive industries; fishing boats). There is also no provision stating that provisions of the law that transposes the Directive 89/391/EEC are fully applicable to the workplaces, without prejudice to more stringent and/or specific provisions contained in the law that transposes this particular Directive.

- ii. Articles 3 (Workplaces used for the first time), 4 (Workplaces already in use) and 5 (Modifications to workplaces): there is no national provision that establishes different OSH minimum requirements for the workplaces depending on the fact that the workplace started to being used before or after a certain date (for example, the entry into force of the national legislation that transposes this directive) of for their modifications after that date.
- iii. Stability and solidity (ANNEX I - 2; ANNEX II - 2);
- iv. Electrical installations (ANNEX I - 3; ANNEX II - 3);
- v. Fire detection and firefighting (ANNEX I - 5; ANNEX II - 5): national legislation was repealed;
- vi. Ventilation of enclosed workplaces (ANNEX I - 5; ANNEX II - 6);
- vii. Natural and artificial room lighting (ANNEX I - 8; ANNEX II - 8);
- viii. Danger areas (ANNEX II - 10);
- ix. Floors, walls, ceilings and roofs of rooms (ANNEX I - 9);
- x. Windows and skylights (ANNEX I - 10);
- xi. Traffic routes — danger areas (ANNEX I - 12);
- xii. Specific measures for escalators and travellers (ANNEX I - 13);
- xiii. Loading bays and ramps (ANNEX I - 14);
- xiv. Room dimensions and air space in rooms — freedom of movement at the workstation (ANNEX I - 15);
- xv. Rest rooms and rest areas (ANNEX I - 16; ANNEX II - 11);
- xvi. Pregnant women and nursing mothers (ANNEX I - 17; ANNEX II - 12);
- xvii. Sanitary equipment - Changing rooms and lockers (ANNEX I - 18; ANNEX II - 13);
- xviii. First aid rooms and first aid equipment (ANNEX I - 19; ANNEX II - 14);
- xix. Handicapped workers (ANNEX I - 20; ANNEX II - 15);
- xx. Movement of pedestrians and vehicles (ANNEX II - 16);
- xxi. Outdoor workplaces - special provisions (ANNEX I - 21; ANNEX II - 17);
- xxii. Article 6 (general requirements): to ensure that traffic routes to emergency exits and the exits themselves are kept clear at all times; that technical maintenance of the workplace and of the equipment and devices is carried out and any faults found which are liable to affect the safety and health of workers are rectified as quickly as possible; and that safety equipment and devices intended to prevent or eliminate hazards are regularly maintained and checked.
- xxiii. Article 7 (Information of workers);

xxiv. Article 8 (Consultation of workers and workers' participation).

c. Partially provided for:

- i. Article 2 (definition): Confusion, in the national legislation, between the concept of “workplace” and “workstation” (in the directive, “workplace” means the place intended to house “workstations”). This situation occurs, besides the definition, with the following provisions: 3 - ANNEX I - 4; 3 - ANNEX I - 21; and 4 - ANNEX II - 4.

3. Directive No. 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

a. General stats (cf. Annex IV):

- i. Fully provided: 16,5%;
- ii. Partially provided: 45,7%;
- iii. Non-provided: 35,4%;
- iv. Contradictory: 2,4%;

b. Contradictory provisions:

- i. Article 1 (Subject - applies to “economic entities” and to “production equipment”). Should apply to all workers and to all employers.
- ii. Article 2 (Definition)
 - Article 2(a) - of work equipment (“production equipment” and “used during execution of works, manufacturing of products, provision of services”). Should apply to all types of work equipment (not just to production equipment and not just when used during the execution of works and services);
 - Article 2(b) - of use of work equipment (inclusion of “used as intended”). Should also apply when work equipment is used in a way that is not intended to.
 - Article 2(c) - of “danger zone”.

c. Non-provided for:

- i. Article 1(2) - “The provisions of Directive 89/391/EEC are fully applicable to the use of work equipment by workers at work, without prejudice to more stringent or specific provisions contained in this Directive”
- ii. Article 3 (employers general obligations): for example: to ensure that the work equipment made available to workers in the undertaking or establishment is suitable for the work to be carried out or properly adapted for that purpose and may be used by workers without impairment to their safety or health; 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.

- iii. Article 4 (rules concerning work equipment): there is no national provision that establishes different OSH minimum requirements for the use of work equipment depending on the work equipment being provided before or after a certain date (for example, the entry into force of the national legislation that transposes this directive).
- iv. ANNEX I - 2 (General requirements of work equipment):
 - fitted with an emergency stop device if needed (depending on the hazards the equipment presents and its normal stopping time);
 - fitted with appropriate containment and/or extraction devices near the sources of the hazard (if presenting hazards due to emissions of gas, vapour, liquid or dust);
 - areas and points for working on, or maintenance of, work equipment must be suitably lit;
 - warning devices on work equipment must be unambiguous and easily perceived and understood;
 - fitted with clearly identifiable means to isolate it from all its energy sources;
 - must be appropriate for protecting exposed workers against the risk of direct or indirect contact with electricity.
- v. ANNEX II-3 (Provisions concerning the use of work equipment for lifting loads): Loads may not be moved above unprotected workplaces usually occupied by workers.
- vi. ANNEX II-4 (Provisions concerning the use of work equipment for temporary work at a height):
 - If temporary work at a height cannot be carried out safely and under appropriate ergonomic conditions from a suitable surface, the work equipment most suitable to ensure and maintain safe working conditions must be selected. Collective protection measures must be given priority over personal ones and the dimensions of the work equipment must be appropriate (considering the nature of the work and foreseeable stresses) and must allow passage without danger.
 - The most appropriate means of access to temporary workplaces at a height must be selected according to: frequency of passage, height to be negotiated and the duration of use. The choice made must permit evacuation in the event of imminent danger. Passage in either direction

between a means of access and platforms, decks or gangways must not give rise to any additional risks of falling.

- Rope access and positioning techniques may be used only under circumstances where: the risk assessment indicates that the work can be performed safely; and the use of other work equipment is not justified. Taking the risk assessment into account and depending in particular on the duration of the job and the ergonomic constraints, provision must be made for a seat with appropriate accessories.
- Depending on the type of work equipment selected on the basis of the foregoing, the appropriate measures for minimizing the risks to workers inherent in that type of equipment must be determined. If necessary, provision must be made for the installation of safeguards to prevent falls. These must be of suitable configuration and sufficient strength to prevent or arrest falls from a height and, as far as possible, to preclude injury to workers. Collective safeguards to prevent falls may be interrupted only at points of ladder or stairway access.
- If a particular task requires the temporary removal of a collective safeguard designed to prevent falls, effective compensatory safety measures must be taken. The task may not be performed until such measures have been taken. Once the particular task has been finished, either definitively or temporarily, the collective safeguards to prevent falls must be reinstalled.
- When a note of the calculations for the scaffolding selected is not available or the note does not cover the structural arrangements contemplated, strength and stability calculations must be carried out unless the scaffolding is assembled in conformity with a generally recognized standard configuration.
- The dimensions, form and layout of scaffolding decks must be appropriate to the nature of the work to be performed and suitable for the loads to be carried, and must permit work and passage in safety. Scaffolding decks must be assembled in such a way that their components cannot move in normal use. There must be no dangerous gap between the deck components and the vertical collective safeguards designed to prevent falls.
- When parts of a scaffolding are not ready for use, for example during assembly, dismantling or alteration, they must be marked with general warning signs in accordance with the national provisions transposing Council Directive 92/58/EEC (on the minimum requirements for the provision of safety and/or health signs at work) and must be suitably delimited by physical means preventing access to the danger zone.
- Scaffolding may be assembled, dismantled or significantly altered only under the supervision of a competent person and by workers who have

received appropriate and specific training in the operations envisaged, addressing specific risks in accordance with Article 9, and more particularly in: measures to prevent the risk of persons or objects falling; safety measures in the event of changing weather conditions which could adversely affect the safety of the scaffolding concerned; permissible loads; and any other risks which the abovementioned assembly, dismantling or alteration operations may entail.

- The person supervising and the workers concerned must have available the assembly and dismantling plan, including any instructions which it may contain.
- The use of rope access and positioning techniques must comply with the following conditions: the system must comprise at least two separately anchored ropes, one as a means of access, descent and support (work rope) and the other as backup (security rope); workers must be provided with and use an appropriate harness and must be connected by it to the security rope; the work rope must be equipped with safe means of ascent and descent and have a self-locking system to prevent the user falling should he lose control of his movements (the security rope must be equipped with a mobile fall prevention system which follows the movements of the worker); the tools and other accessories to be used by a worker must be secured to the worker's harness or seat or by some other appropriate means; the work must be properly planned and supervised, so that a worker can be rescued immediately in an emergency; in accordance with Article 9, the workers concerned must receive adequate training specific to the operations envisaged, in particular rescue procedures.
- In exceptional circumstances where, in view of the assessment of risks, the use of a second rope would make the work more dangerous, the use of a single rope may be permitted, provided that appropriate measures have been taken to ensure safety in accordance with national legislation and/or practice.

vii. Article 5 (inspection of work equipment): These periodic inspections are not just applicable to high-risk machines, mechanisms and equipment, but to all work equipment that can be deteriorated and pose risks to workers. The results of the inspections have to be recorded and kept at the disposal of the authorities and should accompany the work equipment when outside of the workplace.

viii. Article 6 (work equipment involving specific risks): the use of work equipment is restricted to those persons given the task of using it; in the case of repairs, modifications, maintenance or servicing, the workers concerned are specifically designated to carry out such work.

- ix. Article 7 (Ergonomics and occupational health): the workplace and position of workers while using work equipment and ergonomic principles shall be taken fully into account by the employer.
- x. Article 8 (informing workers)
- xi. Article 9 (training workers)
- xii. Article 10 (consultation of workers and workers' participation)

4. Directive No. 89/656/EEC, of 30 November 1989, on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace

a. General stats (cf. Annex V):

- i. Fully provided: 42,6%;
- ii. Partially provided: 20,0%;
- iii. Non-provided: 37,4%;
- iv. Contradictory: 0,0%;

b. Non-provided for:

- i. Article 1 (Subject): it should specify that it establishes the minimum OSH requirements for the use of PPE **rather than for its provision**. Moreover, it should be applicable to all employers (of all sectors of activity, either of the public or private sector, including self-employed workers) and to all workers. The national law should also foresee that the provisions of the national law that transposes the Directive 89/391/EEC should also apply to the use of PPE without prejudice to more stringent and/or specific provisions contained in the law that transposes this specific Directive.
- ii. Article 2 (Definition): There is neither any definition of PPE, nor any exclusion foreseen exclusion from its notion.
- iii. Article 3 (**General rule**): "PPE shall be used when the risks cannot be avoided or sufficiently limited by technical means of collective protection or by measures, methods or procedures of work organization". This is a paramount provision which the national legislation do not provide for. It means that the use of PPE should be the last resource for protecting the OSH of workers. It should **only be applied if following the sequential and hierarchical GPP, all other preventive and protection measures fail to ensure the OSH of the workers**.
- iv. Article 4 (**Employers' obligations** - General provisions):
 - PPE must comply with Regulation (EU) 2016/425, of the European Parliament and of the Council, of 9 March 2016, on personal protective equipment (which repeals the Council Directive 89/686/EEC), regarding

the design and manufacture of PPE which is to be made available on the market, in order to ensure protection of the health and safety of users and establish rules on the free movement of PPE in the Union;

- All PPE must take account of ergonomic requirements and the worker's state of health;
- The use of PPE and the period during which it should be worn at work should be determined on basis of: (1) the results of the risk assessment (rather than on the basis of any list or regulation); (2) the frequency of the worker's exposure to the risk; (3) the characteristics of the workstation; and (4) the performance of the PPE itself;
- PPE shall be provided free of charge by the employer to all workers that need them (**and not just to the ones engaged in work with harmful and hazardous working conditions as well as work connected with contamination or adverse weather conditions**). Moreover, the employer shall ensure its good working order and satisfactory hygienic condition by means of the necessary maintenance, repair and replacements.
- The employer shall first inform the worker of the risks against which the wearing of the PPE protects him;
- PPE may be used only for the purposes specified, except in specific and exceptional circumstances.

v. Article 5 (Employers' obligations - **Assessment of personal protective equipment**): Before choosing PPE, the employer is required to assess if they meet the relevant requirements, through the following process:

- Analysis and assessment of risks which cannot be avoided by other means;
- Definition of the characteristics which PPE must have in order to be effective against the risks to which the worker is exposed (including the ones generated by the PPE itself);
- Comparison of the characteristics of the PPE available with those characteristics;
- Reviewed the assessment if there is any change in the above elements (risks and/or characteristics of the PPE).

vi. Article 6 (Employers' obligations - **Rules for use**) - these are obligations imposed to the states and not directly to employers. Accordingly, Member States should establish general rules for the use of personal protective equipment and/or covering cases and situations where the employer must provide PPE, which should:

- Indicate the circumstances or the risk situations in which, without prejudice to the priority to be given to collective means of protection,

the use of PPE is necessary (Annexes I, II and III, which constitute a guide, contain useful information for establishing such rules);

- Take into account of any significant changes to the risk, collective means of protection and PPE brought about by technological developments; and
- Result from consultations with the employers' and workers' organization.

vii. Annex I (Risk survey table for the assessment of PPE) - Non-provided for

viii. Annex II (Non-exhaustive guide list of items of PPE):

- Hearing protection;
- Respiratory protection;
- Hand and arm protection;
- Foot and leg protection;
- Skin protection;
- Trunk and abdomen protection;
- Whole body protection (Equipment designed to prevent falls and protective clothing).

ix. Annex III (Non-exhaustive guide list of activities and sectors of activity which may require the provision of PPE):

- Work with bolt-driving tools (Protective helmets);
- Work on stock removing machines for small chippings (Protective goggles, face shields or screens);
- Shot blasting (Protective clothing);
- Boring and cutting (Forearm protection and metal mesh gloves)

x. Article 7 (Employers' obligations - Information for workers);

xi. Article 8 (Employers' obligations - Consultation of workers and workers' participation).

5. Directive No. 2003/88/EC of the European Parliament and of the Council, of 4 November 2003, concerning certain aspects of the organization of working time

a. General stats (cf. Annex VI):

- i. Fully provided: 7,3%;
- ii. Partially provided: 3,6%;
- iii. Non-provided: 85,5%;
- iv. Contradictory: 3,6%;

b. Contradictory provisions:

- i. Article 7 (Annual leave):
 - Article 7(1) - **Duration**: states that “every worker is entitled to paid annual leave of at least **four weeks** in accordance with the conditions for entitlement to, and granting of, such leave laid down by national legislation and/or practice”. Nevertheless, Article 75 of the Labour Code (approved by the Law No. 322-VII, of 10 December 1971) and Article 6 of the Law No. 1533, of 2 March 2000 (“On Compulsory State Social Insurance”), foresee that “The basic annual leave shall be provided for employees for a period of no less than **24 calendar days** per working year performed, which is counted starting from the date of signing the labor contract”;
 - Article 7(2) - **Replacement by an allowance**: states that “The minimum period of paid annual leave may not be replaced by an allowance in lieu, except where the employment relationship is terminated”. Nevertheless, Article 83 of the Labour Code and Article 24 of the Law No. 1533, of 2 March 2000, foresee that “If a worker wishes so, part of his/her **annual leave shall be replaced with a monetary compensation**. Thus, the duration of the employee's annual and additional leaves shall not be less than 24 calendar days”;
- ii. Article 20(1) (Derogations and exceptions - Mobile workers and offshore work):
 - Subparagraph 1 - This directive provision states that (“Articles 3, 4, 5 and 8 [Daily rest; Breaks; Weekly rest period; and Length of night work] shall not apply to mobile workers”, meaning that the directive provisions regarding daily rest, breaks, weekly rest period and length of night work do not apply to mobile workers, whereas the national provision (Article 4.2 of the Decree No. 794/33-82, of 31 December 1987, On Approval of the Main Provisions Regarding Rotation Based Works) is focused on regulating working hours and rest periods on the rotation method of work organization [which does not necessarily applies to mobile workers, whose definition is foreseen in article 2(7)]. Moreover, this national provision foresees that the duration of daily work (shift) of

workers with a rotation method of work organizations "shall not exceed 12 hours". As such, this national provision appears to be contradictory with Article 6 of the Directive (on maximum weekly working time), which derogation is only allowed for doctors in training [cf. article 17(5)] and workers on board seagoing fishing vessels [cf. article 21(1)], unless it is ensured that in the remaining days of the week the workers work a number of hours which allows them not to exceed 48 hours on a 7 days week (or an average of 48 hours in the reference period) or if it was used the possibility of derogation/exception from article 6, foreseen in articles 17, 21 or 22.

- Subparagraph 2 - This directive provision states that ("it shall be ensured that such mobile workers are entitled to adequate rest, except in the circumstances laid down in Article 17(3)(f) [unusual and unforeseeable circumstances, beyond the employers' control, or to exceptional events, the consequences of which could not have been avoided despite the exercise of all due care] and (g) [in cases of accident or imminent risk of accident]"). It means that the only exceptions foreseen in this directive provision that can prevent mobile workers from their right to adequate rest are the ones provided for in Article 17(3)(f) [unusual and unforeseeable circumstances, beyond the employers' control, or to exceptional events, the consequences of which could not have been avoided despite the exercise of all due care] and (g) [in cases of accident or imminent risk of accident], whereas the national provision foresees the possibility for them being prevented from adequate rest in a much wider set of situations.

c. Non-provided for:

i. Article 1:

- Paragraph 1 (Purpose): lays down minimum safety and health requirements for the organization of working time
- Paragraph 2 (Scope): apply to all sectors of activity, both public and private (as the Directive 89/391/EEC). It will not apply, however, or the application of certain provisions is derogated, regarding some sectors, type of workers, type of activities or where there is a collective agreement, provided that the workers not included are duly compensated. The exceptions include: 1) Certain occupations or occupational activities that are already regulated by other Community instruments; 2) Certain types of workers (managing executive, family workers, etc.); 3) Security and surveillance activities; 4) Service and production activities that cannot be stopped or have highly variable needs of workers (e.g., hospitals, docks, airports, railway transport, press, radios, television, water, gas, electricity, agriculture, tourism, postal services, etc.); 5) The ones derogated by collective agreements; 6)

Seafarers; 7) Mobile workers, offshore workers and workers on board seagoing fishing vessels (regarding certain provisions).

- ii. Article 2 (Definitions) - National legislation do not appropriately define, *inter alia*: working time, rest period, night worker, shift worker, mobile worker, offshore work and adequate rest;
- iii. Article 3 (Daily rest): The national provision indicated misses the point. It is only focused on the breaks between shifts, whereas the directive provision concerns the obligation of the Member States to ensure that the workers enjoy a "window" of daily rest of at least 11 consecutive hours, between two consecutive days of work, regardless of the type of organization of the working time adopted (night work, day work, shift work, etc.). Moreover, the national provision should replace the term "break" by "daily rest", as they does not have the same meaning;
- iv. Article 8 (Length of night work): National provisions do not ensure that night workers whose work involves special hazards or heavy physical or mental strain do not work more than eight hours in any period of 24 hours during which they perform night work;
- v. Article 9 (Health assessment and transfer of night workers to day work) National provisions do not foresee:
 - Free health assessment to the night workers, but only to certain type of workers (e.g., workers engaged in heavy work, work with harmful or hazardous working conditions, or those where there is a need of professional selection, as well as the ones under the age of 21). In addition, national legislation does not foresee free health assessments before assignment, bust only at hiring and periodically (during the labour activity);
 - That night workers, suffering from health problems (recognized as being connected with the fact that they perform night work) are transferred, whenever possible, to day work to which they are suited. Besides being more general (thus not focusing specifically the night workers) it is mainly concerned with the transfer of the workers to "easier work" which does not mean, necessarily, to day work. Moreover, the provision regarding the reduction of the salary of the worker, besides apparently contradictory with this directive provision, seems also contrary to the International and European labour standards, concerning the worker's salary.
- vi. Article 11 (Notification of regular use of night workers): national provisions do not foresee that an employer who regularly uses night workers brings this information to the attention of the competent authorities if they so request.
- vii. Article 12 (Safety and health protection) - The national provisions do not foresee that:

- Night workers and shift workers are provided with the necessary safety and health services (and not just medical exams) appropriate to the nature of their work:
 - The appropriated safety and health services and facilities provided to night workers and shift workers are equivalent to the ones provided to the other workers and that they are available at all times, considering that night workers and shift workers usually work in hours and days different than the typical business hours and business days).
- viii. Article 13 (Pattern of work): national provisions do not ensure that the employer who intends to organize work according to a certain pattern, takes account of the general principle of adapting work to the worker, in order to alleviate monotonous work and work at a predetermined work rate, depending on the type of activity, and of safety and health requirements, especially as regards breaks during working time.
 - ix. Article 14 (More specific Community provisions): the legislation that transpose this directive should foresee that its provisions will not apply where other Community instruments contain more specific requirements relating to the organization of working time for certain occupations or occupational activities.¹
 - x. Article 15 (More favourable provisions): the provisions of the legislation that transpose this directive should not affect Member States' right to apply or introduce laws, regulations or administrative provisions more favourable to the protection of the safety and health of workers or to facilitate or permit the application of collective agreements or agreements concluded between the two sides of industry which are more favourable to the protection of the safety and health of workers.
 - xi. Article 16 (Reference periods): National legislation should specify that, for the purpose of calculation of the average of weekly working time and average length of night work, for a given reference period, the periods of annual and sick leave should not be considered.
 - xii. Article 20 (Mobile workers and offshore work): National legislation does not exclude mobile workers from the application of the directive provisions on

¹ Such Community instruments include, for example: Directive No. 2005/47/EC, of 18 July 2005 on the Agreement between the Community of European Railways (CER) and the European Transport Workers' Federation (ETF) on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector; Directive No. 2002/15/EC, of 11 March 2002, on the organization of the working time of persons performing mobile road transport activities; Directive 2000/79/EC, of 27 November 2000, concerning the European Agreement on the Organization of Working Time of Mobile Workers in Civil Aviation, concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA); and Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonization of certain social legislation relating to road transport and amending Council Regulations (EEC) No. 3821/85 and (EC) No. 2135/98 and repealing Council Regulation (EEC) No 3820/85.

daily rest (art. 3), breaks (art. 4), weekly rest period (art. 5) and length of night work (art. 8).

- xiii. Article 21 (Workers on board seagoing fishing vessels): National provisions do not foresee any exceptions for workers on board a seagoing fishing vessel flying the flag of a Member State. Neither in terms of their exclusion from the application of the directive provisions of articles 3 to 6 (Daily rest; Breaks; Weekly rest period; and Maximum weekly working time) and 8 (Length of night work), nor in terms of the mitigation of such non-application (e.g., adequate rest, limit of the average weekly number of hours of work, establishment of a maximum number of hours of work or a minimum number of hours of rest)
- xiv. Article 23 (Level of protection): the national legislation implementing this directive cannot constitute an excuse for reducing the general level of protection afforded to workers.

d. Partially provided for:

- i. Article 6(b) (Maximum weekly working time): the directive provision establishes that, in order to safeguard the OSH of the workers, “the **average** working time for **each seven-day period**, including overtime, **does not exceed 48 hours**”. However, national provisions foresee that “The normal working hours of employees cannot exceed 40 hours per week”. Although the national provision appears more favourable, it is not. In fact, it does not ensure that the **average** working time for **each seven-day period**, including overtime, **does not exceed 48 hours**, because a worker can easily work more than 48 hours per week, doing overtime (which is not included on the 40 hours mentioned in the national provision). As such, and in order to transpose this directive provision, the national one has to define the maximum weekly working time:
 - With the inclusion of **overtime**;
 - In terms of an **average** number of hours (in a given period of time).

6. Directive No. 91/533/EEC, of the Council, of 14 October 1991, on an employer's obligation to inform employees of the conditions applicable to the contract or employment

a. General stats (cf. Annex VII):

- i. Fully provided: 2,6%;
- ii. Partially provided: 20,5%;
- iii. Non-provided: 76,9%;
- iv. Contradictory: 0,0%;

b. Non-provided for:

- i. Article 2 (Obligation to provide information): The national provisions do not establish the obligation of employers to provide workers with the following information:
 - The place of work and, if there is no fixed or main place of work, the principle that the employee is employed at various places and the registered place of business (or, where appropriate, the domicile of the employer);
 - The length of the periods of notice to be observed by the employer and the employee should their contract or employment relationship be terminated or the method for determining such periods of notice (or the reference to the laws, regulations and administrative or statutory provisions or collective agreements governing the length of the periods of notice to be observed by the employer and the employee should their contract or employment relationship be terminated);
 - The initial basic amount (and the other component elements) and the frequency of payment of the remuneration to which the employee is entitled (or the reference to the laws, regulations and administrative or statutory provisions or collective agreements governing the remuneration to which the employee is entitled);
 - The length of the employee's normal working day or week (or the reference to the laws, regulations and administrative or statutory provisions or collective agreements governing the length of the employee's normal working day or week);
 - The collective agreements governing the employee's conditions of work or, in the case of collective agreements concluded outside the business by special joint bodies or institutions, the name of the competent body or joint institution within which the agreements were concluded.
- ii. Article 3 (Means of information): the national provisions do not establish the employers obligation to provide such information:
 - Not later than 2 months after the commencement of employment (even if the employment relationship ends during that period);
 - In the form of: a written contract of employment; and/or a letter of engagement; and/or one or more other written documents; or a written declaration.
- iii. Article 4 (Expatriate employees): The national provisions do not establish the obligation of the employers to provide to employees required to work for more than 1 month in a country or countries other than the one whose law and/or practice governs the contract or employment relationship, the following additional information :

- The duration of the employment abroad ;
 - The currency to be used for the payment of remuneration (or the reference to the laws, regulations and administrative or statutory provisions or collective agreements governing this point);
 - The benefits in cash or kind attendant on the employment abroad, if applicable (or the reference to the laws, regulations and administrative or statutory provisions or collective agreements governing this point);
 - The conditions governing the employee's repatriation, if appropriate.
- iv. Article 5 (Modification of aspects of the contract or employment relationship): The national provisions do not establish the obligation of the employers to provide written information to workers in case of modification of aspects of the contract or employment relationship (apart from the change in the cited laws, regulations and administrative or statutory provisions or collective agreements), within 1 month after the entry into effect of such modifications.
- v. Article 6 (Form and proof of the existence of a contract or employment relationship and procedural rules): The national provisions do not provide that the provisions that transpose this directive should apply without prejudice to national law and practice concerning the form of the contract or employment relationship; the proof as regards the existence and content of a contract or employment relationship; and the relevant procedural rules.

Moreover, and as already mentioned, it should be taken this opportunity to incorporate, into the national legislation (labour code and/or OSH regulations) the proposals of the ILO Recommendation No. 198, concerning the employment relationship, which are aimed to combat the covert (masked) employment relationships and to ensure adequate protection and decent working conditions to all workers, through the creation of mechanisms and specific criteria to be used to determine the existence of an employment relationship, as well through the consecration of the principle of legal presumption of the existence of an employment relationship, whenever - regardless of the formal, sign or written arrangements -, are present certain indicators of the existence of an employment relationship, such as, but not restricted to, the following:

- The activity provider has to obey to the orders of the respective beneficiary;
- The activity provider is subject to the disciplinary authority of the beneficiary of the activity;
- The activity is held in the place of its beneficiary or in a place determined by him;
- The work equipment and instruments used belong to the beneficiary of the activity;
- The activity provider has to comply with the start and end hours of the activity provision determined by the activity beneficiary;

- Is paid to the activity provider, with determined periodicity, a right amount, in return for its provision;
 - The activity provider performs management or leadership roles in the organizational structure of the beneficiary of the activity;
 - The activity provider depends economically on the beneficiary of the activity;
 - The activity provider develops his activities exclusively to the beneficiary of the activity;
 - The activity provider enjoys paid holidays and its subsidy and receives the Christmas bonus,
 - The activity provider is subject to the absences' regime of the beneficiary of the activity;
 - The activity provider may not substitute himself in the execution of the activity;
 - The activity provider does not assume the risks of the execution of the activity;
 - The activity provider does not have the power to determine the price of the activity provided.
- vi. Article 7 (More favourable provisions): This directive provision is not to be transposed, but only complied with. It defines that the state has the prerogative to apply or to introduce laws, regulations and administrative provisions as well as to encourage or to permit the application of agreements, provided that their conditions are more favourable to employees.

c. Partially provided for:

- i. Article 7 (Scope): The national provision **only foresees** its application to workers that **have a labour contract**.

In order to fully transpose the directive provision, the national one has to also foresee its application to workers that, in spite of not having a formal or written labour contract, have an employment relationship with an employer.

In fact, it is paramount to ensure that the rights and obligations foreseen in the labour code (not just the ones concerning the obligation to inform the employees on the conditions of the labour contract or employment relationship, but all the remaining) as well as on the OSH regulations, apply to all employees, and not just to the ones that have a formal or written labour contract.

In fact, this scope of the labour code (as it also happens with the scope of the OSH regulations, especially in the case of the law on labour protection, which restrict their application to "legal and natural persons that use hired labour according to legislation") is too narrow and leaves out of its application the legal or natural persons that use hired labour that has no formal or written labour contract or that use hired labour not according to legislation. In particular, it leaves out of consideration, as workers, the persons that, in spite of having an employment relationship, do not have a formal, signed or written

labour contract, as it usually happens in the case of covert employment relationships and their respective workers. The latter usually happening not only with the workers whose employers have decided not to give them a formal, written or signed contract (in order to avoid the responsibilities legal imposed to employers) but, most especially, with the total undeclared workers and with the partially undeclared workers (e.g., bogus self-employed, bogus service provision contract, bogus civil contracts, bogus volunteers, bogus trainees, bogus internships, etc).

By preventing these workers to be legal qualified as employees, this scope tends to leave them without any legal protection (that should be granted to them) regarding all legal provisions on labour relations and OSH regulations.

In this context, and in order to combat the covert (masked) employment relationships and to ensure adequate protection and decent working conditions to all workers, it **should be considered the incorporation into the national legislation** (labour code and/or OSH regulations) of the **proposals of the ILO Recommendation No. 198**, concerning the employment relationship, which are aimed at creating mechanisms and criteria to be used to determine the existence of an employment relationship, and the consecration of the principle of **legal presumption of the existence of an employment relationship** whenever is **present**, in fact, **certain evidence** (indicators) of the existence of an employment relationship, regardless of the formal arrangements.

ANNEXES

ANNEX I - Global stats on the level of legal approach

GLOBAL STATS ON THE LEVEL OF LEGAL APPROACH

EU Directives 89/391 EEC, 89/654/EEC, 2009/104/EC, 89/656/EEC, 2003/88/EC and 91/533/EEC

N.º	TITLE	LEVEL OF COMPLIANCE								RECOMMENDATIONS FOR FURTHER ACTION								
		FULL		PARTIALLY		NON PROVIDED FOR		CONTRADICTORY		MAINTAIN		COMPLEMENT		REMOVE		PROVIDE FOR		
		N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	
1	DIRECTIVE PROVISIONS																	
	COUNCIL DIRECTIVE Nos. 89/391/EEC, 89/391/EEC, OF 12 JUNE 1989, ON THE INTRODUCTION OF MEASURES TO ENCOURAGE IMPROVEMENTS IN THE SAFETY AND HEALTH OF WORKERS AT WORK																	
	1.1. DIRECTIVE PROVISIONS																	
	1.2. TOTAL OF DIRECTIVE 89/391/EEC	0	0,0%	26	26,8%	71	73,2%	4	4,1%	0	0,0%	26	26,8%	4	4,1%	70	72,2%	
2	EU COUNCIL DIRECTIVE NO. 89/654/EEC, OF 30 NOVEMBER 1989, CONCERNING THE MINIMUM SAFETY AND HEALTH REQUIREMENTS FOR THE WORKPLACE																	
	2.1. DIRECTIVE PROVISIONS																	
	2.2. ANNEX I DIRECTIVE 89/654/EEC PROVISIONS																	
	2.3. ANNEX II DIRECTIVE 89/654/EEC PROVISIONS																	
	2.4. TOTAL OF DIRECTIVE 89/654/EEC																	
3	DIRECTIVE NO. 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																	
	1.1. DIRECTIVE PROVISIONS																	
	1.2. ANNEX I DIRECTIVE 2009/104/EC PROVISIONS																	
	1.3. ANNEX II DIRECTIVE 2009/104/EC PROVISIONS																	
	1.4. TOTAL OF DIRECTIVE 2009/104/EC																	
4	COUNCIL DIRECTIVE NO. 89/656/EEC, OF 30 NOVEMBER 1989, ON THE MINIMUM HEALTH AND SAFETY REQUIREMENTS FOR THE USE BY WORKERS OF PERSONAL PROTECTIVE EQUIPMENT AT THE WORKPLACE																	
	1.1. DIRECTIVE PROVISIONS																	
	1.2. ANNEX I DIRECTIVE 89/656/EEC PROVISIONS																	
	1.3. ANNEX II DIRECTIVE 89/656/EEC PROVISIONS																	
	1.4. ANNEX III DIRECTIVE 89/656/EEC PROVISIONS																	
5	1.5. TOTAL OF DIRECTIVE 89/656/EEC																	
	DIRECTIVE NO. 2003/88/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, OF 4 NOVEMBER 2003, CONCERNING CERTAIN ASPECTS OF THE ORGANIZATION OF WORKING TIME																	
	5.1. DIRECTIVE PROVISIONS																	
	5.2. TOTAL OF DIRECTIVE 2003/88/EC																	
	EU COUNCIL DIRECTIVE NO. 91/533/EEC, OF 14 OCTOBER 1991, ON AN EMPLOYER'S OBLIGATION TO INFORM EMPLOYEES OF THE CONDITIONS APPLICABLE TO THE CONTRACT OR EMPLOYMENT RELATIONSHIP																	
6	6.1. DIRECTIVE PROVISIONS																	
	6.2. TOTAL OF DIRECTIVE 91/533/EEC																	
7	GLOBAL	249	26,7%	217	23,3%	453	48,7%	12	1,3%	249	28,5%	220	25,1%	12	1,4%	394	45,0%	

ANNEX II - Stats on the approach to Directive 89/391/EEC (Framework directive)

DIRECTIVE ARTICLE		LEVEL OF COMPLIANCE								RECOMMENDATIONS FOR FURTHER ACTION							
N.º	TITLE	FULL		PARTIALLY		NON PROVIDED FOR		CONTRADICTORY		MAINTAIN		COMPLEMENT		REMOVE		PROVIDE FOR	
		N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%
1	Object	0	0.0%	0	0.0%	3	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	3	100.0%
2	Scope	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%
3	Definitions	0	0.0%	2	50.0%	2	50.0%	0	0.0%	0	0.0%	2	50.0%	0	0.0%	2	50.0%
4	State obligations	0	0.0%	1	50.0%	1	50.0%	2	100.0%	0	0.0%	1	50.0%	2	100.0%	1	50.0%
5	General provisions on employers	0	0.0%	0	0.0%	4	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	3	75.0%
6	General obligations of the employers	0	0.0%	2	18.2%	9	81.8%	0	0.0%	0	0.0%	2	18.2%	0	0.0%	9	81.8%
7	Protective and preventive services	0	0.0%	2	15.4%	11	84.6%	0	0.0%	0	0.0%	2	15.4%	0	0.0%	11	84.6%
8	First aid, fire-fighting and evacuation of workers, serious and imminent danger	0	0.0%	1	10.0%	9	90.0%	0	0.0%	0	0.0%	1	10.0%	0	0.0%	9	90.0%
9	Various obligations on employers	0	0.0%	1	20.0%	4	80.0%	0	0.0%	0	0.0%	1	20.0%	0	0.0%	4	80.0%
10	Worker information	0	0.0%	2	33.3%	4	66.7%	0	0.0%	0	0.0%	2	33.3%	0	0.0%	4	66.7%
11	Consultation and participation of workers	0	0.0%	2	14.3%	12	85.7%	0	0.0%	0	0.0%	2	14.3%	0	0.0%	12	85.7%
12	Training of workers	0	0.0%	7	63.6%	4	36.4%	0	0.0%	0	0.0%	7	63.6%	0	0.0%	4	36.4%
13	Workers' obligations	0	0.0%	4	57.1%	3	42.9%	1	14.3%	0	0.0%	4	57.1%	1	14.3%	3	42.9%
14	Health surveillance	0	0.0%	2	66.7%	1	33.3%	0	0.0%	0	0.0%	2	66.7%	0	0.0%	1	33.3%
15	Risk groups	0	0.0%	0	0.0%	1	100.0%	1	100.0%	0	0.0%	0	0.0%	1	100.0%	1	100.0%
16	General scope of this Directive	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
TOTAL DIRECTIVE PROVISIONS		0	0.0%	26	26.8%	71	73.2%	4	4.1%	0	0.0%	26	26.8%	4	4.1%	70	72.2%

ANNEX III - Stats on the approach to Directive 89/654/EEC (workplaces)

DIRECTIVE ARTICLE		LEVEL OF COMPLIANCE								RECOMMENDATIONS FOR FURTHER ACTION							
N.º	TITLE	FULL		PARTIALLY		NON PROVIDED FOR		CONTRADICTORY		MAINTAIN		COMPLEMENT		REMOVE		PROVIDE FOR	
		N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%
DIRECTIVE PROVISIONS																	
1	Subject	0	0.0%	0	0.0%	7	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	7	100.0%
2	Definition	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%
3	Workplaces used for the first time	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
4	Workplaces already in use	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
5	Modifications to workplaces	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
6	General requirements	0	0.0%	3	75.0%	1	25.0%	0	0.0%	0	0.0%	3	75.0%	0	0.0%	1	25.0%
7	Information of workers	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
8	Consultation of workers and workers' participation	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
9	Amendments to the Annexes	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
TOTAL OF DIRECTIVE PROVISIONS		0	0.0%	4	22.2%	14	77.8%	0	0.0%	0	0.0%	4	22.2%	0	0.0%	14	77.8%
ANNEX I PROVISIONS																	
1	Preliminary note	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
2	Stability and solidity	1	100.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%
3	Electrical installations	1	50.0%	0	0.0%	1	50.0%	0	0.0%	1	50.0%	0	0.0%	0	0.0%	1	50.0%
4	Emergency routes and exits	6	54.5%	4	36.4%	1	9.1%	0	0.0%	6	54.5%	4	36.4%	0	0.0%	1	9.1%
5	Fire detection and fire fighting	0	0.0%	3	75.0%	1	25.0%	0	0.0%	0	0.0%	3	75.0%	0	0.0%	1	25.0%
6	Ventilation of enclosed workplaces	3	60.0%	0	0.0%	2	40.0%	0	0.0%	3	60.0%	0	0.0%	0	0.0%	2	40.0%
7	Room temperature	3	100.0%	0	0.0%	0	0.0%	0	0.0%	3	100.0%	0	0.0%	0	0.0%	0	0.0%
8	Natural and artificial room lighting	1	33.3%	0	0.0%	2	66.7%	0	0.0%	1	33.3%	0	0.0%	0	0.0%	2	66.7%
9	Floors, walls, ceilings and roofs of rooms	3	60.0%	0	0.0%	2	40.0%	0	0.0%	3	60.0%	0	0.0%	0	0.0%	2	40.0%
10	Windows and skylights	1	50.0%	0	0.0%	1	50.0%	0	0.0%	1	50.0%	0	0.0%	0	0.0%	1	50.0%
11	Doors and gates	7	46.7%	7	46.7%	1	6.7%	0	0.0%	7	46.7%	7	46.7%	0	0.0%	1	6.7%
12	Traffic routes — danger areas	0	0.0%	2	40.0%	3	60.0%	0	0.0%	0	0.0%	2	40.0%	0	0.0%	3	60.0%
13	Specific measures for escalators and travelators	2	66.7%	0	0.0%	1	33.3%	0	0.0%	2	66.7%	0	0.0%	0	0.0%	1	33.3%
14	Loading bays and ramps	0	0.0%	0	0.0%	4	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	4	100.0%
15	Room dimensions and air space in rooms — freedom of movement at the workstation	1	33.3%	0	0.0%	2	66.7%	0	0.0%	1	33.3%	0	0.0%	0	0.0%	2	66.7%
16	Rest rooms	1	16.7%	1	16.7%	4	66.7%	0	0.0%	1	16.7%	1	16.7%	0	0.0%	4	66.7%
17	Pregnant women and nursing mothers	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
18	Sanitary equipment	11	73.3%	0	0.0%	4	26.7%	0	0.0%	11	73.3%	0	0.0%	0	0.0%	4	26.7%
19	First aid rooms	2	40.0%	1	20.0%	2	40.0%	0	0.0%	2	40.0%	1	20.0%	0	0.0%	2	40.0%
20	Handicapped workers	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%
21	Outdoor workplaces (special provisions)	2	25.0%	3	37.5%	3	37.5%	0	0.0%	2	25.0%	3	37.5%	0	0.0%	3	37.5%
TOTAL OF ANNEX I PROVISIONS		45	43.3%	21	20.2%	38	36.5%	0	0.0%	45	43.3%	21	20.2%	0	0.0%	38	36.5%
ANNEX II PROVISIONS																	
1	Preliminary note	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
2	Stability and solidity	1	100.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%
3	Electrical installations	1	50.0%	0	0.0%	1	50.0%	0	0.0%	1	50.0%	0	0.0%	0	0.0%	1	50.0%
4	Emergency routes and exits	6	54.5%	4	36.4%	1	9.1%	0	0.0%	6	54.5%	4	36.4%	0	0.0%	1	9.1%
5	Fire detection and fire fighting	0	0.0%	3	75.0%	1	25.0%	0	0.0%	0	0.0%	3	75.0%	0	0.0%	1	25.0%
6	Ventilation of enclosed workplaces	2	66.7%	0	0.0%	1	33.3%	0	0.0%	2	66.7%	0	0.0%	0	0.0%	1	33.3%
7	Room temperature	2	100.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%
8	Natural and artificial room lighting	1	50.0%	0	0.0%	1	50.0%	0	0.0%	1	50.0%	0	0.0%	0	0.0%	1	50.0%
9	Doors and gates	2	100.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%
10	Danger areas	0	0.0%	2	66.7%	1	33.3%	0	0.0%	0	0.0%	2	50.0%	0	0.0%	2	50.0%
11	Rest rooms and rest areas	0	0.0%	1	25.0%	3	75.0%	0	0.0%	0	0.0%	1	25.0%	0	0.0%	3	75.0%
12	Pregnant women and nursing mothers	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
13	Sanitary equipment	6	60.0%	0	0.0%	4	40.0%	0	0.0%	6	60.0%	0	0.0%	0	0.0%	4	40.0%
14	First aid equipment	1	50.0%	0	0.0%	1	50.0%	0	0.0%	1	50.0%	0	0.0%	0	0.0%	1	50.0%
15	Handicapped workers	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%
16	Movement of pedestrians and vehicles	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
17	Outdoor workplaces (special provisions)	1	25.0%	1	25.0%	2	50.0%	0	0.0%	1	25.0%	1	25.0%	0	0.0%	2	50.0%
TOTAL OF ANNEX II PROVISIONS		23	41.8%	11	20.0%	21	38.2%	0	0.0%	23	41.1%	11	19.6%	0	0.0%	22	39.3%
TOTAL DIRECTIVE PROVISIONS		68	38.4%	36	20.3%	73	41.2%	0	0.0%	68	38.2%	36	20.2%	0	0.0%	74	41.6%

ANNEX IV - Stats on the approach to Directive 2009/104/EC (use of work equipment)

DIRECTIVE ARTICLE		LEVEL OF COMPLIANCE								RECOMMENDATIONS FOR FURTHER ACTION							
N.º	TITLE	FULL		PARTIALLY		NON PROVIDED FOR		CONTRADICTORY		MAINTAIN		COMPLEMENT		REMOVE		PROVIDE FOR	
		N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%
DIRECTIVE PROVISIONS																	
1	Subject matter	0	0.0%	0	0.0%	1	50.0%	1	50.0%	0	0.0%	0	0.0%	1	33.3%	2	66.7%
2	Definitions	1	20.0%	1	20.0%	0	0.0%	3	60.0%	1	12.5%	4	50.0%	3	37.5%	0	0.0%
3	General obligations	0	0.0%	0	0.0%	3	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	3	100.0%
4	Rules concerning work equipment	0	0.0%	1	16.7%	5	83.3%	0	0.0%	0	0.0%	1	16.7%	0	0.0%	5	83.3%
5	Inspection of work equipment	0	0.0%	2	33.3%	4	66.7%	0	0.0%	0	0.0%	2	33.3%	0	0.0%	4	66.7%
6	Work equipment involving specific risks	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%
7	Ergonomics and occupational health	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
8	Informing workers	0	0.0%	0	0.0%	6	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	6	100.0%
9	Training of workers	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%
10	Consultation of workers and workers’ participation	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
TOTAL OF DIRECTIVE PROVISIONS		1	2.9%	4	11.8%	25	73.5%	4	11.8%	1	2.6%	7	18.4%	4	10.5%	26	68.4%
ANNEX I PROVISIONS																	
1	General comment	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%
2	General minimum requirements applicable to work equipment	10	28.6%	18	51.4%	7	20.0%	0	0.0%	10	28.6%	18	51.4%	0	0.0%	7	20.0%
3	Additional minimum requirements applicable to specific types of work equipment	7	20.0%	28	80.0%	0	0.0%	0	0.0%	7	20.0%	28	80.0%	0	0.0%	0	0.0%
TOTAL OF ANNEX I PROVISIONS		17	23.6%	46	63.9%	9	12.5%	0	0.0%	17	23.6%	46	63.9%	0	0.0%	9	12.5%
ANNEX II PROVISIONS																	
0	General comment	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
1	General provisions for all work equipment	0	0.0%	3	100.0%	0	0.0%	0	0.0%	0	0.0%	3	100.0%	0	0.0%	0	0.0%
2	Provisions concerning the use of mobile equipment, whether or not self-propelled	1	16.7%	5	83.3%	0	0.0%	0	0.0%	1	16.7%	5	83.3%	0	0.0%	0	0.0%
3	Provisions concerning the use of work equipment for lifting loads	7	38.9%	11	61.1%	0	0.0%	0	0.0%	7	38.9%	11	61.1%	0	0.0%	0	0.0%
4	Provisions concerning the use of work equipment provided for temporary work at a height	1	3.3%	6	20.0%	23	76.7%	0	0.0%	1	3.3%	6	20.0%	0	0.0%	23	76.7%
TOTAL OF ANNEX II PROVISIONS		9	15.5%	25	43.1%	24	41.4%	0	0.0%	9	15.5%	25	43.1%	0	0.0%	24	41.4%
TOTAL DIRECTIVE PROVISIONS		27	16.5%	75	45.7%	58	35.4%	4	2.4%	27	16.1%	78	46.4%	4	2.4%	59	35.1%

ANNEX V - Stats on the approach to Directive 89/656/EEC (use of PPE)

DIRECTIVE ARTICLE				LEVEL OF COMPLIANCE						RECOMMENDATIONS FOR FURTHER ACTION							
N.º	TITLE	FULL		PARTIALLY		NON PROVIDED FOR		CONTRADICTORY		MAINTAIN		COMPLEMENT		REMOVE		PROVIDE FOR	
		N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%
DIRECTIVE PROVISIONS																	
1	Subject	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%
2	Definition	0	0.0%	1	12.5%	7	87.5%	0	0.0%	0	0.0%	1	12.5%	0	0.0%	7	87.5%
3	General rule	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
4	General provisions	4	23.5%	5	29.4%	8	47.1%	0	0.0%	4	23.5%	5	29.4%	0	0.0%	8	47.1%
5	Assessment of personal protective equipment	0	0.0%	0	0.0%	5	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	5	100.0%
6	Rules for use	0	0.0%	1	20.0%	4	80.0%	0	0.0%	0	0.0%	1	20.0%	0	0.0%	4	80.0%
7	Information for workers	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
8	Consultation of workers and workers' participation	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
TOTAL OF DIRECTIVE PROVISIONS		4	10.0%	7	17.5%	29	72.5%	0	0.0%	4	10.0%	7	17.5%	0	0.0%	29	72.5%
ANNEX I PROVISIONS																	
1	Head	22	38.6%	12	21.1%	23	40.4%	0	0.0%	22	38.6%	12	21.1%	0	0.0%	23	40.4%
2	Upper limbs	8	36.4%	4	18.2%	10	45.5%	0	0.0%	8	36.4%	4	18.2%	0	0.0%	10	45.5%
3	Lower limbs	8	36.4%	4	18.2%	10	45.5%	0	0.0%	8	36.4%	4	18.2%	0	0.0%	10	45.5%
4	Various	16	36.4%	8	18.2%	20	45.5%	0	0.0%	16	36.4%	8	18.2%	0	0.0%	20	45.5%
TOTAL OF ANNEX I PROVISIONS		54	37.2%	28	19.3%	63	43.4%	0	0.0%	54	37.2%	28	19.3%	0	0.0%	63	43.4%
ANNEX II PROVISIONS																	
1	Head protection	0	0.0%	3	100.0%	0	0.0%	0	0.0%	0	0.0%	3	100.0%	0	0.0%	0	0.0%
2	Hearing protection	1	16.7%	1	16.7%	4	66.7%	0	0.0%	1	16.7%	1	16.7%	0	0.0%	4	66.7%
3	Eye and face protection	2	50.0%	2	50.0%	0	0.0%	0	0.0%	2	50.0%	2	50.0%	0	0.0%	0	0.0%
4	Respiratory protection	1	20.0%	1	20.0%	3	60.0%	0	0.0%	1	20.0%	1	20.0%	0	0.0%	3	60.0%
5	Hand and arm protection	0	0.0%	6	66.7%	3	33.3%	0	0.0%	0	0.0%	6	66.7%	0	0.0%	3	33.3%
6	Foot and leg protection	0	0.0%	6	37.5%	10	62.5%	0	0.0%	0	0.0%	6	37.5%	0	0.0%	10	62.5%
7	Skin protection	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
8	Trunk and abdomen protection	0	0.0%	2	33.3%	4	66.7%	0	0.0%	0	0.0%	2	33.3%	0	0.0%	4	66.7%
3	Whole body protection	0	0.0%	9	64.3%	5	35.7%	0	0.0%	0	0.0%	9	64.3%	0	0.0%	5	35.7%
TOTAL OF ANNEX II PROVISIONS		4	6.3%	30	46.9%	30	46.9%	0	0.0%	4	6.3%	30	46.9%	0	0.0%	30	46.9%
ANNEX III PROVISIONS																	
1	Head protection (skull protection)	11	84.6%	1	7.7%	1	7.7%	0	0.0%	11	84.6%	1	7.7%	0	0.0%	1	7.7%
2	Foot protection	22	95.7%	1	4.3%	0	0.0%	0	0.0%	22	95.7%	1	4.3%	0	0.0%	0	0.0%
3	Eye or face protection	11	84.6%	1	7.7%	1	7.7%	0	0.0%	11	84.6%	1	7.7%	0	0.0%	1	7.7%
4	Respiratory protection	8	100.0%	0	0.0%	0	0.0%	0	0.0%	8	100.0%	0	0.0%	0	0.0%	0	0.0%
5	Hearing protection	5	100.0%	0	0.0%	0	0.0%	0	0.0%	5	100.0%	0	0.0%	0	0.0%	0	0.0%
6	Body, arm and hand protection	15	83.3%	0	0.0%	3	16.7%	0	0.0%	15	83.3%	0	0.0%	0	0.0%	3	16.7%
7	Weatherproof clothing	1	100.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%
8	Reflective clothing	1	100.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%
9	Safety harnesses	3	100.0%	0	0.0%	0	0.0%	0	0.0%	3	100.0%	0	0.0%	0	0.0%	0	0.0%
10	Safety ropes	4	100.0%	0	0.0%	0	0.0%	0	0.0%	4	100.0%	0	0.0%	0	0.0%	0	0.0%
11	Skin protection	2	100.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%
TOTAL OF ANNEX III PROVISIONS		83	91.2%	3	3.3%	5	5.5%	0	0.0%	83	91.2%	3	3.3%	0	0.0%	5	5.5%
TOTAL DIRECTIVE PROVISIONS		145	42.6%	68	20.0%	127	37.4%	0	0.0%	145	42.6%	68	20.0%	0	0.0%	127	37.4%

ANNEX VI - Stats on the approach to Directive 2003/88/EC (working time)

DIRECTIVE ARTICLE		LEVEL OF COMPLIANCE								RECOMMENDATIONS FOR FURTHER ACTION							
N.º	TITLE	FULL		PARTIALLY		NON PROVIDED FOR		CONTRADICTORY		MAINTAIN		COMPLEMENT		REMOVE		PROVIDE FOR	
		N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%
DIRECTIVE PROVISIONS																	
1	Purpose and scope	0	0.0%	0	0.0%	6	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	6	100.0%
2	Definitions	1	9.1%	1	9.1%	9	81.8%	0	0.0%	1	9.1%	1	9.1%	0	0.0%	9	81.8%
3	Daily rest	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
4	Breaks	1	100.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%
5	Weekly rest period	2	100.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%
6	Maximum weekly working time	1	50.0%	1	50.0%	0	0.0%	0	0.0%	1	50.0%	1	50.0%	0	0.0%	0	0.0%
7	Annual leave	0	0.0%	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	2	66.7%	1	33.3%
8	Length of night work	0	0.0%	1	33.3%	2	66.7%	0	0.0%	0	0.0%	1	33.3%	0	0.0%	2	66.7%
9	Information for workersHealth assessment and transfer of night workers to day work	0	0.0%	1	25.0%	3	75.0%	0	0.0%	0	0.0%	1	25.0%	0	0.0%	3	75.0%
10	Guarantees for night-time working	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
11	Notification of regular use of night workers	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
12	Safety and health protection	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%
13	Pattern of work	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
14	More specific Community provisions	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
15	More favourable provisions	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
16	Reference periods	0	0.0%	0	0.0%	5	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%
17	Derogations	0	0.0%	0	0.0%	32	100.0%	0	0.0%	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!
18	Derogations by collective agreements	1	20.0%	0	0.0%	4	80.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%
19	Limitations to derogations from reference periods	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!
20	Mobile workers and offshore work	0	0.0%	0	0.0%	2	50.0%	2	50.0%	0	0.0%	0	0.0%	2	66.7%	1	33.3%
21	Workers on board seagoing fishing vessels	0	0.0%	0	0.0%	14	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	10	100.0%
22	Miscellaneous provisions	2	25.0%	0	0.0%	6	75.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%
23	Level of Protection	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
TOTAL OF DIRECTIVE PROVISIONS		8	7.3%	4	3.6%	94	85.5%	4	3.6%	8	13.6%	4	6.8%	4	6.8%	43	72.9%

ANNEX VII - Stats on the approach to Directive 91/533/EEC (employers' obligation to inform)

DIRECTIVE ARTICLE		LEVEL OF COMPLIANCE								RECOMMENDATIONS FOR FURTHER ACTION							
N.º	TITLE	FULL		PARTIALLY		NON PROVIDED FOR		CONTRADICTORY		MAINTAIN		COMPLEMENT		REMOVE		PROVIDE FOR	
		N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%	N.º	%
DIRECTIVE PROVISIONS																	
1	Scope	0	0.0%	1	33.3%	2	66.7%	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%
2	Obligation to provide information	0	0.0%	7	58.3%	5	41.7%	0	0.0%	0	0.0%	7	58.3%	0	0.0%	5	41.7%
3	Means of information	0	0.0%	0	0.0%	6	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	6	100.0%
4	Expatriate employees	0	0.0%	0	0.0%	6	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	6	100.0%
5	Modification of aspects of the contract or employment relationship	0	0.0%	0	0.0%	2	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	100.0%
6	Form and proof of the existence of a contract or employment relationship and procedural rules	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
7	More favourable provisions	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!
8	Defence of rights	1	33.3%	0	0.0%	2	66.7%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%
9	Final provisions	0	0.0%	0	0.0%	5	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%
TOTAL OF DIRECTIVE PROVISIONS		1	2.6%	8	20.5%	30	76.9%	0	0.0%	1	3.3%	8	26.7%	0	0.0%	21	70.0%