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the International Labour Organization

EU-ILO Project

ENHANCING THE LABOUR ADMINISTRATION CAPACITY TO IMPROVE WORKING
CONDITIONS AND TACKLE UNDECLARED WORK

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”**

DISTRIBUTION MATERIALS

24 May 2018

Hotel RUS

4, Hospitalna Str., Kyiv

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EU-ILO Project

«Enhancing the labour administration capacity to improve working conditions and tackle undeclared work»

Ukrainian National OSH Profile

Main findings and challenges

Tripartite validation workshop | May 24th, 2018

Антоніу Сантуш / António Santos
Менеджер проекту / Project manager

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Main challenges



Context



Principles



Purpose & Scope



National System for Occupational Risk Prevention



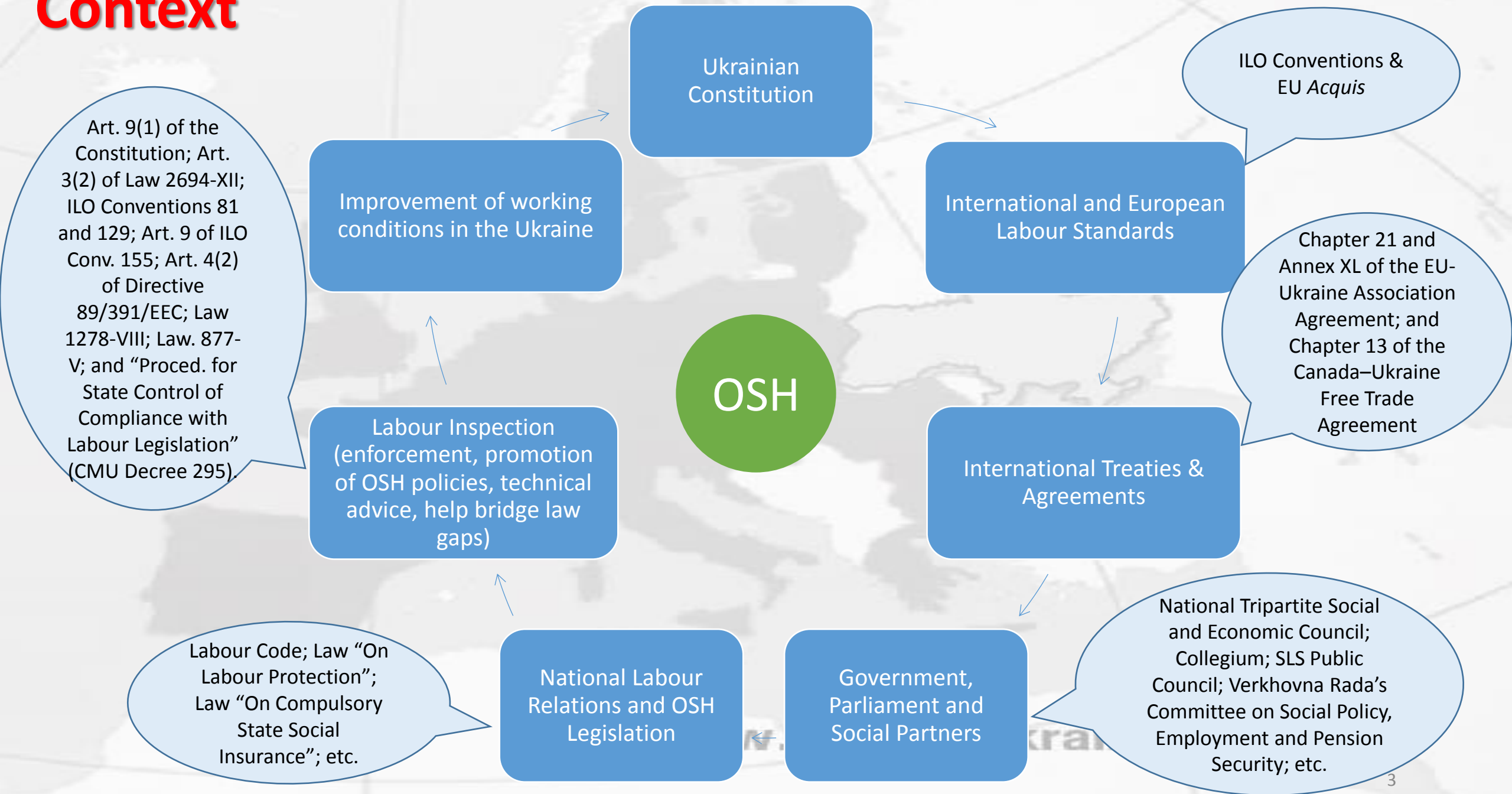
Labour Inspection



Other Concerns

www.moving-europe.euEUProject

Context



Principles

Segmented approach (Law, LI, Prev. Services)

- Labour
- Labour protection
- Occupational health



Need for a more holistic and integrated OSH approach

Fuzzy focus downstream approach

- Protection
- Reparation
- Compensation
- Correction



Need for upstream approach based on: (1) Prevention; (2) Risk management (avoidance, assessment and control); (3) Improvement of OSH

Shared responsibility approach

- Employers
- Workers
- Service providers



Non-transferable responsibility of employers for ensuring the safety and health of workers in every aspect related to work

Principles

Employers' obligations

- To protect workers' safety and health

To take (and continuously adjust to changing circumstances) the measures to ensure workers' OSH with strictly compliance with the GPP

Avoid risks

Evaluate the risks which cannot be avoided

Combat risks at source

Adapt the work to the individual

Adapt to technical progress

Replace the dangerous by non or less dangerous

Develop a coherent overall prevention policy

Give collective protective measures priority over individual

Give appropriate instructions to the workers

Purpose & Scope

Current purpose

- To protect the safety and health of workers



Need to refocus on: the improvement of the workers' working conditions

Restricted to some workers

- With labour contracts according to the legislation
- Engaged in work with harmful and hazardous working conditions
- Engaged in work connected with contamination or adverse weather conditions
- Engaged in work requiring occupational selection
- Working in high-risk facilities



Need to expand the scope to all workers, including: (1) Without a labour contract (but with an employment relationship – ILO Recom. 198); (2) Self-employed; (3) Practitioner, apprentice, internships, trainee, volunteers; (4) Economically dependent service providers; etc.

Restricted to some employers

- Enterprises
- High-risk facilities
- Specific sectors of activity



Need to extend the scope to all employers of all branches of activity in the private, public, cooperative and 3.rd sectors (including self-employed with employees)

National System for Occupational Risk Prevention

General principles that should be followed

Worker entitlement to perform work in conditions that respect his/her safety and health, ensured by the employer (or, when appropriate, by who manages the premises)

Development promotes the humanization of work in healthy and safe conditions

Prevention of occupational risks must be based on a correct and constant risk assessment

Formulation and implementation of a National Strategy for OSH

Definition of the technical conditions governing the design, manufacture, import, sale, assignment, installation, organization, use and processing of the material components of the work according to the nature and degree of the risks, as well as the obligations of the persons responsible for such

Definition of substances, agents or processes that should be prohibited, limited or subject to authorization or the supervision of the competent authority

National System for Occupational Risk Prevention

General principles that should be followed

Definition of worker exposure limits to chemical, physical and biological agents and the technical standards for the sampling, measurement and evaluation of results

Promotion and monitoring of the health of the worker

Increase of the technical and scientific research applied in the field of OSH (especially regarding the emergence of new risk factors)

Education, training and information for promoting improvements in OSH

Raising the awareness of society in order to create a genuine culture of prevention

The efficiency of the public system of inspection of compliance with the law on OSH

National System for Occupational Risk Prevention

Areas & Entities that should be involved



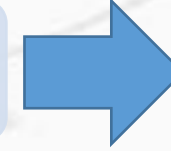
Goal:

To implement the right to OSH, by safeguarding the consistency of measures and the effectiveness of the intervention of the entities (public, private or cooperative) that integrate the national network for the prevention of occupational risks.

Main concerns regarding labour inspection system

Moratoriums (Law 1278-VII)

- Prevent labour inspectors from discharging their duties
- Hampers the effectiveness of the labour inspection system



Refrain from imposing *moratoriums* to labour inspection visits

Restrictions to labour inspectors' activities and powers (Law. 877-V; and CMU Decree 295)

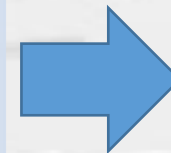
- Cannot conduct inspection visits at any time of day or night without prior notice
- Cannot performance inspection visits on the absence of the employer
- Cannot perform inspection visits with the frequency, scope, extension and deepness they understand necessary
- Cannot impose fines if detected infractions are corrected
- Cannot immediatly suspend works in the event of imminent danger to the health or safety of the workers



Entrust labour inspectors, in law and in practice, with the powers foreseen in ILO Conventions Nos. 81 and 129

Decentralization process ("Proced. for State Supervision over Compliance with Labour Legislation" - CMU Decree 295)

- Placement of labour inspection under the supervision and control of a central authority
- Labour inspectors' status as civil servants and working conditions
- Labour inspectors' recruitment solely on the basis of their qualifications for the performance of their duties
- Labour inspectors' initial and continuous training
- Sufficiency of the means and resources allocated to labour inspection system
- Labour inspectors' powers



Ensure that the current decentralization process is developed in accordance with ILO Conventions 81 and 129, (e.g., through the organic grow of the current SLS territorial bodies)

Other concerns

Unreliable and inconsistent statistics on occupational accidents and diseases

- Different criteria for collection, classification and recording of data
- Complex process of data collection
- Non-comparability of national statistics
- Official inquiries not done exclusively by labour inspectors
- If SLS fails to take a decision within 24 hours in the case of a “special investigation”, the latter will be done by the employer or the Fund → conflict of interests

Need to: (1) Implement a reliable system for recording and notification of occupational accidents and diseases (in accordance with ILO Code of Practice, ILO Protocol 155, and ILO Resolution concerning statistics of occupational injuries); (2) Align with Eurostat ESAW methodology; (3) Review CMU Regulation 294.

Female labour (Arts. 175 and 175 of Labour Code; Art. 10 of the Law “On Labour Protection”; “Limits of lifting and moving” - MH Order No. 241; and “List of works which employment of women is prohibited” - MH Order No. 256)

- Impose unjustified and disproportionate limits to the equal treatment of men and women in matters of employment and occupation
- Contrary to the fundamental principles of equality between men and women and non-discrimination on the basis of sex (cf. Arts. 2 and 3(2) of the Treaty establishing the European Community and Directives 2006/54/EC and 92/85/EEC)

Need to align national legislation with EU Directives 2006/54/EC (equal opportunities and equal treatment of men and women in matters of employment and occupation) and 92/85/EEC (OSH of pregnant workers and workers who have recently given birth or are breastfeeding)

Other concerns

- National legislation only applies to “legal and natural persons that use hired labour according to legislation” and their working individuals (i.e., it only applies when there is a labour contract)
- It does not apply to workers (and thus to their employers) that have no labour contract but that have an employment relationship (e.g., total undeclared workers, bogus self-employed, bogus civil contracts, bogus service providers, bogus volunteers, bogus trainees, bogus internships, etc)
- The latter are therefore unprotected by the national legislation on OSH and labour relations



Need to: (1) **Incorporate** in national legislation (labour code and/or OSH regulations) the **ILO Recommendation 198**, on the employment relationship (to combat covert/masked employment relationships and to ensure adequate protection and decent working conditions to all workers; (2) Create mechanisms and specific **criteria to determine the existence of an employment relationship**; (3) Establish a **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:

- (a) The activity provider has to obey to the orders of the respective beneficiary;
- (b) The activity provider is subject to disciplinary authority of the beneficiary of the activity;
- (c) The activity is held in the place of its beneficiary or in a place determined by him;
- (d) The work equipment and instruments used belong to the beneficiary of the activity;
- (e) The activity provider has to comply with start and end hours of the activity provision;
- (f) Is paid to the activity provider, with determined periodicity, a right amount;
- (g) The activity provider performs management or leadership roles in the organizational structure of the beneficiary of the activity;
- (h) The activity provider depends economically on the beneficiary of the activity;
- (i) The activity provider develops his activities exclusively to the beneficiary of the activity;
- (j) The activity provider have paid holidays, its subsidy and receives a Christmas bonus;
- (k) The activity provider is subject to the absences' regime of the beneficiary of the activity;
- (l) The activity provider may not substitute himself in the execution of the activity;
- (m) The activity provider does not assume the risks of the execution of the activity;
- (n) The activity provider does not have the power to determine the price of the activity.



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«Enhancing the labour administration capacity to improve working conditions and tackle undeclared work»

Tables of Concordance between National Legislation and selected EU Directives on OSH and Labour Relations

Tripartite validation workshop | *May 24th, 2018*

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EU OSH Legal Framework



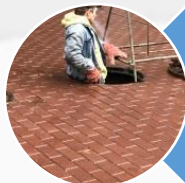
Principles and purposes



Main challenges



Alignment Status



Implementation Process

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Principles and purposes

More favourable conditions

- Establish **minimum OSH requirements** to promote the improvement of the health and safety of workers
- Apply without prejudice to existing or future national and EU provisions which are more favourable to the workers
- Their implementation shall not constitute grounds for lowering the level of protection already afforded to workers

Umbrella Framework Directive

- **EU OSH framework directive** provisions **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**

Scope

- **All employers** of all branches of activity in the private, public, cooperative and social sectors, including self-employed with one or more employees
- **All workers** (including the ones without labour contract but with an employment relationship, as well as to practitioners, apprentices, internships, trainees, volunteers and economically dependent service providers)

Principles and purposes

Employers' non-transferable obligation for ensuring workers' OSH in every aspect related to work, with strict observance of the sequential and hierarchical GPP, in particular regarding:

Design

- Facilities
- Layout of production process

Selection

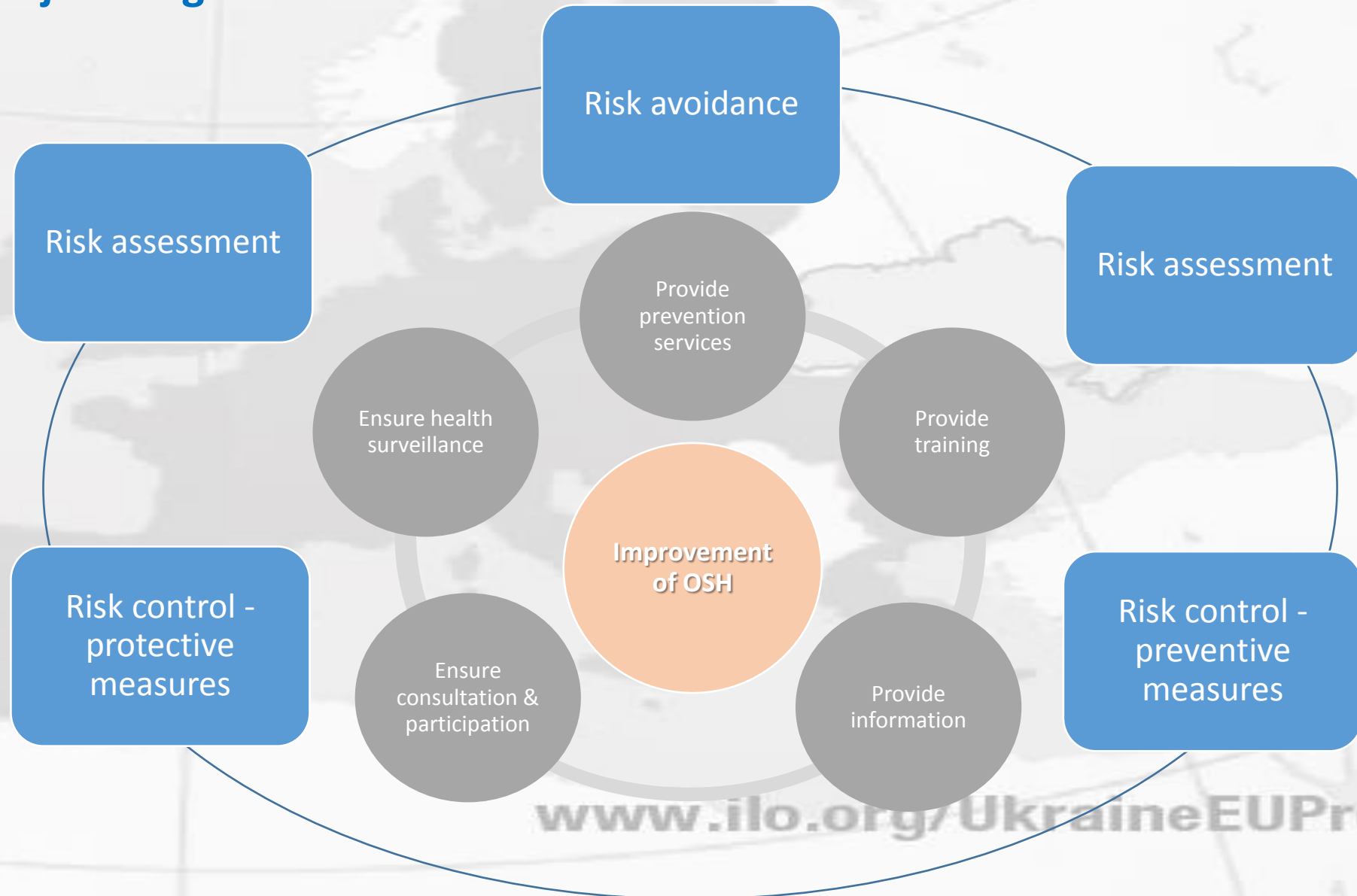
- Production methods
- Technology and work equipment
- Agents & substances to use, store or produce

Work

- Organization of work and working time
- Working conditions
- Social relationships
- Influence of factors related to the working environment

Principles and purposes

Employers' major obligations:



Main challenges

Current OSH legal framework

- Too fragmented (in dozens of legal acts and by laws)
- Lack of structural logic and relationships
- Complexity, gaps and contradictory legal provisions

Scope

- Limited to specific workers
- Restricted to specific employers

Contradictory provisions

- Non subjection of all employers and workers to the EU framework directive
- Existence of adequate controls and supervision
- Workers obligations and female work
- Scope and definitions
- Annual leave

Ineffective labour inspection system

- Moratoriums on inspection activity
- Lack of powers of the labour inspectors
- Decentralization process

Lack or inconsistency of definitions

- Employer & worker
- Workplace vs workstation
- Work equipment vs production equipment
- Working time, rest period, night worker, break vs daily rest, shift worker, mobile worker, offshore work, adequate rest

Global alignment level

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

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	COUNCIL DIRECTIVE Nos. 89/391/EEC, 89/391/EEC, OF 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	0	0,0%	26	26,8%	71	73,2%	4	4,1%	0	0,0%	26	26,8%	4	4,1%	70	72,2%
	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	0	0,0%	4	22,2%	14	77,8%	0	0,0%	0	0,0%	4	22,2%	0	0,0%	14	77,8%
	2.2. ANNEX I DIRECTIVE 89/654/EEC 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%
	2.3. ANNEX II DIRECTIVE 89/654/EEC 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%
	2.4. TOTAL OF DIRECTIVE 89/654/EEC	68	38,4%	36	20,3%	73	41,2%	0	0,0%	68	38,2%	36	20,2%	0	0,0%	74	41,6%
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	2,9%	4	11,8%	25	73,5%	4	11,8%	1	2,6%	7	18,4%	4	10,5%	26	68,4%
	1.2. ANNEX I DIRECTIVE 2009/104/EC 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%
	1.3. ANNEX II DIRECTIVE 2009/104/EC 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%
	1.4. TOTAL OF DIRECTIVE 2009/104/EC	27	16,5%	75	45,7%	58	35,4%	4	2,4%	27	16,1%	78	46,4%	4	2,4%	59	35,1%
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	4	10,0%	7	17,5%	29	72,5%	0	0,0%	4	10,0%	7	17,5%	0	0,0%	29	72,5%
	1.2. ANNEX I DIRECTIVE 89/656/EEC 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%
	1.3. ANNEX II DIRECTIVE 89/656/EEC 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%
	1.4. ANNEX III DIRECTIVE 89/656/EEC 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%
	1.5. TOTAL OF DIRECTIVE 89/656/EEC	145	42,6%	68	20,0%	127	37,4%	0	0,0%	145	42,6%	68	20,0%	0	0,0%	127	37,4%
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																
	5.1. 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%
	5.2. TOTAL OF DIRECTIVE 2003/88/EC	8	7,3%	4	3,6%	94	85,5%	4	3,6%	8	13,6%	4	6,8%	4	6,8%	43	72,9%
6	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																
	6.1. 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%
	6.2. TOTAL OF DIRECTIVE 91/533/EEC	1	2,6%	8	20,5%	30	76,9%	0	0,0%	1	3,3%	8	26,7%	0	0,0%	21	70,0%
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%

Implementation process

1

- Each directive should be transposed through just one national law (exception: need to provide for technical regulations)

2

- Should be guided by a Ukrainian National Strategy / Concept for the Promotion of OSH
- Should follow a formulated “road map”

3

- First directive to transpose should be the EU OSH Framework Directive: (1) is the “umbrella directive” that sets the OSH architecture; (2) defines the building blocks of the EU OSH framework; (3) establishes general provisions for all employers, sectors, types of workers and risks (without prejudice to more stringent and/or specific provisions of the individual directives)

Implementation process

4

- Second set of directives to transpose should be the transversal ones: 89/654/EEC (workplaces); 2009/104/EC (use of work equipment); 89/656/EEC (use of PPE); 2003/88/EC (on working time); 92/58/EEC, on safety and health signs; 2006/42/EC, on machinery; Regulation (EU) 2016/425, on PPE design and manufacture; etc.

5

- Third set of directives to transpose should include the ones focused on the exposure to specific risks: 2000/54/EC (biological agents); 2003/10/EC (noise); 2002/44/EC (mechanical vibration); 90/270/EEC (display screen equipment); 90/269/EEC (manual handling of loads); 2013/59/Euratom (ionising radiation); 2013/35/EU (electromagnetic fields); 2006/25/EC (artificial optical radiation); 91/322/EEC, 98/24/EC and 2000/39/EC (chemical agents); 2004/37/EC (carcinogens or mutagens); 2009/148/EC (asbestos); etc.

6

- Fourth set of directives to transpose should be the ones focused on specific sectors of activity: 92/57/EEC (temporary or mobile construction sites); 93/103/EC (work on board fishing vessels); 2010/32/EU (Sharp injuries in the hospital & healthcare sector); 92/104/EEC (mineral-extracting industries); 92/91/EEC (mineral-extracting industries through drilling); etc.

Implementation process

7

- Fifth set of directives to transpose should be focused on the protection of OSH of specific types of workers: 94/33/EC (young workers); 92/85/EEC (pregnant workers); 91/383/EEC (workers with a fixed-duration or temporary employment relationship); etc.

8

- 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 relations

9

- Launch of a nationwide information and awareness-raising campaign on the EU legislation being transposed to the Ukraine, in order to facilitate the understanding and, thus, compliance



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Obrigado pela vossa atenção!

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Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work



Natalia Vasylivna Vizhul

*Head of the Labour Protection Section, Labour
Department, Coordinator of the Working
Subgroup for Processing of the Directive*

2018



ASSOCIATION AGREEMENT

**between the European Union and the European Atomic Energy Community and their Member States,
of the one part, and Ukraine, of the other part**

The Directive's provisions shall be implemented within 3 years of the entry into
force of this agreement

Resolution of the Cabinet of Ministers of Ukraine
dated 25 October 2017 No. 1106

ACTION PLAN

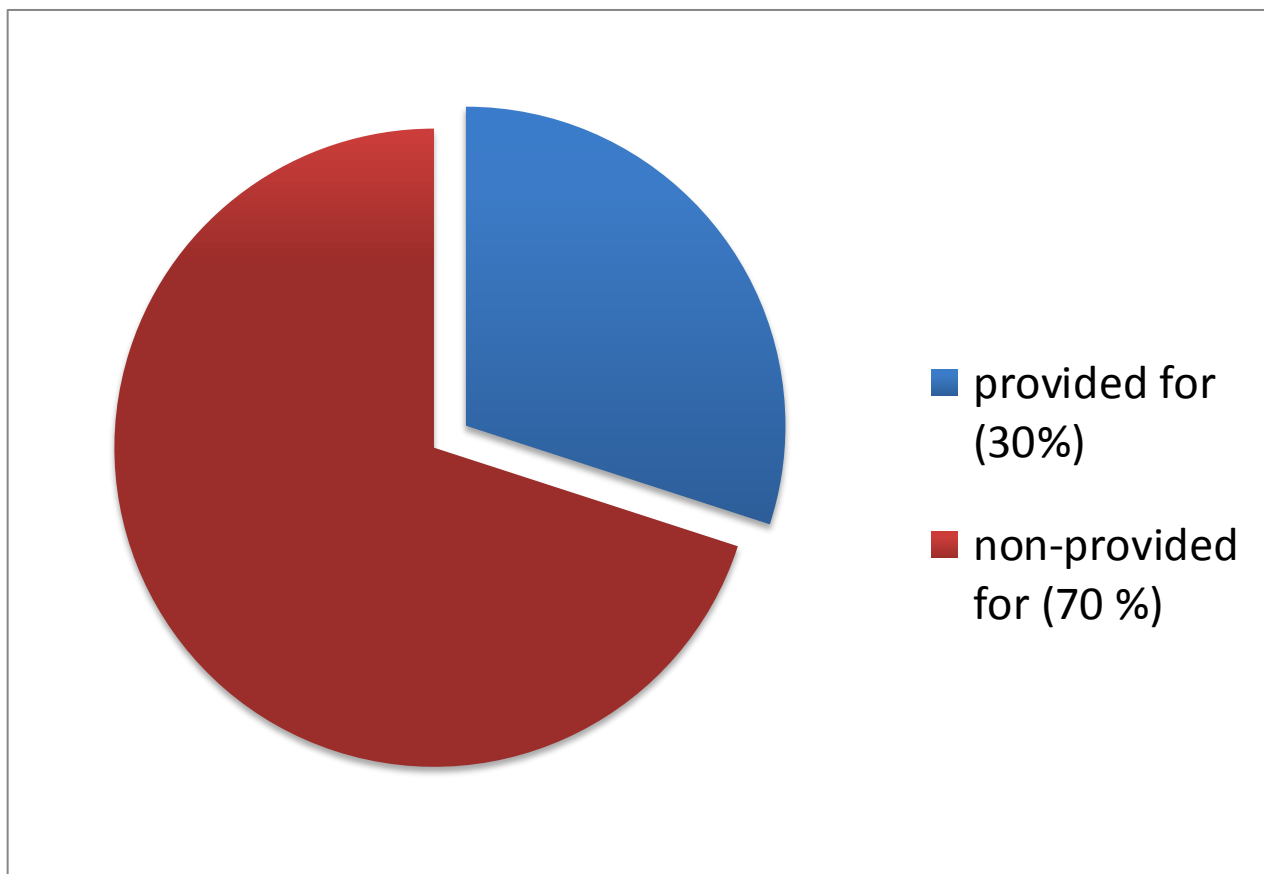
for Implementation of the Association Agreement between the
European Union and the European Atomic Energy Community and
their Member States, of the one part, and Ukraine, of the other part,
for 2014-2017

Legislative consolidation of the general principles of
prevention and labour protection basics according to the
EU acquis



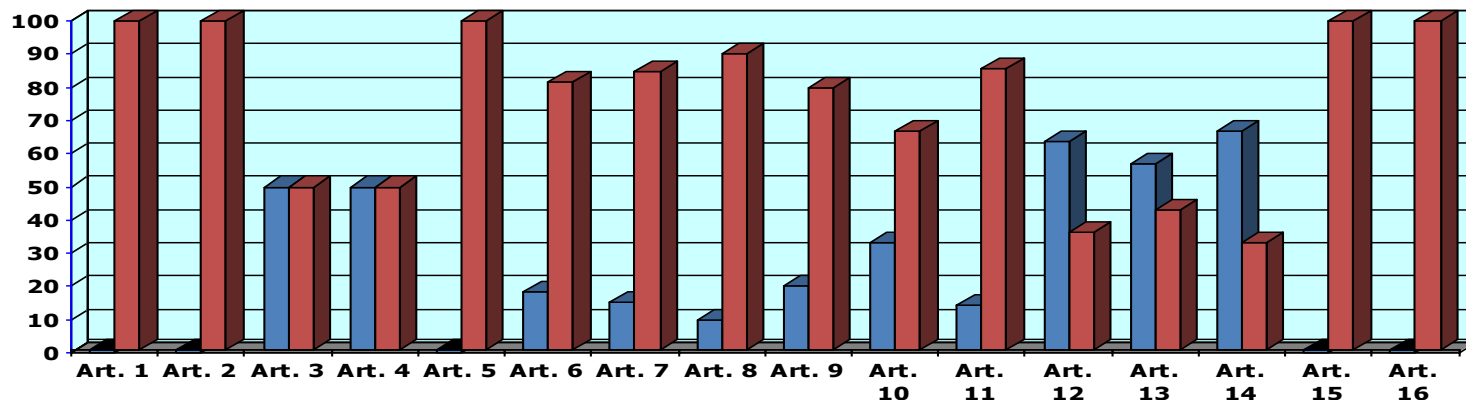


Level of concordance with national legislation (%)





Level of concordance with national legislation (%)



1. Object

2. Scope

3. Definitions

4. State obligations

5. General provisions regarding employers

6. General obligations on employers

7. Protective and preventive services

8. First aid, fire-fighting and evacuation of workers, serious and imminent danger

9. Various obligations on employers

10. Worker information

11. Consultation and participation of workers

12. Training of workers

13. Workers' obligations

14. Health surveillance

15. Risk groups

16. General scope of this Directive



Legislation that needs revision

Code of
Labour Laws

Civil Code

Economic Code

Code of
Administrative
Offences

Laws of Ukraine



- On Labour Protection
- On Trade Unions, Their Rights and Guarantees of Activity
- Fundamentals of the Legislation of Ukraine on Health Care
- On Ensuring Sanitary and Epidemic Well-being of the Population
- On Social Dialogue in Ukraine
- On Employers' Organizations, Their Associations, Rights and Guarantees of Activity
- On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine
- On the Basics of State Supervision (Control) in Economic Activities
- On Collective Agreements
- On Compulsory State Social Insurance
- On Construction Standards
- Mining Law of Ukraine



Basic principles of the Directive that need to be enshrined in the national legislation

- ❖ covering any and all workers with OSH legal provisions;
- ❖ applying an integrated, holistic and interconnected legal and practical approach to the labour protection and occupational health matters;
- ❖ implementing a high-level proactive approach to OSH based on risk assessment and prevention;
- ❖ enshrining the principle of the employer's non-transferable responsibility for safety and health of workers;
- ❖ regulating the rates and procedure for PPE provision and use based on risk assessment;
- ❖ ensuring medical examinations of all worker categories with no exception;
- ❖ improving the current legislative provisions on the organization, means and functioning of OSH services;
- ❖ developing relevant regulations and systems to secure proper recording, notification and investigation of work-related accidents and occupational diseases;
- ❖ revising the legislative provisions on compulsory state social insurance, and using economic incentives for employers to improve the OSH conditions;
- ❖ strengthening the labour inspection's role and powers.



The Concept of the Reform of the Labour Protection Management System in Ukraine and the Action Plan on its implementation

Drafted pursuant to the Government Priority Action Plan for 2018 approved by the Cabinet of Ministers of Ukraine Order No. 244-p of 28 March 2018

GOAL:

- ❖ identify key problems in the labour protection management system existing in Ukraine, and main directions and ways of addressing them to improve its performance;
- ❖ build a modern safe and healthy working environment;
- ❖ minimize socio-economic consequences of occupational injuries.



**THANK YOU FOR
ATTENTION!**



Council Directive 89/654/EEC
of 30 November 1989
concerning the minimum safety and health requirements for the
workplace
(first individual directive within the meaning of Article 16 (1) of
Directive 89/391/EEC)

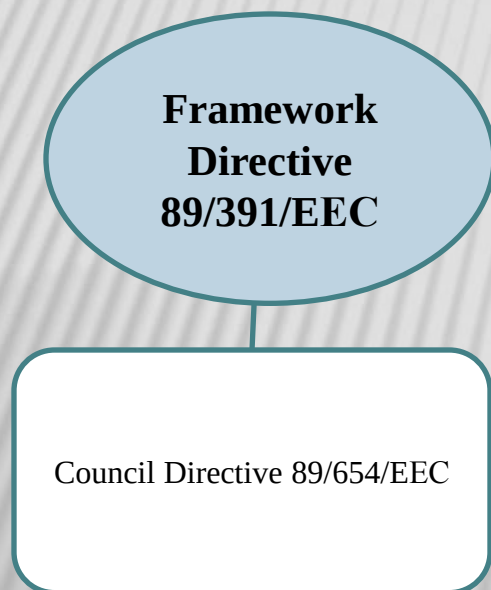


Employer's general obligations according to Council Directive 89/654/EEC

- 1 • Establishing effective mechanisms, envisaged by labour protection legislation, to protect workers' rights
- 2 • Providing proper, safe and healthy working conditions
- 3 • Ensuring mitigation of risks to safety, life and health at workplaces
- 4 • Eliminating harmful and hazardous workplace factors
- 5 • Ensuring safety and health of workers in work areas and workplace environment
- 7 • Improving the regulatory legal framework on labour protection
- 8 • Providing information to public authorities and population on labour protection
- 9 • Implementing a labour protection system meeting world and European standards
- 10 • Introducing European standards of responsibility for violation of labour protection law requirements



EU acquis regulating safety and health in workplaces



National legal framework regulating safety and health in workplaces





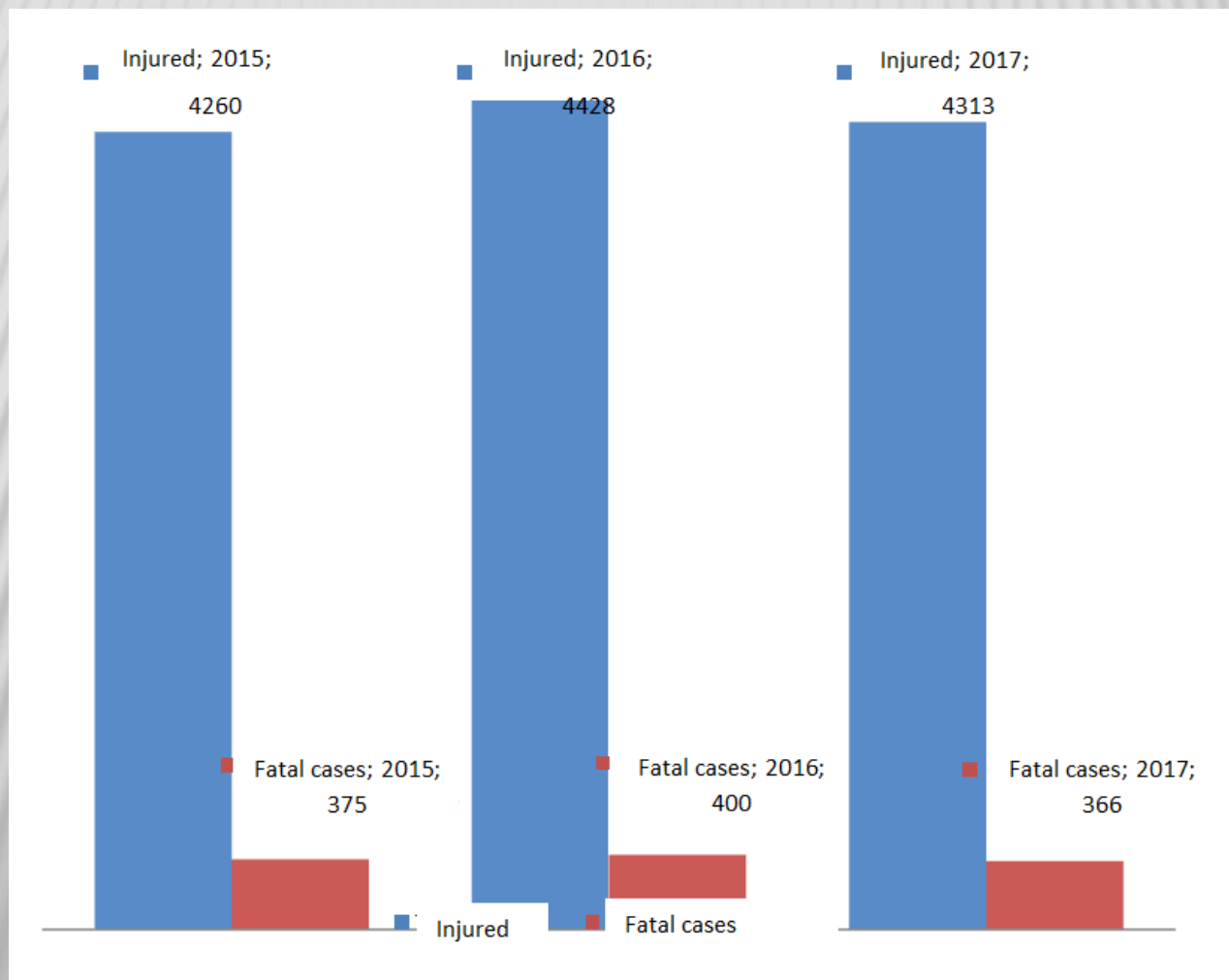
EU definition	Official translation by the Ministry of Justice	Definition in Ukrainian regulatory legal acts on labour protection (NPAOPs)
Workplace means the place intended to house workstations on the premises of the undertaking and/or establishment and any other place within the area of the undertaking and/or establishment to which the worker has access in the course of his employment.	Workplaces mean the places in the buildings or structures belonging to the undertaking and/or production facility intended to be used as workstations, including any place within the area of the undertaking to which the worker has access when performing the work assigned thereto.	Workplace means a place of the worker's permanent or temporary stay in the course of their work activities.



EU definition	Definition in Ukrainian NPAOPs
Worker: any person employed by an employer, including trainees and apprentices but excluding domestic servants.	Worker: a person working under an employment agreement at an enterprise, organization, or institution, or for a natural person using hired labour.
	Worker: a person working under an employment agreement at an enterprise, organization, or institution, or for a natural person using hired labour.
Employer: any natural or legal person who has an employment relationship with the worker and has responsibility for the undertaking and/or establishment.	Employer: the owner of an enterprise, institution or organization, or a body authorized thereby, of whatever form of ownership, activity area, and type of economic management, or a natural person using hired labour.
	Employer: a legal person (enterprise, institution, organization) or an individual entrepreneur using labour of natural persons within the scope of employment relations.



Occupational injury rates in Ukraine





**Implementation specifics of the Directive
2009/104/EC of the European Parliament
and of the Council of 16 September 2009
concerning the minimum safety and health
requirements for the use of work equipment
by workers at work**



EU acquis regulating requirements for the use of equipment

Framework Directive 89/391/EEC

Council Directive 2009/104/EC

EU regulations and directives

National legal framework regulating requirements for the use of equipment

Code of Labour Laws of Ukraine

Law of Ukraine “On Labour Protection”

Cabinet of Ministers of Ukraine Resolution of 26 May 2004 No. 687

Regulatory legal acts on labour protection

Law of Ukraine “On General Safety of Non-Food Products”

Technical regulations

National standards for technical regulations



Prerequisites for establishment of the Safety Requirements

- improper working conditions, great number of risks for workers' life and health
- unacceptable occupational injury rates
- outdated and branched regulatory legal framework on labour relations in terms of the use of equipment by workers at the workplace
- implementation of the EU-Ukraine Association Agreement



Main provisions of Directive 2009/104/EC and Safety Requirements

- bringing work (production) equipment into compliance with the minimum labour protection requirements laid down in Annex I and Annex II
- adequate maintenance of work (production) equipment by the employer
- inspection of work (production) equipment (initial, after each assembly, periodic, and special)
- provision to workers of adequate information on work (production) equipment, and of written instructions on its use
- training of workers on the use of work (production) equipment
- consultation and participation of workers and their representatives on the matters concerning the use of work (production) equipment



Definitions in Directive 2009/104/EC

Work equipment: any machine, apparatus, tool or installation used at work

Use of work equipment: any activity involving work equipment such as starting or stopping the equipment, its use, transport, repair, modification, maintenance and servicing, including, in particular, cleaning

Danger zone: any zone within or around work equipment in which an exposed worker is subject to a risk to his health or safety

Exposed worker: any worker wholly or partially in a danger zone

Operator: the worker or workers given the task of using work equipment

Definitions in Safety Requirements

Production equipment: any machine, apparatus, tool, device or installation used during performance of works, manufacture of products, or provision of services, including high-risk machines, mechanisms and equipment

Use of production equipment: any activity involving production equipment such as starting or stopping the equipment, its use as intended, transport, repair, modification (reconstruction, modernization), maintenance and servicing, including cleaning

Danger zone: any zone within or around production equipment in which an exposed worker is subject to a risk to his health or safety

Exposed worker: any worker wholly or partially in a danger zone

Operator: the worker given the task of using production equipment



IMPORTANT

Structure and content of the **Safety Requirements** are close to those of **Directive 2009/104/EC**.

The drafters sought to present its content in the most understandable way possible.

*We need to explain the use of the “**production equipment**” term in the Safety Requirements because the Directive uses the “**work equipment**” term.*

These definitions, in our opinion, are essentially similar. The national legislation (Law of Ukraine “On Labour Protection”) uses the “production equipment” term hence it has been used.

Once amendments have been adopted to the Law of Ukraine “On Labour Protection”, including to introduce the “work equipment” term, the Safety Requirements will be amended accordingly.



New provisions in the Safety Requirements

- The employer's obligations are stated in a framework way
- No reference rules as to complying with some or other standard or NPAOP
- The employer can himself define more stringent requirements for safety of his production equipment
- If production equipment fails to meet the Safety Requirements, such equipment shall be brought into compliance with these Safety Requirements and legislative requirements no later than 4 years after taking effect by the document
- Risk prevention and assessment of risks that cannot be avoided
- Requirements to production equipment in terms of workers' safety and health are comprehensive



THANK YOU!

Oleksandr Ihnatov
SLS Deputy Department Director



**Council Directive 89/656/EEC
of 30 November 1989
on the minimum health and safety requirements for the use by
workers of personal protective equipment at the workplace
(third individual directive within the meaning of Article 16 (1) of
Directive 89/391/EEC)**



Key objectives of Council Directive 89/656/EEC

1

•Establishing effective mechanisms, envisaged by labour protection legislation, to protect workers' rights

2

•Providing proper, safe and healthy working conditions

3

•Ensuring minimum requirements to personal protective equipment used by workers at work

4

•Ensuring mitigation of risks to safety, life and health of those using personal protective equipment

5

• Using as much as possible achievements of national and world science, results of international scientific and technological cooperation on improvement of labour protection and its regulatory legal, scientific and material basis

6

•Eliminating harmful and hazardous workplace factors

7

•Improving the regulatory legal framework on labour protection

8

•Providing information to public authorities and population on labour protection

9

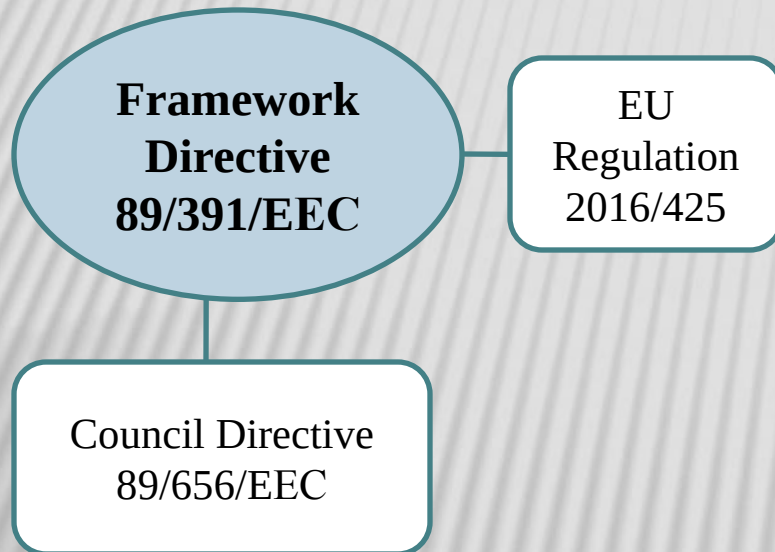
•Implementing a labour protection system meeting world and European standards

10

•Introducing European standards of responsibility for violation of labour protection law requirements



EU acquis regulating PPE issues



National legal framework regulating PPE issues





Rates of free-of-charge provision of special clothes, special footwear and other PPE

Standard rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers of agriculture and water management industry

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers of general occupations in various industries

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers of electric power engineering industry undertakings

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers of mining industry

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers and employees of logistics procurement enterprises and organizations

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers of aviation and defence industries

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers of oil and gas industry

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers of some production facilities

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers of device-building industry

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers of water management industry

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers of the housing and utilities sector

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers employed in production of artificial leather and technical fabrics

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers employed at steam power facilities, in power supply service, and producer gas-making stations and shops

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers of mine rescue and gas rescue teams

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers employed on works with radioactive substances and ionizing radiation sources

Regulations on the procedure for providing workers with special clothes, special footwear, and other personal protective equipment



Rates of free-of-charge provision of special clothes, special footwear and other PPE

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to forestry workers

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to fishery workers

Standard sectoral rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers and employees of peat producing and processing enterprises

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers employed in candy, bread and pasta manufacture

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to meat and dairy industry workers

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment in food industry (production of oils and fats, alcohol, strong beverages, beer and soft drinks, tobacco products, perfumery and cosmetics, and ethereal oils)

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to textile (cotton) production workers

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers employed in manufacture of fur and fur articles

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to leather production workers

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to wood processing workers

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to oil refinery workers

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers and employees employed in production of medicines, medical and biological preparations and materials

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to workers employed in production of industrial rubber

Rates of free-of-charge provision of special clothes, special footwear, and other personal protective equipment to electrical engineering industry workers



EU definition	Definition in Ukrainian NPAOPs
Personal protective equipment: all equipment designed to be worn or held by the worker to protect him against one or more hazards likely to endanger his safety and health at work, and any addition or accessory designed to meet this objective.	Personal protective equipment: equipment designed to be worn by the user and/or to ensure his protection against one or more hazards to life or health.
Worker: any person employed by an employer, including trainees and apprentices but excluding domestic servants.	Worker: a person working at an enterprise, organization, or institution, and performing duties or functions according to an employment agreement (contract). Worker: a person working under an employment agreement at an enterprise, organization, or institution, or for a natural person using hired labour.
Employer: any natural or legal person who has an employment relationship with the worker and has responsibility for the undertaking and/or establishment.	Employer: the owner of an enterprise, institution or organization, or a body authorized thereby, of whatever form of ownership, activity area, and type of economic management, or a natural person using hired labour. Employer: a legal person (enterprise, institution, organization) or an individual entrepreneur using labour of natural persons within the scope of employment relations.
Prevention: all the steps or measures taken or planned at all stages of work in the undertaking to prevent or reduce occupational risks.	



Act with lower legal force

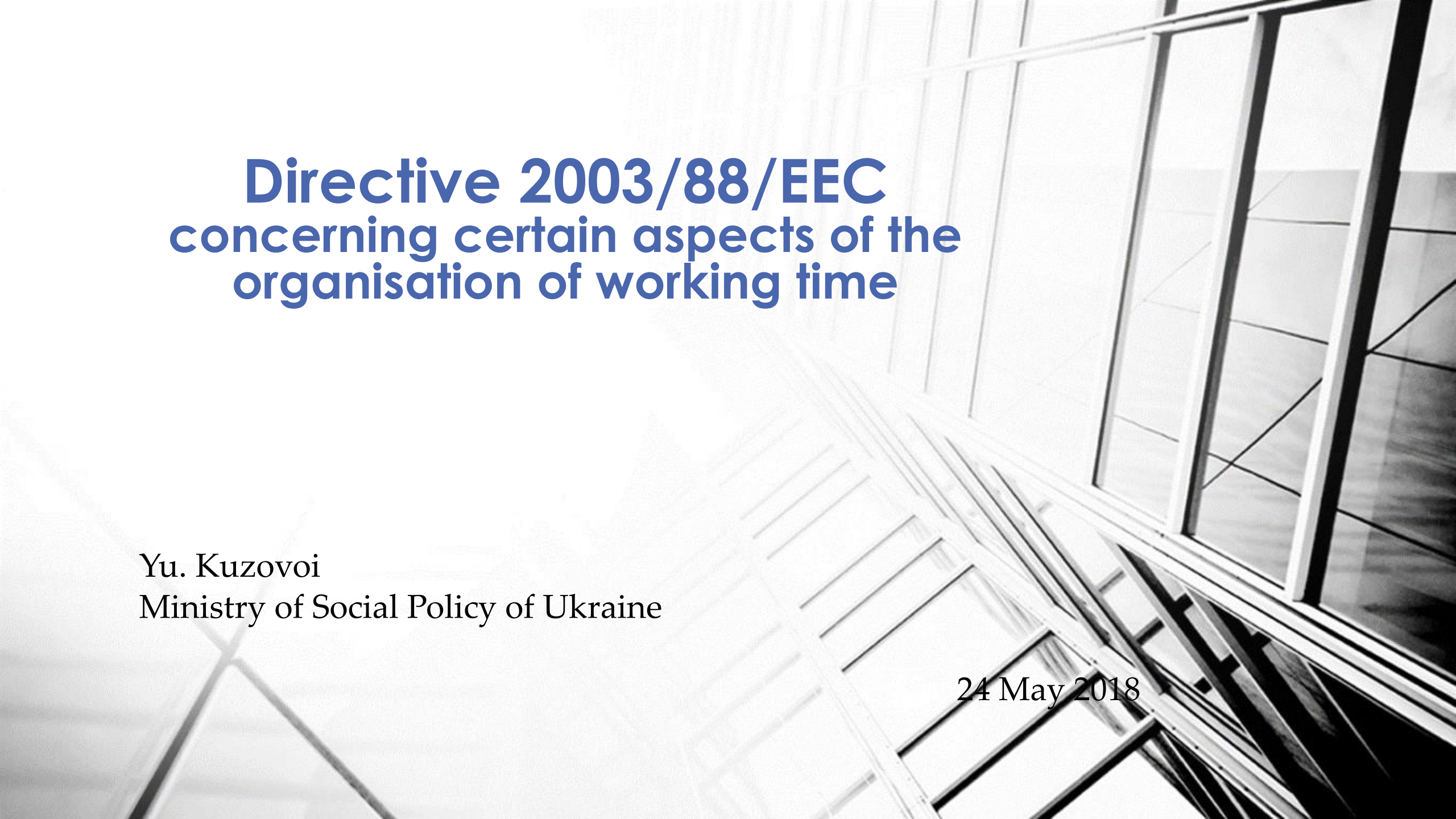


Actual substitution of notions (“risk” with “hazard”)

Art. 6(2) of Directive 89/391:

The employer shall take measures to prevent occupational risks:

1. avoiding risks;
2. evaluating the risks which cannot be avoided;
3. combating the risks at source;
4. adapting 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;
5. adapting to technical progress;
6. replacing the dangerous by the non-dangerous or the less dangerous;
7. developing 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;
8. giving collective protective measures priority over individual protective measures;
9. giving appropriate instructions to the workers.



Directive 2003/88/EEC **concerning certain aspects of the** **organisation of working time**

Yu. Kuzovoi
Ministry of Social Policy of Ukraine

24 May 2018

Definitions (Article 2)

"Working time" means any period during which the worker is working, at the employer's disposal and carrying out his activity or duties, in accordance with national laws and/or practice.

"Rest period" means any period which is not working time.

"Night worker" means on the one hand, any worker, who, during night time, works at least three hours of his daily working time as a normal course.

"Shift worker" means any worker whose work schedule is part of shift work.

"Mobile worker" means any worker employed as a member of travelling or flying personnel by an undertaking which operates transport services for passengers or goods by road, air or inland waterway.

"Shift work" means any method of organising work in shifts whereby workers succeed each other at the same work stations according to a certain pattern, including a rotating pattern, and which may be continuous or discontinuous, entailing the need for workers to work at different times over a given period of days or weeks.

"Offshore work" means work performed mainly on or from offshore installations (including drilling rigs), directly or indirectly in connection with the exploration, extraction or exploitation of mineral resources, including hydrocarbons, and diving in connection with such activities, whether performed from an offshore installation or a vessel.

"Night time" means any period of not less than seven hours, as defined by national law, and which must include, in any case, the period between midnight and 5.00.

"Adequate rest" means that workers have regular rest periods, the duration of which is expressed in units of time and which are sufficiently long and continuous to ensure that, as a result of fatigue or other irregular working patterns, they do not cause injury to themselves, to fellow workers or to others and that they do not damage their health, either in the short term or in the longer term.

Minimum rest periods, other aspects

Daily rest (Article 3)

Member States shall take the measures necessary to ensure that every worker is entitled to a minimum daily rest period of 11 consecutive hours per 24-hour period.

Breaks (Article 4)

Member States shall take the measures necessary to ensure that, where the working day is longer than six hours, every worker is entitled to a rest break, the details of which, including duration and the terms on which it is granted, shall be laid down in collective agreements or agreements between the two sides of industry or, failing that, by national legislation.

Weekly rest period (Article 5)

Member States shall take the measures necessary to ensure that, per each seven-day period, every worker is entitled to a minimum uninterrupted rest period of 24 hours plus the 11 hours' daily rest referred to in Article 3. If objective, technical or work organisation conditions so justify, a minimum rest period of 24 hours may be applied.

Maximum weekly working time (Article 6)

Member States shall take the measures necessary to ensure that, in keeping with the need to protect the safety and health of workers:

- (a) the period of weekly working time is limited by means of laws, regulations or administrative provisions or by collective agreements or agreements between the two sides of industry;
- (b) the average working time for each seven-day period, including overtime, does not exceed 48 hours.

Annual leave (Article 7)

Member States shall take the measures necessary to ensure 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. The minimum period of paid annual leave may not be replaced by an allowance in lieu, except where the employment relationship is terminated.

Night work – shift work – patterns of work

Length of night work (Article 8)

Member States shall take the measures necessary to ensure that:

(a) normal hours of work for night workers do not exceed an average of eight hours in any 24-hour period;

(b) 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.

For the purposes of point (b), work involving special hazards or heavy physical or mental strain shall be defined by national legislation and/or practice or by collective agreements or agreements concluded between the two sides of industry, taking account of the specific effects and hazards of night work.

Health assessment and transfer of night workers to day work (Article 9)

Member States shall take the measures necessary to ensure that:

(a) night workers are entitled to a free health assessment before their assignment and thereafter at regular intervals;

(b) night workers suffering from health problems recognised as being connected with the fact that they perform night work are transferred whenever possible to day work to which they are suited.

The free health assessment referred to in paragraph 1(a) must comply with medical confidentiality.

The free health assessment referred to in paragraph 1(a) may be conducted within the national health system.

Guarantees for night-time working (Article 10)

Member States may make the work of certain categories of night workers subject to certain guarantees, under conditions laid down by national legislation and/or practice, in the case of workers who incur risks to their safety or health linked to night-time working.

Night work – shift work – patterns of work

Notification of regular use of night workers (Article 11)

Member States shall take the measures necessary to ensure that an employer who regularly uses night workers brings this information to the attention of the competent authorities if they so request.

Safety and health protection (Article 12)

Member States shall take the measures necessary to ensure that:

- (a) night workers and shift workers have safety and health protection appropriate to the nature of their work;
- (b) appropriate protection and prevention services or facilities with regard to the safety and health of night workers and shift workers are equivalent to those applicable to other workers and are available at all times.

Pattern of work (Article 13)

Member States shall take the measures necessary to ensure that an employer who intends to organise work according to a certain pattern takes account of the general principle of adapting work to the worker, with a view, in particular, to alleviating 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.

Boss, it's all over!



Thank you for attention!

Council Directive 91/533/EEC of 14 October 1991

Mykyta Suetin

Ministry of Social Policy of Ukraine

**DIRECTIVE
ARTICLE**



SCOPE

ILO COMMENTS



**NATIONAL LEGISLATION SHOULD INCLUDE PROVISIONS TO APPLY THE
DIRECTIVE ALSO TO WORKERS NOT HAVING A FORMAL CONTRACT**

PROPOSALS



THERE IS NO NEED TO INCLUDE THIS PROVISION – THE NATIONAL LABOUR
LEGISLATION ENVISAGES ITS APPLICATION TO ALL THE WORKERS EMPLOYED
UNDER A LABOUR CONTRACT.

CRITERIA OF EXISTENCE OF EMPLOYMENT RELATIONSHIP ARE DEFINED IN THE
LABOUR LEGISLATION.

EMPLOYERS ARE HELD LIABLE FOR INFORMAL EMPLOYMENT IN THE FORM OF A
FINE EQUAL TO THIRTY TIMES THE MINIMUM WAGE SET BY LAW AS OF THE
MOMENT THE VIOLATION WAS FOUND, FOR EACH WORKER CONCERNING
WHOM THE VIOLATION WAS COMMITTED.

IF SUCH A VIOLATION IS FOUND, THE EMPLOYER MUST ENTER INTO A LABOUR
CONTRACT WITH THE WORKER.

DIRECTIVE ARTICLE



OBLIGATION TO PROVIDE INFORMATION

ILO COMMENTS



NATIONAL LEGISLATION SHOULD CONTAIN PROVISIONS ON INCLUSION IN A LABOUR CONTRACT OF ESSENTIAL ASPECTS OF THE CONTRACT, PARTICULARLY THE IDENTITIES OF THE PARTIES, THE PLACE OF WORK, THE DATE OF COMMENCEMENT (ENDING) OF EMPLOYMENT RELATIONSHIP, NATURE OF WORK, AMOUNT OF REMUNERATION, PROCEDURE OF TERMINATION OF THE LABOUR CONTRACT, WORKING TIME, REST PERIOD, AND EXISTENCE OF A COLLECTIVE AGREEMENT

PROPOSALS



THESE PROVISIONS ARE INCLUDED IN THE NATIONAL LEGISLATION – A HIRING ORDER MUST CONTAIN THE NAMES OF THE PARTIES TO THE LABOUR CONTRACT, THE STRUCTURAL UNIT WHERE THE PERSON WILL BE WORKING, THE OCCUPATION (POSITION) TITLE, THE LABOUR CONTRACT STARTING (ENDING) DATE, AMOUNT OF THE PERSON'S SALARY, INCREMENTS AND FRINGE BENEFITS.

THE EMPLOYER MUST INTRODUCE THE WORKER TO THE ORDER.

IF THE EMPLOYER HAS A COLLECTIVE AGREEMENT, HE MUST INTRODUCE THE WORKER TO IT.

THE INTERNAL LABOUR REGULATIONS MUST CONTAIN A PROCEDURE OF TERMINATION OF THE LABOUR CONTRACT, AND SPECIFY THE WORKER'S WORKING TIME AND REST TIME.

JOB AND WORK INSTRUCTIONS MUST DESCRIBE THE WORKER'S JOB CONTENT.

DIRECTIVE ARTICLE



MEANS OF INFORMATION

ILO COMMENTS



THE NATIONAL LEGISLATION SHOULD HAVE PROVISIONS ON THE NEED TO GIVE THE WORKER THE INFORMATION ON ESSENTIAL ASPECTS OF THE LABOUR CONTRACT NOT LATER THAN TWO MONTHS AFTER THE COMMENCEMENT OF EMPLOYMENT OR BY THE END OF THE LABOUR CONTRACT PERIOD (IF EMPLOYMENT RELATIONSHIP EXISTS FOR LESS THAN TWO MONTHS), IN THE FORM OF A WRITTEN CONTRACT, LETTER OF ENGAGEMENT, WRITTEN DECLARATION, OR OTHER WRITTEN DOCUMENT.

PROPOSALS



NO NEED TO IMPLEMENT THESE PROVISIONS BECAUSE IT WILL RESULT IN PREJUDICE TO THE WORKER'S EXISTING LABOUR RIGHTS. ACCORDING TO THE NATIONAL LEGISLATION, ALL THE INFORMATION MUST BE GIVEN TO THE WORKER PRIOR TO COMMENCEMENT OF EMPLOYMENT.

DIRECTIVE ARTICLE

EXPATRIATE EMPLOYEES

THE NATIONAL LEGISLATION SHOULD INCLUDE ARTICLES ON THE PROVISION OF INFORMATION ON ESSENTIAL ASPECTS OF THE LABOUR CONTRACT (INCLUDING INFORMATION ABOUT THE DURATION OF THE EMPLOYMENT ABROAD, THE CURRENCY TO BE USED FOR THE PAYMENT, THE BENEFITS IN CASH OR KIND ATTENDANT ON THE EMPLOYMENT ABROAD (IF APPLICABLE), AND REPATRIATION (IF APPLICABLE)) TO THE EMPLOYEE REQUIRED TO WORK IN SOME OTHER COUNTRY AND THE EMPLOYEE NOT EMPLOYED ABROAD BY EXECUTIVE AUTHORITIES OR THROUGH A BUSINESS ENTITY PROVIDING THE SERVICES OF FACILITATING EMPLOYMENT ABROAD, AS WELL AS ON THE NON-APPLICATION OF THESE OBLIGATIONS IF THE DURATION OF EMPLOYMENT ABROAD IS ONE MONTH OR LESS.

ILO COMMENTS

WE BELIEVE, HOWEVER, THAT THIS DIRECTIVE ARTICLE NEEDS TO BE IMPLEMENTED IN PART. IT SHOULD BE CLEARLY PROVIDED THAT AN EMPLOYEE WITH WHOM A LABOUR CONTRACT HAS BEEN CONCLUDED ACCORDING TO THE CODE OF LABOUR LAWS OF UKRAINE AND WHO IS OBLIGED TO WORK ABROAD UNDER THAT CONTRACT MUST BE INTRODUCED TO ALL THE INFORMATION ABOUT ESSENTIAL ASPECTS OF THE CONTRACT (INCLUDING INFORMATION ABOUT THE DURATION OF THE EMPLOYMENT ABROAD, THE CURRENCY TO BE USED FOR THE PAYMENT, THE BENEFITS IN CASH OR KIND ATTENDANT ON THE EMPLOYMENT ABROAD (IF APPLICABLE), AND REPATRIATION (IF APPLICABLE)) PRIOR TO HIS DEPARTURE ABROAD. IMPLEMENTATION OF THE PROVISIONS ON NON-APPLICATION OF THESE OBLIGATIONS TO EMPLOYEES TO BE EMPLOYED OUTSIDE UKRAINE FOR ONE MONTH OR LESS WILL RESULT IN NARROWING OF THESE EMPLOYEES' EXISTING RIGHTS BECAUSE THE NATIONAL LABOUR LEGISLATION ALREADY PROVIDES FOR THE NEED TO INFORM THESE EMPLOYEES TO SOME ESSENTIAL ASPECTS OF THE LABOUR CONTRACT.

PROPOSALS

DIRECTIVE ARTICLE



**MODIFICATION OF ASPECTS OF THE CONTRACT OR EMPLOYMENT
RELATIONSHIP**

ILO COMMENTS



THE NATIONAL LEGISLATION SHOULD ESTABLISH THE OBLIGATION OF THE EMPLOYERS TO PROVIDE A WRITTEN DOCUMENT TO EMPLOYEES INFORMING THEM OF ANY CHANGE IN ESSENTIAL ASPECTS OF THE CONTRACT AT THE EARLIEST OPPORTUNITY AND NOT LATER THAN ONE MONTH AFTER THE DATE OF ENTRY INTO EFFECT OF THE CHANGE IN QUESTION.

PROPOSALS



THE DIRECTIVE ARTICLE NEEDS TO BE IMPLEMENTED

**ARTICLE
DIRECTIVE**



**FORM AND PROOF OF THE EXISTENCE OF A CONTRACT OR EMPLOYMENT
RELATIONSHIP AND PROCEDURAL RULES**

ILO COMMENTS



THE NATIONAL LEGISLATION SHOULD CONTAIN PROVISIONS ON SPECIFIC CRITERIA
OF THE EXISTENCE OF EMPLOYMENT RELATIONSHIP TO AVOID COVERT
EMPLOYMENT.

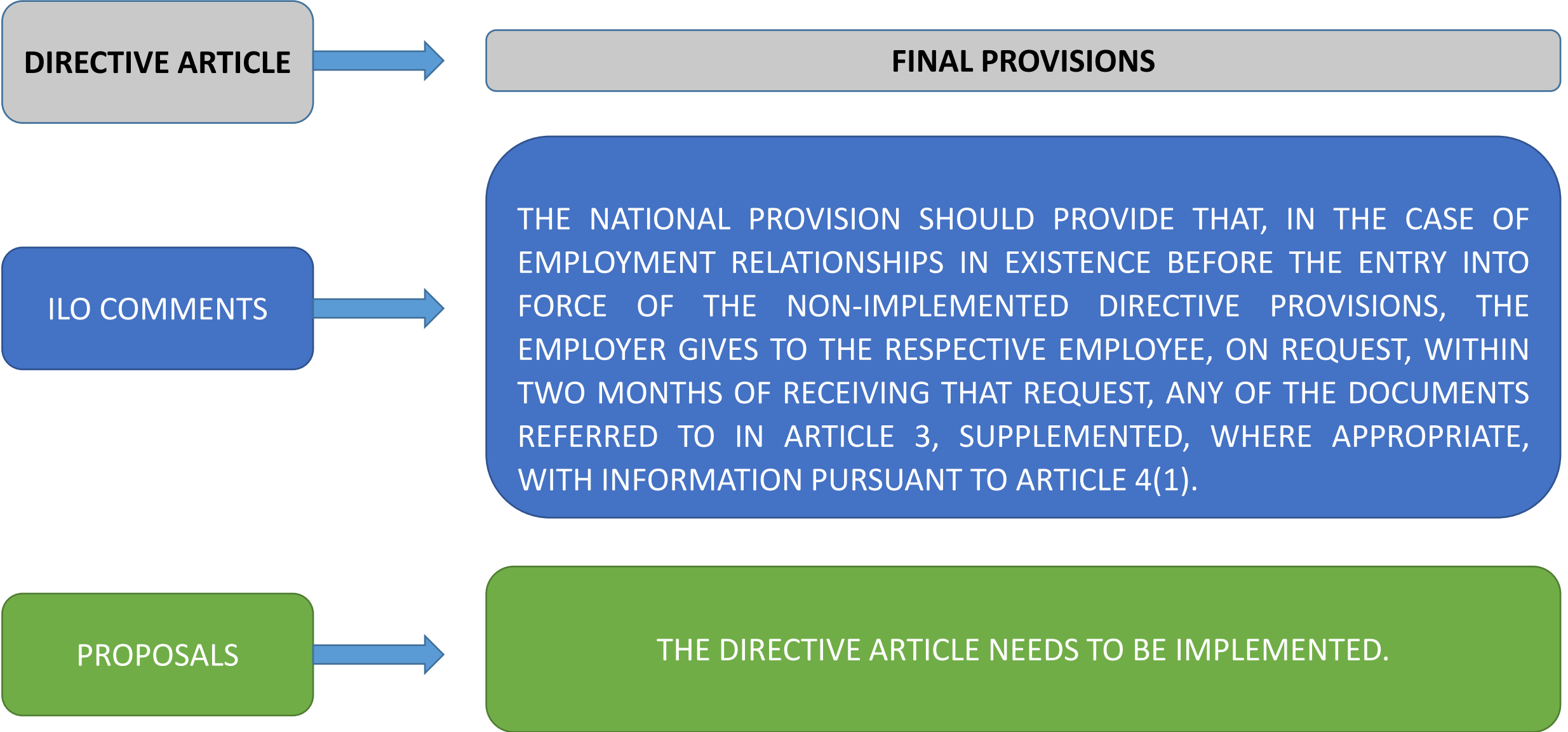
PROPOSALS



THE DIRECTIVE ARTICLE NEEDS NO IMPLEMENTATION. SPECIFIC CRITERIA OF
EMPLOYMENT RELATIONSHIP ARE ALREADY ESTABLISHED IN THE CODE OF
LABOUR LAWS OF UKRAINE.

EMPLOYERS ARE HELD LIABLE FOR INFORMAL EMPLOYMENT IN THE FORM OF A
FINE EQUAL TO THIRTY TIMES THE MINIMUM WAGE SET BY LAW AS OF THE
MOMENT THE VIOLATION WAS FOUND, FOR EACH WORKER CONCERNING
WHOM THE VIOLATION WAS COMMITTED. IF SUCH A VIOLATION IS FOUND, THE
EMPLOYER MUST ENTER INTO A LABOUR CONTRACT WITH THE WORKER.

DIRECTIVE ARTICLE



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graph LR; A[DIRECTIVE ARTICLE] --> B[FINAL PROVISIONS]; C[ILO COMMENTS] --> D[THE NATIONAL PROVISION SHOULD PROVIDE THAT, IN THE CASE OF EMPLOYMENT RELATIONSHIPS IN EXISTENCE BEFORE THE ENTRY INTO FORCE OF THE NON-IMPLEMENTED DIRECTIVE PROVISIONS, THE EMPLOYER GIVES TO THE RESPECTIVE EMPLOYEE, ON REQUEST, WITHIN TWO MONTHS OF RECEIVING THAT REQUEST, ANY OF THE DOCUMENTS REFERRED TO IN ARTICLE 3, SUPPLEMENTED, WHERE APPROPRIATE, WITH INFORMATION PURSUANT TO ARTICLE 4(1).]; E[PROPOSALS] --> F[THE DIRECTIVE ARTICLE NEEDS TO BE IMPLEMENTED.];
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FINAL PROVISIONS

ILO COMMENTS

THE NATIONAL PROVISION SHOULD PROVIDE THAT, IN THE CASE OF EMPLOYMENT RELATIONSHIPS IN EXISTENCE BEFORE THE ENTRY INTO FORCE OF THE NON-IMPLEMENTED DIRECTIVE PROVISIONS, THE EMPLOYER GIVES TO THE RESPECTIVE EMPLOYEE, ON REQUEST, WITHIN TWO MONTHS OF RECEIVING THAT REQUEST, ANY OF THE DOCUMENTS REFERRED TO IN ARTICLE 3, SUPPLEMENTED, WHERE APPROPRIATE, WITH INFORMATION PURSUANT TO ARTICLE 4(1).

PROPOSALS

THE DIRECTIVE ARTICLE NEEDS TO BE IMPLEMENTED.