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▶ **EU-ILO PROJECT**

“TOWARDS SAFE, HEALTHY AND DECLARED WORK IN UKRAINE”

2020–2022

(brief description)

▶ ilo.org/shd4Ukraine

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▶ EXECUTIVE SUMMARY

This project aims at promoting safe, healthy and declared work in Ukraine. The expected short-term impact is an improved compliance of Ukraine with key International Labour Standards on OSH and labour relations. The two outcomes to be achieved by the end of the project are (1) Legal framework on OSH is brought closer to international labour standards and (2) Systems and procedures for a roll out of labour inspection services are in place.

The project addresses specific needs identified by the EU and national stakeholders and builds on the achievements of the first phase of the project “Enhancing the Labour Administration Capacity to Improve Working Conditions and Tackle Undeclared Work”. Despite the progress and results achieved in the first phase regarding alignment of national legislation with International Labour Standards and EU rules, awareness rising on undeclared work, and the capacity of labour inspectors and other stakeholders’ officials, numerous challenges remain.

In particular, additional technical assistance is needed for the implementation of the “Concept of the Labour Protection Management System Reform” which forms the basis of this proposal and was recently approved by the Ukrainian Cabinet of Ministers. In essence, the proposed phase II will continue to work on the alignment of relevant Ukrainian legislation with the International Labour Standards (ILS) and EU acquis on Occupational Safety and Health (OSH), labour relations, and labour inspection.

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In addition, technical support is needed for the implementation of the National Action Plan to Fight Undeclared Work, as well as for the effective implementation of ILO Conventions C81 and C129 on labour inspection and improvement of Ukrainian system of labour inspection effectiveness in enforcing the law.

In order to achieve the above, the project will provide in-depth knowledge to legislative actors on EU legislation (EU OSH and labour relations directives), International Labour Standards (ILO C81, C129 and R198) and flexible work arrangements. In addition, it will provide technical assistance to the drafting of laws/regulations (transposing 8 EU OSH Directives, implementing 3 legislative measures foreseen in the Action Plan to Fight UDW and aligning labour inspection system with ILO C81 and C129), as well as to its submission and advocacy.

It will also continue the on-going communication campaign, focused on raising awareness and understanding regarding UDW.

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“Towards safe, healthy and declared work in Ukraine”

ILO Office for Central and Eastern Europe

▶ **EU-ILO PROJECT FOR 2020–2022 — SNAPSHOT**

“Towards safe, healthy and declared work in Ukraine”

1. Legal framework on OSH and undeclared work is brought closer to international labour standards

- ▶ **1.1. Draft legal acts to transpose EU OSH directives 89/391/EEC, 89/654/EEC, 2009/104/EC, 89/656/EEC, 2003/88/EC, 92/57/EEC, 92/58/EEC, 1999/92/EC**

- ▶ **1.2. Advocacy roundtables with legislative actors on EU OSH Directives**

- ▶ **1.3. Training sessions on fighting undeclared work**

- ▶ **1.4. Draft legal acts aimed at implementing the Action Plan to fight UDW (ILO Rec 198, Directives 2003/88/EC, 97/81/EC, 91/533/EEC)**

- ▶ **1.5. Advocacy round tables on undeclared work for legislative actors**

2. Systems and procedures for a roll-out of labour inspection services are in place

- ▶ **2.1. A labour inspection statute (recruitment, training, career, powers, procedures, etc.) drafted and validated**

- ▶ **2.2. Trainings for labour inspectors on new legal frameworks and their implications for their work**

- ▶ **2.3. Labour Inspection campaign on UDW rolled out, preceded by a communication campaign**

- ▶ **2.4. Draft of an improved data collection system for LI provided**

▶ **DEVELOPMENT OBJECTIVE**

Men and women workers in Ukraine enjoy safe, healthy and declared work.

▶ **SHORT TERM IMPACT**

The expected short-term impact is an improved compliance of Ukraine with key International labour Standards on OSH and undeclared work.

▶ **OUTCOMES, OUTPUTS AND ACTIVITIES¹**

The two outcomes to be achieved by the end of the project are:

- Legal framework on OSH and undeclared work is brought closer to EU and International Labour Standards,
- Systems and procedures for a roll-out of labour inspection services are in place

¹ The performance of the activities described in the following sections is without prejudice to the provision of technical support and advice to project stakeholders in other related issues, if requested. Moreover, and regarding the provision of support to drafting of the laws/regulations transposing EU-OSH directives, the foreseen support includes, when applicable, the identification of the by-laws needed to complement the transposition process.

▶ **OUTCOME 1:**

Legal framework on OSH and undeclared work is brought closer to international labour standards

Under this outcome, the project will support the drafting and advocacy of laws to adequately and sustainably transpose into the national legal framework a set of selected OSH and flexible work regimes (to fight UDW) Directives, foreseen in Article 424 and Annex XL to Chapter 21 of the EU-Ukraine Association Agreement, and ILO Conventions and Recommendations.

OUTPUT 1.1: Draft laws/regulations transposing EU OSH directives submitted

Under this output, the project will support the Ministry for Development of Economy, Trade and Agriculture (MDETA) to draft laws/regulations (along with their supporting documentation)² needed to ensure a more adequate and sustainable transposition of the eight selected EU OSH directives³ into national OSH legal framework.

To deliver this output, the project will implement the following activities, in close consultation with the relevant national stakeholders⁴:

- ▶ **Activity 1.1.1:** Support to the establishment of a technical drafting committee in the MDETA, responsible of developing the drafts of the laws/regulations to transpose the EU directives on OSH and other social standards. The ILO will provide the technical expertise required to support the work of the drafting committee.

² Impact assessment, explanatory note, comparative table with existing law provisions and acquis compliance statement.

³ These includes the EU OSH Directives 89/391/EEC, 89/654/EEC, 2009/104/EC, 89/656/EEC, 2003/88/EC, 92/57/EEC, 92/58/EEC and 1999/92/EC.

⁴ Especially the Ministry of Economy, SLS, Verkhovna Rada, CMU Office of Reforms and social partners.

- ▶ **Activity 1.1.2:** Support the drafting of at least eight OSH laws/regulations in line with the eight selected EU OSH Directives including supporting documentation like sub legal acts.

OUTPUT 1.2: Advocacy roundtables held with legislative actors on EU OSH Directives

In addition to technical support to draft the OSH laws/regulations, the project will conduct advocacy activities with the legislative actors to maximize the chances of the proposed revisions to be adopted.

In this context, the project will implement the following activity:

- ▶ **Activity 1.2.1:** Support 2 round tables (40 participants, one for OSH Directives, one for labour relations Directives) in the competent legislative body (CMU or Verkhovna Rada), in order to advocate for the adoption of the draft laws/regulations aligning national legislation with the 8 EU OSH directives.

OUTPUT 1.3: Training sessions on fighting undeclared work provided

Under this output, the project stakeholders⁵ are expected to be provided with an in-depth knowledge and know-how on UDW, as well as on some specific labour standards (e.g., ILO Recommendation 198, EU Directives 91/533/EEC, 2003/88/EC and 97/81/EC) and flexible work regimes which implementation is likely to contribute to the reduction of UDW.

To deliver this output, the project will implement the following activities:

- ▶ **Activity 1.3.1:** Carry out at least 1 training session (15 participants) on the ILO Recommendation 198, on Employment Relationship, and its role on tackling UDW and promoting decent work.

This activity will target members of the institutions involved in the legislative process, as well as law drafting experts.

⁵ Especially by the members of the institutions more closely involved in the legislative process.

- ▶ **Activity 1.3.2:** Conduct 1 training session (15 participants) on flexible work regimes and its role in tackling UDW, including on the EU Directives 2003/88/EC (on working time) and 97/81/EC (on part-time).

This activity will also target members of the institutions involved in the legislative process, as well as law-drafting experts.

OUTPUT 1.4: Draft laws/regulations aimed at implementing the Action Plan to fight undeclared work submitted

Under this output, the project will provide technical support to draft several laws/regulations aimed at implementing specific measures to combat UDW foreseen in the “Draft National Action Plan to Fight UDW”.

In particular, the project will support the draft of laws/regulations aimed at incorporating into national legislation the legal presumption of existence of an employment relationship. The latter will implement the provisions of the ILO R198 and contribute to the implementation of the measure M1.6⁶ of the “Draft National Action Plan to Fight UDW”.

It is also expected that the project will support the drafting of laws/regulations providing for the obligation of the employer to inform employees about the conditions applicable to the labour contract or employment relationship, as foreseen in the Directive 91/533/EEC.

Under this output, the project will provide also technical assistance and consultation in the legislative process to MDETA, aimed at introducing more flexible work regimes, in particular regarding such aspects as flexible working time regime, teleworking and part-time.

To deliver this output, the project will implement the following activities:

- ▶ **Activity 1.4.1:** Support the drafting of the laws/regulations (and/or to provide technical advice, recommendations or comments to drafts

⁶ “Incorporate the provisions of the ILO Recommendation No. 198, on the employment relationship, into the national labour legal framework”.

proposed by government, social partners or VR), incorporating the provisions of the ILO Recommendation 198 into national legal framework.

- ▶ **Activity 1.4.2:** Support 1 technical meeting with up to 15 participants (or to participate in work-groups, workshops or round tables promoted by government, social partners and/or VR) to discuss and “fine-tune” the draft laws/regulations necessary to incorporate the provisions of the ILO Recommendation 198 into national legal framework (or to discuss ILO recommendations or comments).
- ▶ **Activity 1.4.3:** Participate in technical assistance meetings (or in work-groups, workshops or round tables promoted by government, social partners and/or VR), during the process of drafting laws/regulations introducing more flexible work regimes and transposing the EU Directives 2003/88/EC (WT) and 97/81/EC (PT).
- ▶ **Activity 1.4.4:** Participate in technical consultation meetings (or in work-groups, workshops or round tables promoted by government, social partners and/or VR), with national constituents regarding the laws/regulations introducing more flexible work regimes and transposing the EU Directives 2003/88/EC (WT) and 97/81/EC (PT).
- ▶ **Activity 1.4.5:** Support the drafting of the laws/regulations transposing EU Directive 91/533/EEC (OBL INF) into national legislation (and/or to provide technical advice, recommendations or comments to drafts proposed by government, social partners or VR).
- ▶ **Activity 1.4.6:** Support 1 technical meeting with up to 15 participants (or to participate in work-groups, workshops or round tables promoted by stakeholders and/or VR) to discuss and “fine-tune” the draft law transposing EU Directive 91/533/EEC (OBL INF) into national legislation (or to discuss ILO recommendations or comments).

OUTPUT 1.5: Advocacy roundtables on undeclared work held with legislative actors

In addition to the provision to stakeholders of the necessary know-how on UDW and measures to tackle it and to the supporting of the laws/

regulations drafting, the project will also be active in advocating for the adoption of the laws/regulations, in order to ensure the achievement of outcome 2.

Under this output, the following activities will be implemented:

- ▶ **Activity 1.5.1:** Conduct at least 2 round tables (40 participants) in the competent legislative body (CMU or Verkhovna Rada), and/or to participate in work-groups, workshops or round tables promoted by government, social partners and/or VR, in order to advocate for the adoption of the draft laws/regulations aimed at incorporating the provisions of the ILO Recommendation 198 into national legislation and the transposition of EU Directive 91/533/EEC (OBL INF).

▶ **OUTCOME 2:**

Systems and procedures for a roll-out of labour inspection services are in place

Under this outcome, and in close collaboration and consultation with the relevant national stakeholders, the project will be focused on fostering the alignment of the national system of labour inspection with the International Labour Standards (ILS) on labour inspection, in particular with ILO Conventions 81 and 129, especially in what concerns the recruitment, training and powers of labour inspectors.

The achievement of this outcome will require special attention to the training of inspectors, as well as the support to the drafting of the laws/regulations needed to align national legislation with the labour inspection ILS and the advocacy for these laws/regulations adoption pursued with legislative actors.

OUTPUT 2.1: A labour inspection statute drafted and validated

Based on the report “Ukrainian Labour Inspection Legal Framework — Analysis and Recommendations”, the project will support the preparation and submission of the draft laws/regulations necessary to ensure a better and more sustainable alignment of the national legislation with the ILS and best practices on labour inspection.

Under this output, the following activities are expected to be implemented:

- ▶ **Activity 2.1.1:** Support the drafting of a legislative/regulatory roadmap as well as the modifications of necessary laws/regulations (including a Labour Inspection Statute) aimed at ensuring a more adequate and sustainable alignment of the national legislation with the ILO requirements on labour inspection and/or provide technical advice, recommendations and comments to the drafts made by government, social partners and/or VR.

- ▶ **Activity 2.1.2:** Conduct 2 roundtables (or to participate in work-groups, workshops or round tables promoted by government, social partners and/or VR) to advocate for the adoption of the modifications of necessary laws/regulations (including a Labour Inspection Statute) aimed at aligning national legislation with the ILO requirements on labour inspection.

OUTPUT 2.2: Labour Inspectors trained on new legal frameworks and their implications for their work

Labour inspectors face the challenge of incorporating into their knowledge technical criteria based on theory and practice on concepts and approaches established by the national labour law and the International Labour Standards regarding acceptable working conditions. Labour inspectors will be better prepared to reinforce labour rights, which in return will have a positive impact on productivity, competitiveness, employment and decent work. There is a need to reinforce the current competencies of the labour inspectors to operate labour inspection in a new improved scenario. The upgrade of the Labour Inspection staff competencies is a key factor for the adequate functioning of the labour inspection system, particularly when the legal framework and the structure and organization have been renovated.

To deliver this output, the project will implement the following activities:

- ▶ **Activity 2.2.1:** Develop and adopt a training curriculum for labour inspectors.

The programme will identify the content for newly recruited inspectors, the topics to be updated or refreshed regularly to current labour inspectors, and the specialized trainers (curricula/ professional activity/ position) responsible of this training programme.

- ▶ **Activity 2.2.2:** Conduct 4 training workshops aimed at strengthening capacity of labour inspectors to improve compliance problem analysis and selection of more targeted inspection responses.

The capacity building activities will be dedicated to:

- inform how to target, identify and investigate compliance problems against national legislation
- inform how to follow up on cases of violation of the legal framework
- train on how to implement the labour inspection plan

OUTPUT 2.3: Labour Inspection campaign on UDW rolled out, preceded by a communication campaign

The objective of the output is to contribute to increase the capacity of the Labour Inspectorate, and other authorities engaged in the fight against undeclared work, to develop a pilot strategic and operational plan for undeclared work in a given sector and/or region. To formulate an effective and workable inspection plan to fight against undeclared work in Ukraine, it is crucial first to have a good understanding of the situation (level, nature, characteristics and drivers of undeclared work and the informal economy in Ukraine), to build a large domestic consensus about the options to take and to use the strategies, methodologies, tools and techniques adequate to the expected results, in line with the national context and international experience.

To that end, the project will assist the Labour Inspectorate in establishing a pilot labour inspection plan against undeclared work, to be implemented in 2020–22. The pilot plan shall be based on the recommendations of the national roadmap, and will contain the identification of the specific problem(s) to be tackled, strategies, methodologies and techniques used to perform inspection for the prevention and combat of undeclared work in its various expressions.

The plan will be elaborated for a sector and/or region using new inspection methodologies to address undeclared work.

The Inspection plan will include information and awareness raising as an important tool to sensitise workers, employers and society in general, regarding the benefits of declaring work and the disadvantages of not

⁷ Initiated within the scope of EU-ILO Project implemented in 2017-2019.

doing so. In order to do so, this project will support the implementation of the second phase of the “Communication Campaign to Fight UDW”⁷.

The following activities will be carried out under this output:

- ▶ **Activity 2.3.1:** Develop the second phase of the “Communication Campaign to Fight UDW.
- ▶ **Activity 2.3.2:** Support the SLS in the implementation of the second phase of the on-going communication campaign to fight undeclared work.
- ▶ **Activity 2.3.3:** Prepare and undertake an inspection campaign on undeclared work.

This will entail the drafting of a pilot labour inspection action plan, which must:

- identify the sector/region to launch the pilot programme to reduce undeclared work in Ukraine;
- identify the most recurrent forms of undeclared work in the sector and/or region selected;
- identify the categories of workers, enterprises or sectors warranting priority action to tackle undeclared work and the specific forms of undeclared work in which they are engaged;
- involve actors, explain how, for what and when are they to be involved;
- detail the expected impact of the plan, specific quantitative and qualitative objectives and measurement criteria;
- set criteria to identify targets for inspection;
- include preparatory activities, lines of action, responsibilities, strategy, tools to use, timeline and implementation and reporting cycles.

OUTPUT 2.4: Draft of an improved data collection system for LI provided

- ▶ **Activity 2.4.1:** Support the adoption and implementation of (1) provisional measures to improve the current data collection system of the inspectorate

and (2) provide a technical description of a revamped data collection system that would be in line with the digitalization strategy of the new government.

Based on the recommendations of the “Evaluation of existing information systems of the State Labour Service of Ukraine (SLS) and of other institutions related to labour inspection with particular focus on SLS activities to tackle undeclared work (UDW)” report, the project will elaborate a plan of action to improve the current SLS information system as described in the report. In addition a technical description of a new information system will be produced which would support the digitalization strategy of the new government. Partners will be clearly informed from the start that this project will not cover the necessary hard and software investments.

