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Міжнародною організацією праці

EU-ILO Project

“Towards safe, healthy and declared work in Ukraine”



Project is funded by European Union

Metinvest Polytechnic University

Main OSH International & EU Labour Standards and Ukrainian Draft Law on OH

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Who are we?



 International
Labour
Organization

Project is implemented by
International Labour Organization

 MOVING FORWARD
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TOWARDS SAFE, HEALTHY
AND DECLARED WORK IN UKRAINE

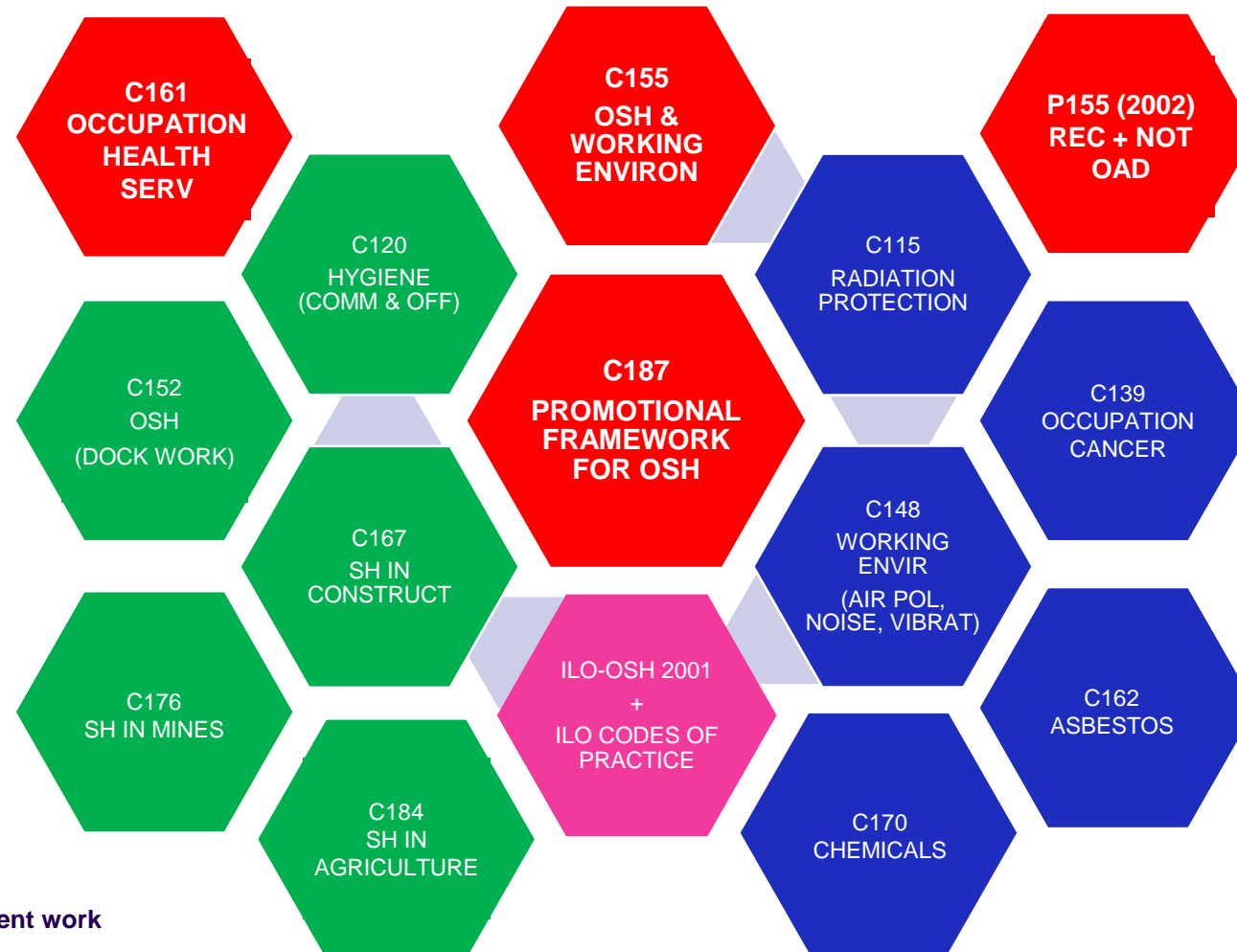
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<https://www.youtube.com/watch?v=chv0h34Jw1k>

► Why we do what we do? - work death's paradox

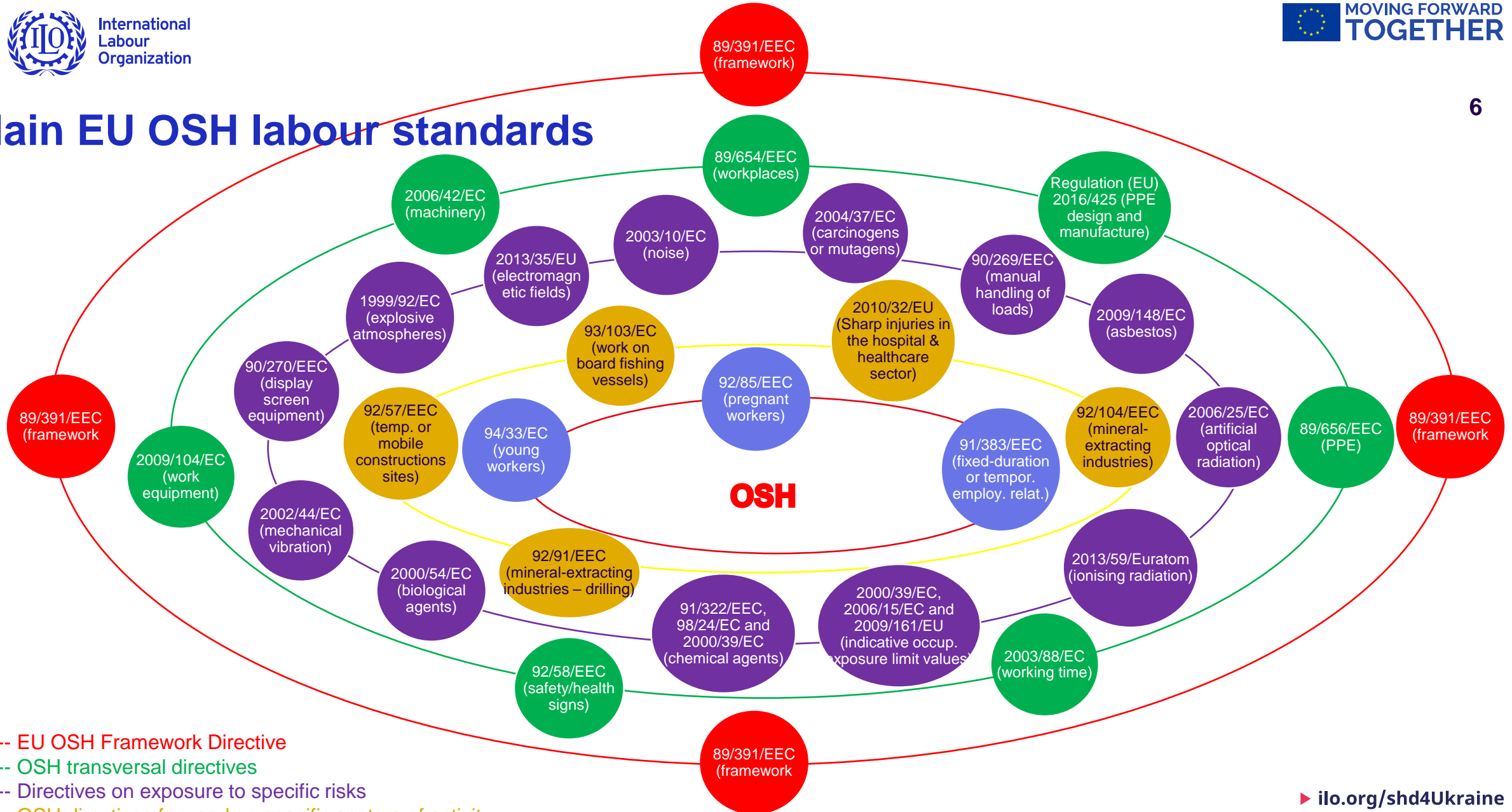
- Work purposes: mean of subsistence, individual dignity, personal fulfilment and self-esteem, social cohesion, stability, peace and economic growth
- **Work kills more people than wars.** From a global workforce of around 2.84 billion, :
 - between 350 and 360 thousand people die annually (in about 270 million accidents)
 - about 2 million dies annually from occupational diseases
- In Ukraine, the **incidence rate of fatal work-related accidents is almost the triple** of the average in EU countries

Key International Labour Standards on OSH



- Key ILO Standards on OSH
- ILO standards on OSH regarding particular branches of economic activity
- ILO standards on OSH concerning protection against specific risks
- Other ILO Instruments on OSH

Main EU OSH labour standards



- EU OSH Framework Directive
- OSH transversal directives
- Directives on exposure to specific risks
- OSH directives focused on specific sectors of activity
- OSH directives focused on specific types of workers

Implications for policy makers & legal acts' drafting experts – OSH framework

State level

Undertaking level

National policy on OSH

- Worker's right to safety and health at work ensured by employer
- Prevention based on risk assessment
- Technical conditions for design, manufacture, import, sale, assignment, installation, organization, use and processing of MCW
- Substances, agents or processes that should be prohibited, limited or subject to authorization
- Workers' exposure limits to chemical/physical/biological agents
- Technical and scientific applied research on OSH
- Education, training and information
- Worker's health surveillance
- Awareness raising – preventative culture
- System of labour inspection

National system for OSH

- Coordinated and coherent infrastructure / network composed by public, private or cooperative entities acting on the following areas:
- Regulation
 - Licensing
 - Certification
 - Standardization
 - Research;
 - Training
 - Information
 - Consultation and participation
 - Technical services of prevention;
 - Health surveillance; and
 - Inspection

Actions at national level

- Promotion of training, information and awareness raising initiatives
- Inclusion of OSH subjects in education & VT curricula
- Competent authorities approves technical specifications on OSH
- National and international standards relevant to OSH taken into account
- Licensing legislation considers OSH specifications
- Available work equipment complies with OSH minimum requirements
- Compliance with OSH regulations promoted and enforced by an effective LI system
- OAD recording, notification and inquiry procedures in place

Right of workers to safe and healthy working conditions

Employer's obligation to ensure workers' safety and health in every aspect related to work, with observance of the GPP

Risk management (avoidance, assessment & control)

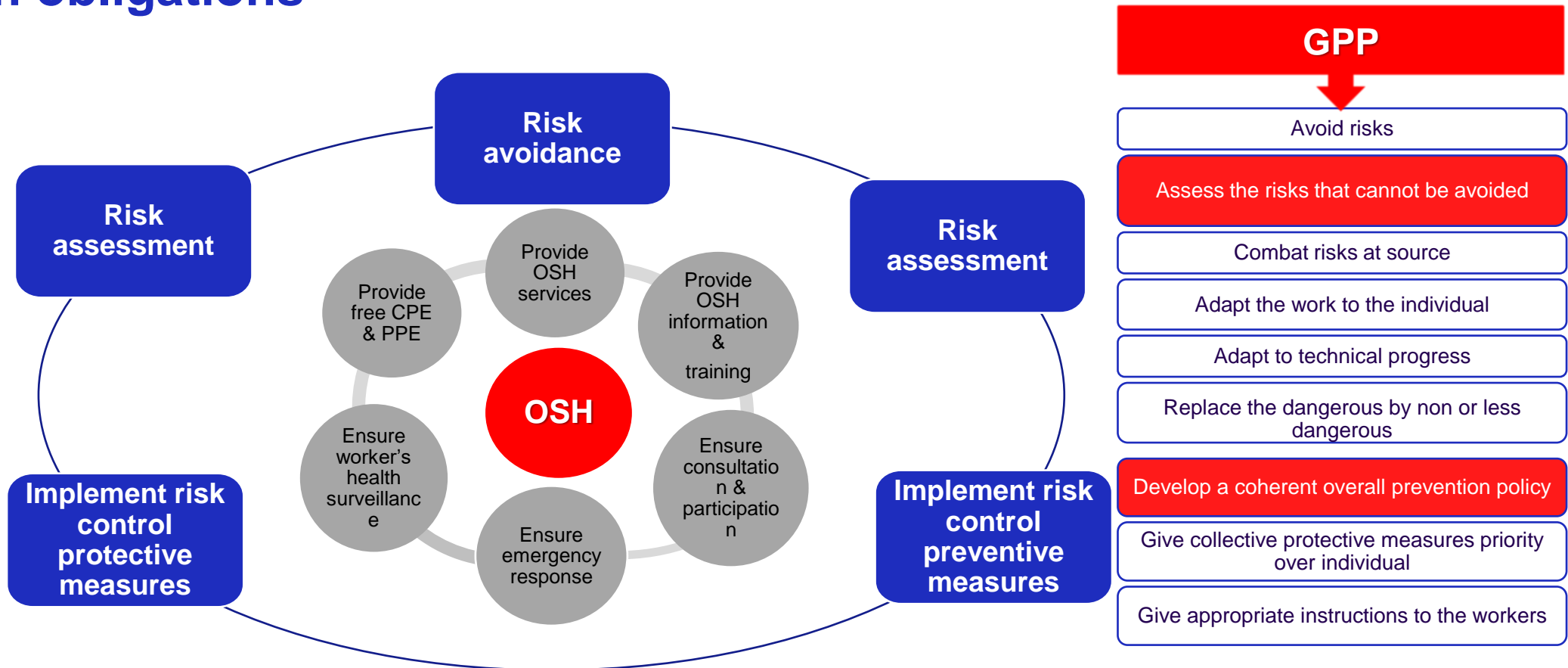
OSH services

Information & training

Consultation & participation

Health surveillance

Implications for policy makers & legal acts' drafting experts – employers main obligations



▶ New Ukrainian OSH draft law - positive aspects

- ▶ Stimulation of tripartite **social dialogue** around OSH issues
- ▶ Definition of a **National Policy and System** for OSH
- ▶ Obligation of the employer to continually **ensure the safety and health of the workers in all aspect of the work**
- ▶ Holistic approach that includes both **safety + health** aspects of the work (and not just safety)
- ▶ Shift from a reactive approach (based on protection/compensation) to an **approach focused on prevention** and foreseeing:
 - ❑ General principles of prevention (GPP) on the organization, by employers, of the safety and health services
 - ❑ Employers' obligation to assess occupational risks

▶ New Ukrainian OSH draft law - positive aspects

- ▶ Specification of the **main employers' obligations** on OSH (e.g., preventive and protective services; first-aid, fire-fighting and evacuation of workers; occupational risks management; training; information; consultation & participation; health surveillance; collective and personal protective equipment, etc)
- ▶ Special protection of the safety and health of **special vulnerable groups** of workers (e.g., pregnant workers, workers who have recently given birth, or who are breastfeeding; workers under 18 years of age; and workers with disabilities)
- ▶ Consideration of legal provisions **promotion & enforcement** (labour inspection and liabilities for non-compliance)

▶ New Ukrainian OSH draft law – aspects to improve

- ▶ **Structure and systematics:** Section II should only include **State obligations**. The parts that refers to employers' obligations should be moved the specific section on employers' obligations
- ▶ **Terms** (e.g., workplace, workstation, occupational accident, occupational disease, night workers);
- ▶ Option for regulating **procedures and lists of risk factors** through **by-laws**
- ▶ Need to provide that, even when **high-risk works** or the use of **high-risk work equipment** is authorized, employer shall remain obliged to take all the necessary and adequate measures to minimize, as far as practically possible, the occupational risks and their impact on worker's OSH
- ▶ **Obligation to assess risks** is usually not accompanied by the clarification of **how** to do it and, **what** to do next (e.g. inform workers of results and measures to be taken; health surveillance; adapt working conditions; etc.)

▶ New Ukrainian OSH draft law – aspects to improve

- ▶ Organization & functioning of preventive & protective **OSH services is not flexible**, prescribing the same modality for all employers' workplaces, instead of allowing its provision through:
 - ❑ One/or more joint services (for safety and health) or through one/or more separate services (for safety, for one side, and for health, on the other side);
 - ❑ Different modalities (internal vs external; joint vs separated) for different workplaces of the same employer (depending on the number of workers and risks)
- ▶ Employers' obligations on **first aid, fire-fighting, elimination of breakdowns, and evacuation of workers** are focused on their obligations once a breakdown (or any other event) **happens** (thus requiring emergency measures) to the detriment of the measures to ensure preparedness to deal with such events if they occur
- ▶ Employers' obligation to subordinate **all his/her actions on OSH** to the strict observance of the **hierarchical and sequential GPP** should be improved (exception: obligation to organize OSH services)

▶ New Ukrainian OSH draft law – aspects to improve

- ▶ Absence of **employers' obligation** to **formulate and implement** an **overall plan for the prevention** of occupational risks
- ▶ The provisions on **labour inspectors' powers** should be reviewed, to better align them with ILO C81 and C129 and ensure that “enforcement of laws and regulations on OSH are secured by an adequate and appropriate system of inspection” (as foreseen in Article 9(1) of ILO C155)
- ▶ **Employers' liability** for violation of OSH legislation should be review to ensure “adequate penalties for violations of the laws and regulations” are provided (as foreseen in Article 9(2) of ILO C155), through, for example:
 - ❑ Introduction of accessory (non-monetary) sanctions
 - ❑ Adjustment of the amount of the fines to the size of the employers (number of workers and/or turnover)
 - ❑ Futher differentiation of the amount of fines by the seriousness of the offenses;
 - ❑ The limitation to a minimum of the violations covered by the residual provision (foreseeing fines in the amount of a half minimum wage)

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

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Дякую за увагу!

Thank you for your attention!





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